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**MSUNDUZI LOCAL MUNICIPALITY**

**GENERAL BY-LAWS**

The Municipal Manager of the Msunduzi Municipality hereby, in terms of section 13 (a) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), publishes the General By-laws for the Msunduzi Municipality, as adopted by its Council, as set out hereunder.

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1. **Definitions.** —In these By-laws, except as otherwise expressly provided, or unless the context otherwise requires—
	1. “**authorised officia**l” means an official of the Council to whom it has assigned or delegated a duty, function or power under these By-laws in relation to the exercise or performance of that duty, function or power and includes any employee acting under the control and direction of such officer and any member of the South African Police Services;
	2. **"authorised officer" means an inspector of licences, examiner of vehicles, examiner for driving licences, traffic warden or a traffic officer, and includes any other person appointed as an inspector of licences, examiner of vehicles, examiner for driving licences, traffic warden or a traffic officer in terms of section 3A of the National Road Traffic Act, 1996(Act No. 93 of 1996), and includes any person nominated by any organisation and authorised by the City;**
	3. “**canopy”** means a rigid roof-like projection from the wall of a building;
	4. “**City**” means the City of Pietermaritzburg and includes any area comprising part of the area of jurisdiction of the Council;
	5. “**Council**” means the Msunduzi Municipality and its successors in law, and includes the Council of the Municipality or its Executive Committee or any other body acting by virtue of any power delegated to it in terms of legislation, as well as any officer to whom the Executive Committee has delegated any powers and duties in relation to these By-laws;
	6. “**dependence-producing substance**” means a dependence-producing substance as defined in the Drugs and Drug Trafficking Act (Act No. 140 of 1992);
	7. “**discharge**” in relation to the use of a gun includes the act of discharging a blank cartridge
	8. **"driver" means any person who drives or attempts to drive any vehicle or who rides or attempts to ride any pedal cycle and "drive" or any like word has a corresponding meaning;**
	9. “**gun**” includes a weapon of any description from which any bullet, pellet, shot or any missile of any description can be discharged, whether or not activated by an explosive;
	10. **“Owner” in relation to a vehicle, means—**
2. **the person who has the right to the use and enjoyment of a vehicle in terms of common law or a contractual agreement with the titleholder of such vehicle;**
3. **a person referred to in paragraph (a), for any period during which such a person has failed to return that vehicle to the titleholder in accordance with the contractual agreement referred to in paragraph (a); and**
4. **a person who is registered as such in accordance with regulations issued under section 4 of the National Road Traffic Act, 1996 (Act 93 of 1996);**
	1. **"park" means to keep a vehicle, whether occupied or not, stationary for a period of time longer than is reasonably necessary for the actual loading or unloading of persons or goods, but does not include any such keeping of a vehicle by reason of a cause beyond the control of the person in charge of such vehicle, and "parking" has a corresponding meaning;**
	2. **"parking bay" means a demarcated area within which a vehicle is to be parked in terms of this Bylaw, demarcated as such by the City upon the surface of a parking ground or a public road;**
	3. "**parking ground" means any area of land or any building set aside by the City as a parking ground or garage for the parking of vehicles by members of the public, whether or not charges are prescribed by this By-law for the use thereof;**
	4. “**prescribed**” means prescribed by the Council;
	5. “**public place**” means any land which—
		* + 1. owned by an organ of State; or
				2. is controlled and managed by the Municipality and is either—

set aside in terms of any law, zoning scheme or spatial plan, for our purposes public recreation, conservation, the installation of public infrastructure or agriculture; or

is predominantly undeveloped and open and has not yet been set aside for a particular purpose in terms of any law, zoning scheme or spatial plan;

* + - * 1. managed by or on behalf of the Municipality for the purposes of providing a public service, which includes road reserves and areas subject to electrical, pipe-line and other public utility servitudes;
				2. is managed by or on behalf of the Municipality for public recreational purposes, and includes any park, botanical garden, sports ground and playground, but any excludes golf course;
	1. **"public road" means any road, street, cycle path, thoroughfare, parking ground, dedicated busway, parking bay or any other similar place, and includes—**
1. **the verge of any such public road;**
2. **any footpath, sidewalk or similar pedestrian portion of a road reserve;**
3. **any bridge, ferry or drift traversed by any such public road;**
4. **any other object belonging to such public road, which has at any time been—**

**dedicated to the public;**

**used without interruption by the public for a period of at least 30 years;**

**declared or rendered as such by the City or other competent authority; or**

**constructed by a local authority; and**

**(e) any land, with or without buildings or structures thereon, which is shown as a public road on—**

1. **any plan of subdivision or diagram approved by the City or other competent authority and acted upon; or**
2. **any general plan as defined in the Land Survey Act, 1997 (Act 8 of 1997), registered or filed in a deeds registry or Surveyor General’s office, unless such land is on such plan or diagram described as a private-public road;**
	1. **“road traffic sign” bears the meaning given to it by the National Road Traffic Act, No. 93 of 1996**
	2. **“sidewalk” means that portion of a public road between the outer boundary of the roadway of a road and the boundary lines of adjacent properties or buildings which is intended for the use of pedestrians;**
	3. “**special event**” means a parade, procession, race, concert, show, exhibition, festival, ceremony, film shoot or similar event which requires, for that purpose, exclusive use of a part of a public place;
	4. “**verge**” means that portion of a street which is not constructed, or intended, for vehicular traffic;
	5. **‘‘vehicle’’ means a device designed or adapted mainly to travel on wheels, tyres or crawler tracks and includes such a device which is connected with a draw-bar to a breakdown vehicle and is used as part of the towing equipment of a breakdown vehicle to support any axle or all the axles of a motor vehicle which is being salvaged, other than such a device which moves solely on rails.**
	6. “**waste**” means—
	7. domestic waste;
	8. garden waste;
	9. building and demolition waste;
	10. business waste; and
	11. the categories of other waste as defined in the Municipality’s Waste Management By-laws.
	12. “**water body**” means any body of water within a public place and includes any fountain, artificial watercourse, dam, lake, canal, reservoir, stream, river and wetland.
3. **Restricting access.** —The Municipality may restrict access to any public place or to any part of a public place for a specified period of time—

(a) to protect any aspect of the environment within such public place;

(b) to reduce vandalism and destruction of property;

(c) to improve the administration of such public place;

(d) to develop a public place;

(e) to enable a special event which has been permitted by the Municipality;

 (f) to undertake any activity which the Municipality reasonably considers necessary or appropriate to achieve the purposes of these By-laws.

1. **Driving and Parking of heavy vehicles and delivery vehicles –**

 **(1) No person may, for an uninterrupted period exceeding two hours, except on places reserved for parking of such vehicles, park on a street or public place –**

**(a) a motor vehicle with a gross vehicle mass (GVM) exceeding 9000 kg;**

**(b) a delivery truck**

 **(2) Whenever a vehicle is parked in contravention of subsection (1), it is deemed that such vehicle has been parked by the owner thereof unless the contrary is proved.**

**(3) No person is allowed to operate or drive a heavy duty vehicle in the Central Business District, whose gross vehicle mass (GVM) exceeding 16000kg between the hours of 06h00-18h00, unless under the instructions of an on duty traffic official operating a marked police vehicle with blue light and siren.**

1. **Prohibition on car washing services –**

**(1) No person is allowed to carry out any car washing services on the street/road or area that is not designated for such car washing service.**

**(2) Any person allowing or carrying on such car washing services in contravention with these Bylaws will be guilty of contravening these Bylaws.**

**(3) Any vehicle found in such street/road or area, receiving such car washing services will be towed and impounded and will only be released upon payment of the impounding fee.**

1. **Powers of authorised officials**. —In relation to any public place, an authorised official may—

(a) to the extent authorised by the Municipality, administer, implement and enforce the provisions of these By-laws;

(b) issue any notice in terms of section 21;

(c) instruct any person to leave a public place if such authorised official believes that such person is contravening any provision of these By-laws and fails immediately terminate such contravention upon the instruction of that official; and

(d) if such official is a peace officer, exercise any power which may be exercised by a peace officer under the Criminal Procedure Act (Act No. 51 of 1977).

1. **Breaches of the peace.** —No person shall, in a street or public place—

(a) accost, insult, interfere with, threaten or harass another person;

(b) associate, or act in concert, with, another person in a manner which causes or is likely to cause a breach of the peace;

(c) fight or incite or invite another person to fight.

1. **Indecent behaviour**. —
2. No person shall, in view of a street or public place—

(a) expose his person or be clothed in a manner which results in such exposure;

(b) perform any indecent act or incite any person to commit such an act.

(2) No person shall loiter in any street or public place for the purpose of prostitution or solicit any other person for such purpose.

1. **Indecent or offensive literature or representation. —** No person shall, in a street or public place—

(a) display, distribute, expose to view or sell or offer for sale, in a manner likely to cause offence, any indecent or offensive picture or other representation or written or printed matter;

(b) draw, print, write or otherwise produce, any immoral, indecent or offensive, figure, letter, picture, word or other representation or matter so that the same is in the public view or may be seen by any other person.

1. **Dangerous acts**. —No person shall, in a street or public place—

(a) handle or use any material, object or thing which is likely to cause injury to a person or to intimidate such person or to damage property or does so in a manner likely to result in such injury, intimidation or damage;

 (b) lights, uses or benefits from a fire other than in a facility provided by the Council for that purpose;

 (c) attach any object to, or suspend any object from, a canopy, verandah, pillar, pole, post or other projection, in a manner likely to cause damage or injury to a person, unless such object is attached or suspended with the approval of the Council;

 (d) perform any act which may cause injury or damage to a person or to property.

1. **General offences.** — (1) No person shall, in a street or public place—

 (a) defecate or urinate except in a facility provided by or on behalf of the Council for that purpose;

 (b) spit;

 (c) be under the influence of liquor;

 (d) be under the influence of a dependence-producing substance or administer a dependence-producing substance, to himself or another person, or sell or give a dependence-producing substance to another person;

 (e) contravene the provisions of any notice within any public place;

 (f) unlawfully enter a public place to which access has been restricted;

(g) bathe, wade or swim in, or wash himself, an animal or any object, including clothing, in any water body.

 (2) No person shall keep any wild or ferocious animal so as to be a danger to the public and any such animal found to be at large may, if considered necessary to safeguard human life, be destroyed by an authorised official.

 (3) No person shall turn loose or allow to wander in any street or public place, any horse, cattle, donkey, pig, sheep or goat and any such animal so found, may be impounded.

 (4) No person shall allow any duck, goose or poultry to be at large or to trespass on any private property.

1. **Cleaning of sidewalks and verges**. —

 (1) An occupier of premises which constitute a factory as defined in subsection (3) or on or in which there is carried on any business, occupation or trade, shall at all times while any activity is being carried on in the factory or while the premises are open for business or the occupation or trade is being carried on, keep any sidewalk or verge abutting or adjoining the premises, including any gutter or kerb, free of waste and put or keep the same in a clean and satisfactory state.

 (2) The occupier referred to in subsection (1) shall cause all waste removed in terms that subsection, to be placed in a refuse receptacle provided by the Council for such purpose.

 (3) For the purpose of subsection (1), “factory” shall have the meaning given to it in the Occupational Health and Safety Act, 1993 and the regulations thereunder.

1. **Obstructions.** —No person shall, in a street or public place—

 (a) leave anything unattended so as to cause or be likely to cause an obstruction to persons or vehicles;

(b) carry, deposit, handle or introduce anything so as to obstruct or interfere with the free movement of persons or vehicles or with the use of a street or public place by persons or vehicles or to cause injury to any person or damage to any property;

 (c) deposit on such street or in such public place, for the purpose of, or in the course of, loading or unloading, a vehicle or of delivering anything to premises having access to such street or public place for a period longer than is necessary for such purpose;

 **(d) obscure or deface a road traffic sign or obscure, or place any poster, sign, billboard or the like.**

 (e) gather with, or cause a gathering of persons in a place or in a manner which obstructs or is likely to obstruct or interfere with the movement of persons or vehicles or the use or enjoyment of the street or public place, unless such gathering has been authorised in terms of the Regulation of Gatherings Act, 1996 (Act No. 90 of 1996).

1. **Obstructions caused by plants.** —

(1) If a tree, shrub or other plant, or any part or portion of such tree, shrub or plant, growing on any premises which abut a street or public place—

 (a) obstructs the view of the driver of any vehicle in such street or public place;

 (b) obscures a road traffic sign;

 (c) obscures, or interferes with the operation of, a street surveillance camera;

 (d) obstructs or causes a nuisance to persons using such street or public place, or if any part of such tree, shrub or plant causes or is likely to cause a nuisance or danger to person or property, an authorised officer may serve a notice on the owner of the premises or, if the premises are occupied by a person other than the owner, on the occupier thereof, requiring him to cut down, remove or trim the tree, shrub or plant from which the nuisance or source of danger originates, within the period stated in the notice, and any person who fails to comply with such notice shall be guilty of an offence.

 (2) If a person on whom a notice has been served in terms of subsection (1) fails to comply with such notice within the period stated therein, an authorised official may cause the work specified in such notice to be carried out and such person shall be liable to the Council for the cost of the work incurred by the Council.

1. **Parking of a vehicle under repair**

 **(1) No person responsible for the control of a business of recovering or repairing vehicles may park, cause or permit to be parked, in any public road or public place within the municipal area any vehicle that is in a state of disrepair, which has been placed in his or her charge in the course of the business of recovering or repairing.**

 **(2) no person may repair a vehicle on a public road.**

 **~~(3) A person who contravenes subsection (1) commits an offence.~~**

1. **Parking in a loading zone**

**(1) No person who operates or who is in charge of a vehicle on a public road may allow, subject to subsections (2) and (3), the vehicle to remain stationary in a loading zone—**

 **(a) between the hours of 07:00 and 18:00 on Mondays to Saturdays, except where such day is a Public Holiday;**

 **(b) between the hours of 07:00 to 14:00 on Sundays, except where such day is a Public Holiday; or**

 **(c) between other restricted hours as may be specified in respect of a particular loading zone by a road traffic sign or marking.**

 **(2) No person who operates or who is in charge of a vehicle on a public road may allow a vehicle, other than a goods vehicle, to remain stationary in a loading zone for more than five minutes continuously, except while actually loading or off-loading persons or goods and while a licensed driver is in attendance at the vehicle.**

 **(3) No person who operates or who is in charge of a vehicle on a public road may allow a goods vehicle to remain stationary in a loading zone for more than 30 minutes continuously, except while the vehicle is being actually loaded or off-loaded.**

 **(4) The driver of a vehicle, other than a goods vehicle, stationary in a loading zone must immediately remove the vehicle from the loading zone upon being directed to do so by an authorised officer, even if the vehicle has not been stationary therein for longer than the maximum period allowed in respect of a vehicle of that class.**

 **(5) A person who contravenes a provision of this section commits an offence.**

1. **Disposal of property found in a street or public place.** —

 (1) When anything has been left in a street or public place in terms of section 12 (a), an authorised official may remove it to a store designated by the Municipality for such purposes: provided that if such thing is in the opinion of the authorised official of no commercial value, he may dispose of same in such manner as he deems fit and the person who committed the offence shall be liable to the Council for the costs of such disposal as determined by such authorised official.

(2) Anything which has been removed to a store in terms of subsection (1) shall be released to the person who, within seven days of such removal or within such longer period as may be allowed by the authorised official in charge of such store, proves to the satisfaction of the authorised official that he is the owner of such item or is entitled to possession thereof, and pays for the cost of removal and storage thereof in accordance with the Council’s tariff of charges: provided that such authorised official may cause an item which is of a perishable nature and has not been claimed before it has ceased to have any commercial value, or before it has become offensive or a danger to health, to be destroyed or otherwise disposed of in such manner as he deems fit or to be removed to a municipal waste disposal site.

 (3) Any item which has not been released or disposed of in terms of subsection (2) shall be disposed of in terms of the Council’s policy on the disposal of movable assets.

 (4) The proceeds of any sale in terms of subsection (3) shall first be applied in payment of—

 (a) the cost of removal and storage as determined in terms of subsection (2);

 (b) any costs which may have been incurred in attempting to trace the owner of the item;

 (c) the costs of the sale of the item and the balance shall be forfeited to the Council if not claimed within one year from the date of the sale by the person who established his legal right thereto.

 (5) If the proceeds of the sale are not sufficient to meet the costs referred to in subsection (4) the owner of the item sold and the person who committed any offence in terms of these By-laws in relation thereto, shall be jointly and severally liable to the Council for payment of the unsatisfied balance.

 (6) If the item cannot be sold in terms of subsection (3) the authorised official in charge of the store may dispose of such item in such manner as he deems fit and the provisions of subsection (5) shall mutatis mutandis apply in respect of any costs incurred in effecting such disposal.

 (7) The exercise of any powers conferred by this section shall not render the Council or any authorised official liable for loss or theft of, or any damage to, anything removed in terms of subsection (1).

1. **Begging and gambling.** —No person shall, in a street or public place—
2. beg for money or goods or ask for or solicit anything, whether by gesture, word or otherwise;
3. gamble or play any game for gain, whether monetary or otherwise, or cause or induce another person to perform any of the activities mentioned in paragraphs (a) or (b).
4. **Camping and sleeping.** —No person shall, in a street or public place, or on any premises owned or under the control of the Council not intended for such purpose—
5. camp, sleep or use any portion thereof for the purpose of habitation, except with the express permission of the Council;
6. lie or sleep on any bench or seat provided by the Council for the use of the pub-public
7. **Nuisances arising from the use of premises.** —

(1) No owner or occupier of premises shall—

 (a) use them for a purpose;

 (b) cause, allow or permit their use;

 (c) organise or allow or permit an activity, event of function therein, which by its nature or otherwise, or by reason of its consequences, creates or is likely to create, a nuisance.

 (2) Whenever an authorised official is of the opinion that a contravention of subsection (1) is being committed, he may instruct the owner or occupier of the premises or any person responsible for, or participating in, the use, activity, event or function, to take such steps as he may specify to abate the nuisance or to avoid the creation of a nuisance or, if this can only be achieved by the cessation of the use, activity, event or function, to bring it to an end forthwith or within a time prescribed by him.

 (3) In enforcing the provisions of subsection (2), an authorised official may invoke the provisions of the Municipality’s Noise Abatement By-laws or any noise regulations promulgated under national legislation.

1. **The lighting of fires.** —No person shall on any premises light a fire or burn or attempt to burn any rubbish or refuse or any grass or other vegetation without taking adequate precautions to prevent the uncontrolled spread of fire or the creation of a nuisance, whether as a result of the production of ash, flames, fumes, heat, smoke or otherwise.
2. **General offences relating to municipal property.** — (1) No person shall, in relation to any property in the ownership or possession of or under the control of the Council, whether movable or immovable, and including any street or public property—

 (a) wilfully or negligently damage or destroy such property or any part thereof;

 (b) remove any earth, sand, shale, stone, turf or any other material or part thereof;

 (c) erect, build or assemble any structure, including a hut, tent, screen, bulletin board, pole, stand or stage;

 (d) break, cut, destroy or remove any bush, shrub, tree or other plant or remove any branch, flower, leaf or other part thereof;

 (e) attach to or place next to, such property, anything, including any advertisement, bill, pamphlet, placard or poster or other illustrative, written or printed matter, or hang or suspend anything on or from such property;

 (f) deface any such property by any means whatsoever or plug, tamper with or in any way damage any plumbing, electrical, heating or other fixtures or installations;

 (g) extinguish any lamp or light or displace or remove any barricade or enclosure, fence, lamp, light, notice or sign;

 (h) make any excavation in or disturb the surface of such property or alter the slope or drainage pattern of such property so as to interfere with the access of water, air or nutrients to any tree or other plant;

 (i) climb or sit upon, hang onto, or from, or mount, such property;

 (j) introduce any object or material, or erect any structure, on such property;

 (k) capture or attempt to capture, chase, shoot at, injure, throw objects at, tease, molest or in any other way, disturb any animal, fish or bird;

 (l) disturb, damage or destroy any bird nest or egg;

 (m) walk any dog unless—

(i) it is in a public place or any part thereof which has not been designated by the Municipality as an area where no dogs are allowed, and it is on a leash and under the control of a person; or

 (ii) it is in a public place or any part thereof designated by the Municipality as area where dogs may run free: Provided that if any dog excretes in a public place, the person in control of the dog shall immediately remove such excrement and dispose of it in a waste bin or other receptacle provided by the Municipality for that purpose;

 (n) allow, cause or permit any other person to commit any of the aforesaid acts, unless he does so in the performance of a lawful right or duty or with the prior consent of an authorised official or in accordance with the provision of any law: Provided that nothing contained herein shall prevent the owner or occupier of premises from planting and maintaining grass or plants on that portion of the verge of a street which abut such premises as long as the lawful passage of vehicles and pedestrian traffic and the lawful parking of vehicles is not thereby obstructed or impeded and such grass or plants are properly maintained and do not give rise to a nuisance.

 (2) No person shall, within a public place—

 (a) deposit, dump or discard any waste, other than in a receptacle provided by the Municipality for that purpose; or

 (b) pollute a water body or deposit any waste or thing in a manner which may detrimentally impact on a water body; or

 (c) act in any manner which contravenes the Municipality’s Waste Management Bylaws.

 (3) Any person who is convicted of an offence under subsection (1) shall pay to the Council the cost of remedying any loss or damage suffered by the Council as a result of the commission of that offence and the cost of removal or disposal of any material, object or structure involved in the commission of the offence and for this purpose the provisions of section 16 shall apply.

1. **Selling and special events.** — (1) No person shall, within a public place—

 (a) use municipal property in a way that unfairly restricts or prevents other users of such place from enjoying such municipal property; or

(b) except within such public place or part thereof, which has been let to a person by the Municipality for that purpose, sell, hawk, offer or display any goods or articles for sale or hire.

**23. Private premises.** — (1) No person shall on any private premises—

 (a) excavate or remove soil or other material in a position in relation to a boundary of the premises with other premises or a street or public place which removes or is likely to remove lateral support from those premises or that street or public place or to create a source of danger to life or damage to property;

 (b) allow any well, pond reservoir, pit, hole, excavation or earthwork or any tree or other vegetation on such premises to be in such a condition or to be so unprotected as to constitute a danger to the safety of persons or property;

 (c) cause or allow anything to project from such premises over or into a street or public place, except in an area zone for industrial purposes, and to an extent necessarily consistent with the use to which such premises are put;

 (d) whether such person is the owner or occupier of such premises, deposit, store or cause, allow or permit, to be deposited or stored, or accumulate so as to be visible from a street or public place, abandoned, derelict or disused furniture, machinery, vehicles or other objects or parts thereof or scrap metal or other derelict or waste materials;

 (e) without the consent of the owner or occupier thereof, attach or place anything to or on any premises or in any way deface such premises, whether by use of chalk, ink or paint or by any other means whatsoever, unless he is authorised by any law to do so.

 (2) An authorised official may order a person who has contravened or is contravening paragraph (c) or (e) of subsection (1) to remove the thing to which the contravention relates from the premises concerned within a specified time and if he fails to do so, the provisions of section 16 shall, mutatis mutandis, apply.

**24. Naming of streets.** —

(1) The Council reserves the right to give such names as it may deem fit to any new streets or roads or to alter the names of existing streets or roads or public places within its jurisdiction.

 (2) The Council may paint or otherwise place the names of streets or roads at some conspicuous point or on any building at or near the corner of any street or road.

1. **Restoration or removal notices.** — (1) Unless permission or a permit to do so has been issued by the Municipality, an authorised official may issue a restoration or removal notice to any person who has in a public place—

 (a) damaged, defaced, disturbed, destroyed, demolished or removed vegetation or a municipal structure;

 (b) erected, built or assembled a structure; or

 (c) dumped, discarded or deposited any waste other than in a receptacle provided by the Municipality for that purpose.

 (2) The restoration or removal notice may direct the person concerned within a reasonable time specified in the notice to take stated reasonable steps specified in the notice—

 (a) to restore or rehabilitate the affected area to the reasonable satisfaction of the Municipality; or

 (b) to remove a structure or thing and restore the affected site, as nearly as practicable, to its former condition.

1. **Presumptions.** — (1) When an employee of a person in the course of his employment performs any act or is guilty of an omission which constitutes an offence under these By-laws, the employer shall be deemed also to have performed the act or to be guilty of the omission, and shall be liable on conviction to the penalties referred to in section 27 unless he proves to the satisfaction of the Court that—

 (a) his employee was acting without his knowledge or permission;

 (b) all reasonable steps were taken by him to prevent the act or omission in question;

 (c) it was not within the scope of the authority or in the course of the employment of the employee to perform an act of the kind in question.

 (2) The fact that an employer issued an instruction forbidding any act or omission of the kind referred to in subsection (1) shall not of itself be accepted as sufficient proof that he took all steps referred to in paragraph (b) of subsection (1).

 (3) When an employer is by virtue of the provisions of subsection (1) liable for any act or omission of his employee, that employee shall also be liable to prosecution for that offence.

 (4) In any prosecution for an offence under these By-laws, an allegation in the charge concerned that any place was situate in a street or public place or within a particular area or was a place of a specified kind, shall be presumed to be correct unless the contrary is proved.

1. **Offences and penalties.** —

 (1) Any person who contravenes or fails to comply with any provisions of these By-laws or fails to comply with any lawful instruction given in terms of these By-laws or fails to comply with any notice issued or displayed in terms of these By-laws or obstructs or hinders any representative or employee of the Municipality in the execution of his or her duties under these By-laws shall be guilty of an offence and liable on conviction to a fine or to imprisonment or to both such fine or imprisonment decided by a competent Court, provided that in the case of a continuing offence such person shall be liable on conviction to an additional fine or imprisonment for each day on which such offence continues.

 (2) Nothing in these By-laws shall detract from a Court’s discretion to postpone the passing of sentence on the condition that a person convicted under these By-laws shall perform community service as contemplated in section 297 of the Criminal Procedure Act, (Act No. 51 of 1977), as amended.

1. **Repeal of By-laws.** —All General By-laws previously published in terms of section 98 of the Local Government Municipal Systems Act, 2000 (Act No. 32 of 2000), are hereby repealed.