

LOCAL GOVERNMENT NOTICE

MUNICIPALITY OF ENDUMENI

BY-LAW RELATING TO MUNICIPAL FACILITIES AND PUBLIC AMENITIES

The Municipal Manager hereby publishes, in terms of Section 13 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000], read with Section 162 of the Constitution of the Republic of South Africa Act, 1996 [Act No. 108 of 1996], the By-law Relating to Municipal Facilities and Public Amenities.

Purpose of By-law

The purpose of this by-law is to

- (a) regulate the use and enjoyment of municipal facilities and public amenities; and
- (b) provide for procedures, methods and practices to regulate the use and hire of municipal facilities.

**CHAPTER 1
INTERPRETATION**

1. **Definitions** – In this by-law, the singular includes the plural and vice versa, and, unless the context otherwise indicates –

'appurtenance' means any installation or appliance in or at a municipal facility, and includes, without derogating from the generality of the foregoing, keys, locks, windows, toilets, basins, water taps and fittings;

'authorised official' means –

- (a) an official of the municipality who has been authorised by it to administer, implement and enforce the provisions of this by-law;
- (b) a traffic officer appointed in terms of Section 3A of the National Road Traffic Act, 1996 [Act No. 93 of 1996];
- (c) a member of the police service, as defined in terms of Section 1 of the South African Police Service Act, 1995 [Act No. 68 of 1995]; or
- (d) a peace officer, contemplated in terms of Section 1 of the Criminal Procedure Act, 1977 [Act No. 51 of 1977];

'council' means the council of the municipality, or any political structure, political office bearer, councillor, or any staff member acting under council's delegated or sub-delegated authority;

'hirer' means any person who applies, pays, and obtains approval, for the use of a municipal facility or public amenity;

'municipal facility' means a building, hall, room or office, including any part thereof and apparatus therein, which is the property of, or which is managed or leased by, the municipality, and to which the general public has access, whether on payment of admission fees or not;

'municipality' means the Municipality of Endumeni, established in terms of Section 12 of the Municipal Structures Act, 1998 [Act No. 117 of 1998], and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

'notice' means an official notice displayed at an entrance to, or at a conspicuous place in or about, a municipal facility or public amenity, and in which the municipality shall make known provisions and directions adopted by it in terms of this by-law;

'nuisance' means, without limiting the generality of the term, an act, omission, condition or state of affairs that –

- (a) impedes, offends, endangers or inconveniences the public at large; or
- (b) causes material inconvenience in the ordinary and comfortable use or enjoyment of a municipal facility or public amenity,

and **'public nuisance'** shall have a corresponding meaning;

'person' means a natural or juristic person, and includes a voluntary association of natural or juristic persons;

'prescribed fee' means the fee determined by resolution of the municipality for the hire of a municipal facility or use of public amenity;

'public amenity' means any land, square, camping site, swimming-bath, public resort, recreation site, nature reserve, zoological, botanical or other garden park or hiking trail which is the property of the municipality, including any portion thereof and apparatus therein or thereon; and

'user' means any person who actually utilizes, or who directly benefits from, a municipal facility or public amenity.

CHAPTER 2 USE OF MUNICIPAL FACILITIES AND PUBLIC AMENITIES

2. **Maximum number of visitors**

- (1) The municipality may determine the maximum number of visitors who may be present at a specific time in or at a municipal facility or public amenity.
- (2) The number contemplated in subsection (1) shall be made known by the municipality by means of a notice.

3. **Admission to a municipal facility or public amenity**

- (1) A municipal facility or public amenity is, subject to the provisions of this by-law, open to the public during the times determined by the municipality, and made known in a notice.
- (2) No visitor shall enter or leave a municipal facility or public amenity at a place other than that indicated for such purpose.

4. **Access and use by disabled persons**

- (1) The municipality shall ensure that all entrances and exits from a municipal facility or public amenity are designed so as to accommodate and permit access by disabled persons.
- (2) A municipal facility shall be equipped with such ramps, lifts or similar equipment and services so as to facilitate effective use by disabled persons.

- (3) Nothing contained in this section shall be construed so as to detract from the requirements of the National Building Regulations and Building Standards Act, 1977 [Act No. 103 of 1977] and any regulations promulgated in terms thereof.

6. Entrance fees

- (1) A visitor to a municipal facility or public amenity shall pay an entrance fee, as may be determined from time to time by the municipality, and such entrance fees shall be made known by means of a notice.
- (2) Different entrance fees may be determined in respect of visitors of different ages, and the municipality may exempt certain groups of persons from the payment of an entrance fee, provided that such exemption does not amount to unlawful discrimination.

7. Nuisance

- (1) No person shall perform or permit any of the following acts in or at a municipal facility or public amenity without the municipality's prior written consent –
- (a) the firing of firearms, airguns, air pistols, or the use of longbows, crossbows, slingshots, catapults, or other weapons;
- (b) the discharge of fireworks, provided that the requirements of the Explosives Act, 2003 [Act No. 15 of 2003] and any regulations promulgated in terms thereof are met in the event that such person obtains the municipality's prior written consent;

- (c) the burning of rubble or refuse;
 - (d) the causing of unpleasant or offensive smells;
 - (e) the production of smoke nuisances;
 - (f) the causing of disturbances, by fighting, shouting, or arguing, or by the use of loudspeakers, radios, television sets or similar equipment; or
 - (g) the causing, in any other manner, of a nuisance, obstruction, disturbance, or annoyance, to the public.
- (2) An authorised official may, during any activity of a hirer, direct that the hirer remove from a municipal facility or public amenity any person who is in a state of intoxication and who is behaving in an offensive manner, or who is causing a nuisance or annoyance to other people in or at a municipal facility or public amenity or to occupiers of other parts of the municipal facility or public amenity or neighbouring buildings.
- (3) An authorised official may, during any activity of a hirer, direct the hirer to prevent access to a municipal facility by any person who is in a state of intoxication and who behaves in an offensive manner or who is causing a nuisance or annoyance to other people in or at, or users of, a municipal facility or public amenity, or to occupiers of other parts of the municipal facility or public amenity or neighbouring buildings.

7. **Health matters**

No person shall, in or at a municipal facility or public amenity -

- (a) dump, drop or place any refuse, rubble, or material, or any object or thing, or permit it to be done, except in a container provided for that purpose in or at the municipal facility or public amenity;
- (b) pollute or contaminate the water in any swimming bath, dam, spruit, river, water course, or other form of water supply; or;
- (c) perform any act that may detrimentally affect the health of any visitor to a municipal facility or public amenity.

8. **Structures**

- (1) No person shall, without the prior written consent of the municipality, erect or establish, in or at a municipal facility or public amenity, any structure or shelter, or anything similar.
- (2) Notwithstanding the provisions of subsection (1), a person may park a caravan or erect a tent for camping purposes at a public amenity, provided that such caravan or tent is parked or erected on a site specifically set aside for such purpose by notice.

9. **Liquor and food**

- (1) No person shall bring into a municipal facility or public amenity any alcoholic beverage or food, of whatever nature, unless permitted in terms of prior written consent or by notice.
- (2) No person shall, in or at a municipal facility or public amenity, cook or prepare food of any kind whatsoever, except in terms of prior written consent or by notice, provided that –
 - (a) the preparation and cooking of food in or at a municipal facility or public amenity shall be done –

- (i) at places set aside for such purposes; and
 - (ii) in a clean and hygienic manner, so as not to give rise to excessive smoke or other nuisances, or pose any danger to health; and
- (b) no animals, poultry or fish may be killed or skinned in or at a municipal facility or public amenity, unless permitted in terms of prior written consent or by notice.

10. Animals

- (1) No person shall bring any animal, bird, fish or poultry into a municipal facility or public amenity, **provided that –**
- (a) a blind person may be accompanied by a guide dog; and**
 - (b) the municipality may issue directions with regard to exceptions in respect of the foregoing prohibition.**
- (2) The directions contemplated in subsection (2)(b) shall be made known by means of a notice.

11. General use of municipal facilities and public amenities

- (1) In respect of the use of municipal facilities and public amenities, no person shall-
- (a) arrange or present any public entertainment;
 - (b) collect money or any other goods for charity or any other purpose from the general public;

- (c) display or distribute any pamphlet, placard, painting, book, handbill, or any other printed, written or painted work;
- (d) arrange, hold, or address, any meeting;
- (e) arrange, or hold, a public gathering or procession, exhibition or performance;
- (f) conduct any trade, occupation or business;
- (g) display, sell, rent out, or present for sale or rent, any goods or articles; or
- (h) hold an auction,

at such municipal facility or public amenity, unless the prior written consent of the municipality has been obtained, or such activity is permitted in terms of the conditions of hire, as contemplated by chapter 3 of this by-law.

- (2) Nothing contained in this section shall be construed so as to detract from -
 - (a) the requirements of the Regulation of Gatherings Act, 1993 [Act No. 205 of 1993]; or
 - (b) any person's constitutional right to assemble, demonstrate, picket and present petitions.

12. **Safety and responsible conduct**

- (1) Subject to subsection (2), no person shall -

- (a) cause damage or disfigurement;
- (b) use, or try to use, anything for any purpose other than that for which it is designated or determined by notice;
- (c) light a fire or prepare food, except at a place indicated for that purpose by notice;
- (d) wash any crockery or laundry, or hang out such laundry, except at places indicated by notice for that purpose,

in or at a municipal facility or public amenity.

- (2) The municipality may, by way of notice, and subject to such conditions as the municipality deems necessary, and mentioned in the said notice, authorise any of the actions contemplated in subsection (1), or in the relevant conditions of hire.

CHAPTER 3

HIRE OF MUNICIPAL FACILITIES

13. Cooperation between municipal departments

Every department of the municipality having jurisdiction over or responsibility for any municipal facility must cooperate with any other such department in ensuring that –

- (a) such municipal facility is properly maintained in a state fit for the purposes for which it was designed and is used; and

- (b) subject to the provisions of section 19, no part of such municipal facility is made available to, or hired out to, more than one person at the same time.

14. Application for hiring of municipal facilities

- (1) Any person wishing to apply for the hiring of a municipal facility must –
 - (a) submit an application to the municipality in the form prescribed by the municipality for this purpose;
 - (b) clearly stipulate in such application –
 - (i) the municipal facility, seating, accommodation and equipment required; and
 - (ii) the period for which the municipal facility is required;
 - (c) ensure that such application form is received by the municipality not less than 30 (thirty) days prior to the date on which the municipal facility is first required by the applicant, provided that this time period may, depending on the demand for the municipal facility in question, be relaxed by the municipality.
- (2) The municipality may refuse to hire out any municipal facility in terms of subsection (1), or may cancel any booking thereof if–
 - (a) the municipal facility is to be used for any unlawful purpose; or

- (b) the municipal facility is required at the same time by the municipality for municipal purposes, provided that the municipality shall furnish at least 14 (fourteen) days' notice of any cancellation of an existing booking.
- (3) No compensation shall be payable by the municipality to the hirer for any loss which the hirer may suffer by reason of the municipality's having acted in terms of subsection (2), provided that the municipality shall refund all charges that have already been paid to it in respect of the application.
- (4) The hirer is limited to the use of the municipal facility specified in the application form, and may not use any other municipal facility for which he or she has not applied.
- (5) The municipal facility so hired may not, except with the prior written consent of the municipality, be used for any purpose other than the purposes indicated on the application form or stipulated in the conditions of hire.

15. Tariff of fees

The municipality may from time to time determine a tariff of prescribed fees for the hire of municipal facilities provided by the municipality in terms of this by-law.

16. Payment of charges

No person shall be permitted to use any municipal facility unless the prescribed fee, where applicable, has been fully paid, provided that the municipality may exempt any person or organisation, on good cause, from the payment of the entire prescribed fee, or a portion thereof.

17. Period of hire

Notwithstanding any determination made by the municipality regarding the dates and period for which a municipal facility may be hired, the municipality may allow the hirer reasonable access to a municipal facility before the commencement date of the period of hire, so as to enable the hirer to make necessary preparations and arrangements, but subject to the prior payment of the prescribed fee by the hirer.

18. Adjustment of period of hire

- (1) Any person who makes an application for the use of a municipal facility in terms of the provisions of section 14 may, subsequent to the approval of such application, and the reservation of such municipal facility, apply for the postponement of such reservation to a later date, without penalty or forfeiture, provided that such postponement may be refused if such municipal facility has, in the meantime, been reserved for use by another person on the date to which the postponement is sought.
- (2) Any person who has already made an application for the reservation of a municipal facility may cancel such reservation, provided that if -
 - (a) a reservation is cancelled 1 (one) month or longer prior to the commencement date of such reservation, then the hirer must receive a full refund of the prescribed fee already paid;
 - (b) a reservation is cancelled more than 15 (fifteen) days but less than 1 (one) month prior to the commencement date of such reservation, then the hirer must receive a 50% (fifty percent) refund of the prescribed fee;

- (c) a reservation is cancelled 15 (fifteen) days or less prior to the commencement date of such reservation, then the hirer is not entitled to receive any refund of the prescribed fee.
- (3) Any person may extend the period of hire of a municipal facility upon written application to the municipality in the manner provided for in section 14(1), provided that -
- (a) the period of 30 (thirty) days' notice, as contemplated in terms of section 14(1)(c), shall not apply;
 - (b) the municipal facility concerned has not, in the meantime, been reserved for use by any other person

19. Joint hire

- (1) The municipality may let any municipal facility or part thereof to different hirers for simultaneous use.
- (2) In the case of such simultaneous use, each hirer must use any ancillary amenities which serve or comprise part of the municipal facility –
 - (a) jointly with the other hirers; and
 - (b) in such manner that all the hirers, their guests, customers, patrons, employees, agents, directors or other representatives are able to enjoy the use of the municipal facility in question without infringing on the rights of use by other users.
- (3) The provisions of this by-law, read with the necessary changes, apply to the joint users of the hired municipal facility.

20. **Sub-letting**

A hirer may not -

- (a) sub-let any hired or municipal facility to any other person or organisation;
- (b) cede, pledge, or renounce, in favour of another person any of his or her rights or obligations under this by-law; and
- (c) allow any other person to occupy a municipal facility without the prior written consent of the municipality.

21. **Condition of municipal facility**

- (1) The hirer must inspect the hired municipal facility, including all installations, appliances, fittings, accessories and furniture, before he or she commences to use such installations, appliances, fittings, accessories and furniture.
- (2) If the hirer finds that any of the installations, appliances, fittings, accessories and furniture in or at a municipal facility are not in a proper state of repair, then the hirer must report this fact to the municipality.
- (3) If the hirer fails either to inspect a municipal facility in terms of subsection (1), or to report any defects found therein in terms of subsection (2), then it shall be deemed that, upon commencement of occupation by the hirer, everything in or at the municipal facility was in a proper state of repair.

22. Duties of the hirer

Every person hiring a municipal facility from the municipality must -

- (a) take all reasonable steps to keep all sewerage pipes, water taps and drains within or serving the municipal facility free from obstruction or blockage as a result of the hirer's activities;
- (b) at all times keep the municipal facility in a clean, tidy and sanitary condition;
- (c) not affix or attach to the municipal facility any notices or other matter, without the prior consent of the municipality, provided that upon the termination of the hire, the hirer must remove all such attachments;
- (d) not obscure any plate glass windows by painting or otherwise;
- (e) not drive into the walls or partitions or doors of the municipal facility any screws or nails;
- (f) not change or interfere with or overload any electrical installation in or at the municipal facility;
- (g) not remove or take out from the municipal facility any furniture or other articles whatsoever that belong to the municipality;
- (h) not obstruct or interfere or tamper with any thermostats or air conditioning appliances in or at the municipal facility;
- (i) not introduce or install any unsafe or heavy article, furniture, fitting, appliance or equipment which, in the reasonable opinion of the municipality, could damage the municipal facility or any part thereof, provided that the municipality may impose, on the

introduction of such item, such conditions as are reasonable to ensure the safety of the municipal facility and its users;

- (j) not install in or at the municipal facility any air conditioning or ventilation units or equipment, without the municipality's prior written consent;
- (k) not permit the storage of motor vehicles or other movable items of any description on the pavements, entrance halls, staircases or passages of the municipal facility;
- (l) not do anything, or allow anything to be done, in non-compliance with any reasonable instruction or prohibition given or issued by the municipality;
- (m) not park vehicles, or allow the parking of vehicles by the hirer's guests, customers, patrons, employees, agents, directors or other representatives anywhere at the municipal facility, except in properly demarcated parking bays, or as may be pointed out by an authorised official.

23. Damage to property

- (1) A hirer who fails to keep and maintain a municipal facility in the same order and condition as when it was hired out to him or her shall be guilty of an offence.
- (2) In addition to any remedies available to the municipality at common law, such hirer shall be liable in terms of the penalties specified in this by-law.

24. Advertisements and decorations

- (1) No person who has applied for the hire of a municipal facility may publicly announce or advertise any function or event in respect of which an application for the hire of such municipal facility has been made, before the municipality has notified such person in writing that the application has been approved.
- (2) Every hirer must, before vacating a hired municipal facility, on the termination of the period of hire, remove all posters, notices, decorations, flags, emblems, signs, and other forms of advertisement or direction erected or affixed by him or her, and make good any damage caused by such removal.

25. Admissions, ushers and sale of tickets

The hirer shall be responsible for all arrangements in connection with the –

- (a) admission of members of the public to any cultural or other activities at a municipal facility;
- (b) the provision of ushers, and other persons necessary to control the admission of persons to a municipal facility; and
- (c) the sale of tickets.

26. Overcrowding

- (1) No overcrowding of a municipal facility may be allowed at any time during any of the hirer's activities.

- (2) The hirer must comply with the municipality's requirements prescribing the maximum number of persons allowed at a municipal facility during activities.
- (3) Without detracting from the general requirements referred to in subsections (1) and (2), the hirer may not permit admission by more persons to a municipal facility than the number of available seats, or, where seating is not provided, the maximum number of persons prescribed by notice at a municipal facility, or as stipulated in the conditions of hire.

27. Sale of food and drinks

- (1) No person may sell food or drinks at any hired municipal facility during any activities, without the prior written consent of the municipality.
- (2) The municipality may permit the sale of food or drinks by such persons as it may approve, after it has received written application to sell such items, and the municipality may allocate sufficient accommodation to such approved persons, wherein trading stock, furniture, equipment, installations and books necessarily required for that purpose may be accommodated.
- (3) The provisions of subsections (1) and (2) do not apply where the supply and sale of food and drinks comprise an integral part of the activities of the hirer.
- (4) The municipality shall not be responsible for the payment of compensation to the hirer in respect of any loss, theft or damage suffered by the hirer or any other person in respect of the items referred to in subsection (2) as a result of any cause whatsoever, except where such loss, theft or damage is due to

the willful act or omission or gross negligence on the part of the municipality.

28. Services

- (1) The nature of the municipal services to be provided to a municipal facility shall be determined at the sole discretion of the municipality.
- (2) The municipality shall not be liable for -
 - (a) the non-receipt or non-delivery of goods, postal matter or correspondence belonging to the hirer;
 - (b) the loss, theft or damage in respect of anything which the hirer, or his or her guests, customers, patrons, employees, agents, directors or representatives may have deposited or left in or at a municipal facility or any part thereof, except where such loss, theft or damage is due to the willful act or omission or gross negligence of the municipality.
- (3) The municipality may take such steps as it may consider necessary for the proper maintenance and operation of any common areas in or at a or municipal facility.
- (4) An authorised official may attend or be present at the hirer's function, to ensure compliance with any provision of this by-law.
- (5) The hirer is not entitled to the official services of an authorised official or any other representative of the municipality who attends the hirer's function in terms of subsection (4).

- (6) The hirer is not entitled to receive free cleaning or other services from the municipality in connection with the hirer's activities during the preparation of, or during, a function.

29. **Exclusion of liability**

- (1) The municipality shall not be liable for -
 - (a) any damage or loss sustained by any person as a result of an insufficient supply of municipal services or interruption in the supply thereof to a municipal facility, or due to any act or omission on the part of the municipality, if the municipality considers the interruption necessary to enable it to exercise any of its powers or perform any of its functions under this by-law, or under any other law;
 - (b) any loss, theft or damage caused to the stock-in-trade, furniture, equipment, installations, books, papers, clothing, or other articles of any nature whatsoever, kept at a hired municipal facility by the hirer or anyone else, whether in regard to the hirer's business or not;
 - (c) any consequential loss suffered by the hirer by making use of a municipal facility, or as a result of rain, hail, lightning, wind, fire, storms, riot or civil commotion;
 - (d) the loss of life or injury to the hirer or anyone else at or in a municipal facility during a function or event; and
 - (e) any loss suffered by the hirer as a result of any failure or defect at or in a municipal facility,

provided that any such damage, theft or loss is not as a result of the willful act or omission or gross negligence on the part of the municipality.

- (2) Upon approval by the municipality of any application for hire, a hirer must complete and sign an indemnity, as may be prescribed, in favour of the municipality.

30. **Destruction of municipal facility**

- (1) The municipality may cancel the hire of a municipal facility in the event that -
 - (a) the municipal facility is destroyed or is damaged to such an extent as to be substantially unusable;
 - (b) there is damage to the municipal facility, such that it is rendered substantially unusable because of the absence of access to, or supply of, any necessary municipal service; or
 - (c) there is destruction or damage to the municipal facility, and the municipality decides not to proceed with the hire of the municipal facility, in order to engage in reconstruction, renovation or rebuilding, or for safety reasons.
- (2) Any decision made in terms of subsection (1) must be communicated by written notice given by the municipality to the hirer within a reasonable period of the event giving rise to the cancellation.
- (3) No hirer shall have any claim against the municipality for any damage or loss arising out of the damage to, or destruction of, a

municipal facility or any part thereof, or for the resultant loss of beneficial use of a municipal facility by such hirer.

31. Termination for non-compliance

The municipality may at any time cancel the hire of a municipal facility if the hirer fails to comply with any of the provisions of this by-law, in which event -

- (a) the municipality shall not be liable for any damage or loss sustained by any person as a result of such cancellation;
- (b) such cancellation shall be effected without prejudice to any claim which the municipality may have against the hirer under any provision of this by-law, or at common law.

32. Termination of hire

- (1) Upon the termination of the period of hire -
 - (a) the hirer must return a municipal facility to the municipality, in good order and condition;
 - (b) the hirer must make good, and repair, at his or her own cost any damage or breakage, or reimburse the municipality for the cost of replacing, repairing, or making good, any broken, damaged or missing articles; and
 - (c) the municipality may deduct from any deposit paid by the hirer in respect of a municipal facility the costs of the said breakage, damage or loss.

- (2) A hirer must vacate a hired municipal facility within such period after expiry of the period of hire, as is stated on the application form or conditions of hire, provided that -
 - (a) failure by the hirer to comply with the provisions of this subsection entitles the municipality to levy a further prescribed fee for such additional period during which the hirer remains in occupation of a municipal facility after the expiry of the period of hire; and
 - (b) the provisions of this subsection do not preclude the municipality from taking lawful steps to procure the eviction of any such hirer from a municipal facility.
- (3) A hirer must comply with all reasonable and lawful instructions of the municipality in respect of the cleaning of a municipal facility upon the hirer's vacation thereof, provided that the municipality itself may elect to undertake the cleaning of all crockery and cutlery used by the hirer.
- (4) A hirer must comply with all reasonable and lawful instructions of the municipality, in respect of the vacation of a municipal facility and the return thereof.

33. Fire hazards and insurance

- (1) A hirer may not bring to, or allow to be brought to, or kept at, a municipal facility, nor undertake nor permit to be done or undertaken in or at a municipal facility, any matter, thing or activity whereby the fire policy, or any other insurance policy, for the municipal facility concerned may become or becomes void or voidable, or whereby the premium for any such insurance may be or is increased.

- (2) If the premium for such insurance is increased as a result of any act or omission contemplated in subsection (1), then -
 - (a) the municipality may, in its discretion, allow such activity, and recover from the hirer the amount due in respect of any additional insurance premium; and
 - (b) the hirer must pay such amount immediately on notification by the municipality or the insurance company to the effect that such additional premium has been charged.
- (3) The municipality may at any time require a hirer to take out insurance with an insurance company, approved by the municipality, against damage or loss suffered during or as a result of any function for which a municipal facility is hired.

34. **Storage facilities**

The municipality shall not be responsible for providing storage facilities for the equipment of the hirer, or that of his or her guests, customers, patrons, employees, visitors, supporters or agents during any period prior to, during or after a function or event.

35. **Equipment**

- (1) A hirer who requires the municipality to supply any equipment for use during a function or event may use such equipment only with the permission of the municipality, and under the supervision of an authorised official.
- (2) If the hirer causes damage to the equipment, or removes or causes the equipment to be removed from a municipal facility

without permission, or fails to return it, then the hirer shall be liable for the repair or replacement costs thereof.

36. Right of entry

- (1) An authorised official may enter a municipal facility at all reasonable times -
 - (a) to inspect the municipal facility and carry out any repairs or alterations or additions or modifications or improvements in or at the municipal facility; and
 - (b) in order to ensure that the conditions of hire for the municipal facility, and the provisions of this by-law, are being complied with.
- (2) A hirer shall have no claim for the reimbursement of any charges payable for the hire of a municipal facility, compensation, damages or otherwise in connection with the exercise by the authorised official of the rights under subsection (1).
- (3) An authorised official may erect scaffolding, hoardings and building equipment in or at a municipal facility, as well as such other devices required by law or which the municipality's architects may certify are necessary to carry out the repairs contemplated in subsection (1)(a).

37. Inspection

Upon the conclusion of the hirer's activities at the end of the period of hire, or at the termination of the hire under any of the provisions of this by-law, the municipality and the hirer, or his or her nominee, must

inspect a municipal facility, for the purpose of assessing any damage or loss.

38. Hire of public amenities

- (1) The provisions of this chapter shall apply, *mutatis mutandis*, to the hire of public amenities.
- (2) It shall be within the sole discretion of the municipality to determine –
 - (a) whether or not to hire out a public amenity; and
 - (b) the conditions of any such hire.

**CHAPTER 4
GENERAL PROVISIONS**

39. Offences and penalties

Any person who contravenes, or fails to comply with, a provision of this by-law, a notice issued in terms of this by-law, or a condition imposed under this by-law, irrespective of whether such contravention or failure has been declared as an offence elsewhere in this by-law, shall be guilty of an offence, and liable, upon conviction, to -

- (a) a fine not exceeding R60 000, or imprisonment for a period not exceeding 12 (twelve) months, or either such fine or such imprisonment, or both such fine and such imprisonment;
- (b) in the case of a continuing offence, an additional fine of R600, or an additional period of imprisonment of 1 (one) day, or either

such additional fine or such additional imprisonment, or both such additional fine and imprisonment, for each day on which such offence is continued; and

- (c) a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as a result of such contravention or failure.

40. **Regulations**

The municipality may make regulations not inconsistent with this by-law, prescribing -

- (a) any matter that may or must be prescribed in terms of this by-law; and
- (b) any matter that may facilitate the application of this by-law.

41. **Repeal of by-laws**

Any by-laws relating to municipal facilities and public amenities adopted by the municipality or any erstwhile municipal council now comprising an administrative unit of the municipality shall be repealed from the date of promulgation of this by-law.

42. **Short title**

This by-law is called the By-law Relating to Municipal Facilities and Public Amenities, 2007, and takes effect on a date determined by the municipality by proclamation in the Provincial Gazette.