

ETHEKWINI MUNICIPALITY: FOOD, MILK AND MILK PRODUCTS BY-LAW, 2022



Adopted by Council on the:

Promulgated on:

FOOD, MILK AND MILK PRODUCTS BY-LAW

To provide measures for managing and controlling food, milk and milk products; to prohibit certain activities or conduct in order to promote a healthy and safe environment and ensuring that foodstuff is safe ,wholesome and fit for human consumption; to provide for the repeal of laws and savings; and to provide for matters incidental thereto.

PREAMBLE

WHEREAS the Municipality has competence in terms of section 156 (2) of the Constitution of the Republic of South Africa to make and administer By-laws for the effective administration of the matters which it has the right to administer;

WHEREAS the Municipality has competence in terms of Part B of Schedule 4 of the Constitution relating to matters such as air pollution and municipal health services, and has the competence in terms of Part B of Schedule 5 of the Constitution in respect of the control of public nuisances;

WHEREAS everyone has the right to an environment that is not harmful to their health or well-being in terms of Section 24(a) of the Constitution;

WHEREAS the Municipality has as one of its objects in terms of Section 152 (d) of the Constitution, the promotion of a safe and healthy environment;

AND WHEREAS there is need to develop legislation to deal with the prevention or minimisation of municipal health nuisances within the area of jurisdiction of the Municipality;

NOW THEREFORE The Municipal Council of the eThekweni Municipality, acting in terms of section 156 read with Schedule 4 Part B of the Constitution of the Republic of South Africa, and read with section 11 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby makes the following By-law:

TABLE OF CONTENTS

CHAPTER 1

INTERPRETATIONS

1. Definitions
2. Interpretation

CHAPTER 2 OBJECTS OF BY-LAW

3. Objects of By-law

CHAPTER 3 APPLICATION

4. Application of By-law

CHAPTER 4 FOOD

5. Handling, Conveyance and transportation of food
6. Inspection and examination of food and food premises
7. Restriction or prohibition of sale or supply of food
8. Seizure, detention and destruction of food
9. Standards and requirements for food premises
10. Facilities on food premises
11. Water supply to food premises
12. Kitchen, scullery and storage
13. Sewerage and drainage
14. Storage of perishable foods
15. Removal of fumes
16. Personnel protective clothing
17. Quality of food and standards of prepared foodstuff
18. Temperature monitoring equipment
19. Bacteriological standards of water and ice
20. Batch identification and date marking
21. Unprocessed products

CHAPTER 5
MILK AND MILK PRODUCTS

22. Authorisation for milk producer, milk dealers and supplier
23. Certificate of registration for building and plant
24. Alteration of building or plant and conditions of certificate
25. Restrictions relating to milk dealers
26. Furnishing of documents on demand
27. Introduction of milk and milk products into the Municipality
28. List of suppliers
29. Samples of milk or milk products
30. Inspection and examination of depots
31. Detention, seizure and destruction of milk or milk products
32. Owner's risk
33. Prohibiting sale or supply of milk or milk products
34. General requirements for premises
35. Structural requirements for premises of milk producers
36. Standards and requirements for milksheds
37. Milk apparatus
38. Equipment, furniture, fittings and fixtures
39. Protection, storage and distribution of milk and milk products
40. Unsuitable equipment and compatible use
41. Prohibition of live animals
42. Use of tobacco
43. Contamination of milk
44. Delivery of milk or milk products
45. Storing of milk
46. Transfer of milk or milk products
47. Milkshed, milk room and wash room not to be used for other purposes
48. Milking procedure
49. Cleansing of milk shed
50. Storage of forage in milk shed
51. Keeping of animals in milk shed
52. Swine and poultry
53. Erection and use of dipping tank or spray race
54. Prohibited supply of milk of animals

- 55. Controlling milk and milk product introduction and distribution
- 56. Ice-cream restrictions
- 57. Milk tankers
- 58. Transportation of milk and milk products
- 59. Hygiene requirements
- 60. Quality and standards for milk and milk products

CHAPTER 6 ENFORCEMENT

- 61. Routine inspections
- 62. Municipal remedial work and costs

CHAPTER 7 OFFENCES AND PENALTIES

- 63. Offences
- 64. Penalties

CHAPTER 8 GENERAL PROVISIONS

- 65. Presumptions
- 66. Exemptions
- 67. Appeals
- 68. Delegations
- 69. Repeal of laws
- 70. Short title and commencement

SCHEDULE 1 REPEALED BY-LAWS

SCHEDULE 2
SANITARY CONVENIENCES

SCHEDULE 3
STORAGE OF PERISHABLE FOOD AND FOOD TEMPERATURES

SCHEDULE 4
**LIST OF FOODSTUFFS AND INGREDIENTS EXEMPTED FROM A DATE OF
DURABILITY**

CHAPTER 1
INTERPRETATIONS

Definitions

1. In this By-law unless the context otherwise indicates –

"animal" means horse, pony, mule, donkey, cattle, pig, sheep, goat, camel, reptile, dog, cat or other domestic animal, indigenous animal, wild animal, exotic animal, poultry and birds, but excludes marine fauna;

"approved premises" means a premises suitably equipped, prepared and maintained in line with legislation and regulations for its specific purpose;

"authorised official" means a person authorised to implement the provisions of this By-law, including but not limited to–

- (a) peace officers as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977);
- (b) municipal or metropolitan Police Officers as contemplated in the South African Police Service Act, 1995 (Act No. 68 of 1995); and
- (c) such employees, agents, delegated nominees, representatives and service providers of the Municipality as are specifically authorised by the

Municipality in this regard: Provided that for the purposes of search and seizure, where such person is not a peace officer, such person must be accompanied by a peace officer;

"best available method" means, in relation food, a method which is practicable and necessary for the protection of food against contamination or spoilage, having due regard to local conditions and circumstances whether at or on food premises or elsewhere; the prevailing extent of established practice and the financial implications thereof;

"best-before-date" or **"sell-by-date"** or **"use-by-date"** means, in relation to food, the date indicating the end of the period under any stated storage conditions as specified on the label by the manufacturer during which the product will remain fully marketable, edible and safe for consumption and will retain any specific qualities for which tacit or express claims have been made;

"clean" means free of any soil, food residues, dust, dirt, dung, impurity, grease or other objectionable matter or contamination to the extent that a state of hygiene is attained and "cleaning", "keep clean" and "cleaned" has a similar meaning.

"communicable disease" means a disease resulting from an infection due to pathogenic agents or toxins generated following the direct or indirect transmission of the agents from the source to the host;

"container" means anything in which or with which food is manufactured, prepared, processed, stored, served, displayed, packed, wrapped, kept or transported and with which food is in direct contact;

"core temperature" means the temperature reading taken at the estimated centre of the food;

"Criminal Procedure Act" means the Criminal Procedure Act, 1977 (Act No. 51 of 1977);

"dwelling" means any habitable house, room, shed, shelter, boat, structure or any part of which is used or appears intended for use by any human being for sleeping or in which a human being dwells or sleeps and "room" has a corresponding meaning;

"Edible fats and oils" means foodstuffs composed of glycerides of fatty acids of vegetable or animal origin and in which other naturally-occurring lipids such as phosphatides of unsaponifiable constituents and free fatty acids may be present;

"Foodhandler" means a person who in the course of his or her normal routine work on food premises, directly handles or comes into contact with packaged or unpackaged food, food equipment and utensils, or food contact surfaces and is therefore expected to comply with food hygiene requirements;

"Food" means a foodstuff intended for human consumption as defined in section 1 of the Foodstuffs, Cosmetics and Disinfectants Act, 1972 Act, excluding food referred to in regulation 14(5), and raw milk when produced and handled in a milking shed in terms of the Regulations Relating to Hygiene Requirements for Milking Sheds, the Transport of Milk and Related Matters, published in Government Notice No. R.961 of 23 November 2012;

"foodstuff" means any article or substance (except a medicine as defined in the Medicines and Related Substances Act, 1965 (Act No.101 of 1965) ordinarily eaten or drunk by a person or purporting to be suitable, or manufactured or sold, for human consumption, and includes any part or ingredient of any such article or substance, or any substance used or intended or destined to be used as a part or ingredient of any such article or substance;

"Foodstuffs, Cosmetics and Disinfectants Act" means the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972);

"food premises" means a building, structure, stall or other similar structure, and includes a vehicle, stand or place used for or in connection with the handling of food;

"food safety risk" means the known or potential adverse health effects resulting from human exposure to food borne hazards;

"food vending machine" means any mechanical device, whether attended or not, by means of which foodstuffs are sold;

"good manufacturing practice" means, in relation to food, a method of manufacture or handling or a procedure employed, taking into account the principles of hygiene so that food cannot be contaminated or spoiled during the manufacturing process;

"grease interceptor" means a grease trap designed to cool down incoming hot waste water to below 30 °C to enable grease and fat to separate from the water and to solidify or be collected on the surface level of the waste water, and that prevents grease and fat from entering a sewer;

"Heat treatment" means a process used to destroy microorganisms, both pathogenic and spoilage, to ensure that the milk is safe; and it includes pasteurisation, sterilisation and ultra-heat treatment;

"holder" means the person in whose name any permit, certificate or authorisation has been issued in terms of this By-law;

"milk" means an opaque white fluid, secreted by lactating female mammals for the nourishment of their young, and excludes sterilised milk, pasteurised milk, or milk processed in any other manner or milk products;

"milk processor" means any person who receives milk or milk products from a farmer or another milk processor for the purpose of pasteurisation or other processing and re-sale after such processing and includes a manufacturer of ice-cream: Provided that a milk processor may at the same time, be a milk producer;

"milk producer" means a farmer or any person who owns or controls one or more animals from which milk is produced, who supplies milk or milk products to a milk processor for the purpose of pasteurisation or similar processing for human consumption: Provided that a milk producer may at the same time, be a milk dealer;

"milk dealer" means any person, other than a milk producer or milk supplier, who, in the course of business, sells milk or milk products for human consumption;

"milk parlour" means any milk shed in which a succession of cows is milked by mechanical means and which is used exclusively for such milking;

"milk shed" means any building or structure or any part of such building or structure used for the accommodation of cows whilst they are being milked;

"motor vehicle" means any self-propelled vehicle having an engine or motor as an integral part thereof or attached thereto and which is designed or adapted to be propelled by means of such engine or motor for the purposes of transportation on any road, of one more persons or any material, item, substance or object –

- (a) including a trailer, motor-bike, quad-bike or earth-moving or earth-working vehicle; but
- (b) excluding any vehicle which is controlled by a pedestrian, or any vehicle with a mass not exceeding 230 kilograms which is specially designed and constructed solely for mobility of any person suffering from some physical defect or disability;

"Municipality" means eThekweni Municipality, a category A Municipality as envisaged in terms of section 155(1) of the Constitution of South Africa and established in terms of PN 343 of 2000 (KZN);

"Municipal Council" or **"Council"** means the eThekweni Municipal Council, a municipal council referred to in section 157(1) of the Constitution;

"Municipal Manager" means the official of the Municipality appointed in terms of section 82 of the Local Government: Municipal Structures Act, Act 117 of 1998;

"National Building Regulations and Standards Act" means the National Building Regulations and Standards Act, 1977 (Act No. 103 of 1977);

"Occupational Health and Safety Act" means the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993);

"occupier" means any person who occupies any premises or part thereof, regardless of the title under which he or she occupies, and includes –

- (a) any person in actual occupation of those premises;
- (b) any person legally entitled to occupy those premises;

- (c) in the case of those premises being subdivided and let to lodgers or various tenants, the person receiving the rent payable by such lodgers or tenants whether on the person's own account or as agent for any person entitled thereto or interested therein;
- (d) any person having the charge or management of those premises, and includes the agent of any such person when the person is absent from the Republic of South Africa or his or her whereabouts are unknown; or
- (e) the owner of the premises;

“owner”, in respect of the premises, means the –

- (a) person in whose name the premises are registered with the Registry of Deeds;
- (b) the purchaser of the premises, whether or not the premises have been registered in the purchaser's name;
- (c) person in control of the premises;
- (d) usufructuary, if the premises are subject to a usufruct;
- (e) occupier, tenant or user of the premises;
- (f) authorised agent, assignee, curator, executor, judicial manager, legal representative, liquidator or trustee, as the case may be, of any person contemplated in paragraphs (a) to (e); or
- (g) the person who receives or is who is entitled to receive the benefit of the premises, if the Municipality is unable to establish the identity of any of the persons contemplated in paragraphs (a) to (f);

“pasteurisation” means the heat treatment process that destroys pathogenic microorganisms”

"person" includes any sphere of government, natural person and juristic person;

"perishable food" means any foodstuff which on account of its nature, composition, ingredients, moisture content, pH value, packaging or lack of preservatives is susceptible to decomposition or deterioration at ordinary temperatures, and includes but not limited to, meat, fish, fish spawn, molluscs, crustaceans, fruit and vegetables, and perishable foodstuffs as declared in terms of regulation 15(1)(f) of the *Perishable Foodstuffs Regulations*, published under GN R1183 in GG 12497 of 1 June 1990 as amended from time to time;

"premises" means any building, tent or any other structure, together with the land on which such building, tent or other structure is situated, and the adjoining land used in connection therewith and any land without building, tent or any other structure; and includes any motor vehicle, conveyance, ship or boat, whether stationary or not, but only to the extent that anything contemplated or prohibited in this By-law is housed, harboured or carried on in or on such motor vehicle, conveyance, ship or boat;

"pre-packed" means, in respect of food, food which –

- (a) before it is presented for sale or for serving, has been packed in a dust-proof and liquid-proof container that protects the product therein against contamination under normal handling conditions; and
- (b) has been so packed or sealed that the food cannot be removed from its container without the stopper or lid or similar seal being removed or without the wrapping, container or seal being broken or damaged;

"Ready to consume food" means perishable food which may be consumed without having to undergo a further process to make it consumable and ready -to -eat food has a similar meaning;

"residence" means premises on which any natural person dwells or is entitled to dwell more than on a one-off basis at any given time, whether or not such person has one or more such premises or shares the premises with another person or persons, which are occupied or available to be occupied, as a dwelling or mainly for dwelling purposes, but excluding an accommodation establishment;

"rodent proof" means to ensure that rodents or mice do not enter a building or premises;

"scullery" means a room or section reserved for cleaning and storing dishes and cooking utensils;

"South African Police Service Act" means the South African Police Services Act, 1995 (Act No. 68 of 1995);

"sterilise" or "sterilisation" means, in relation to milk or milk products, the heat treatment above 100 degrees Celsius , after packing, of dairy product to such extent that

it becomes resistant to microbiological decay for an extended period of at least 14 days if kept at a temperature of 13 degrees Celcius;

“Thermometer” means an apparatus which can give the temperature readings referred to in these Regulations, the combined accuracy and temperature- sensitive sensor of which is approximately 1 °C;

"unsound" means, in relation to food, food that is unwholesome, sick, polluted, infected, contaminated, decayed or spoiled, or unfit for human consumption for any reason whatsoever;

"vehicle" means, in relation to food, a motor vehicle, train, trolley, wagon, cart, bicycle, sledge, truck, boat, ship or aeroplane, and includes any other craft, vehicle or conveyance used in the handling or transportation of such food;

"wash room" means a room or part of a room used for the cleansing and sanitising of milk vessels, utensils and apparatus;

"water resource" means a river, spring, or natural channel in which water flows regularly or intermittently, a wetland, lake or dam into which or from which water flows, surface water, an estuary or aquifer and includes any borehole, structure, earthwork or equipment installed or used for or in connection with storage, distribution, provision or use of water; and

"work area" or "work room" means, in relation to laundry or dry-cleaners premises –

- (a) those parts of the premises in which the cleaning and drying machines and ironing presses are operated; and –
- (b) those parts in which articles which have been cleaned are hung or kept or stored to be aired,

but excluding those parts of the premises used as change rooms, storerooms, offices and those parts used for the purpose of receiving or collecting articles for dry-cleaning or for return or delivery of articles which have been cleaned to the public.

Interpretation

2. If there is a conflict of interpretation between the English version of this By-law and a translated version, the English version prevails.

CHAPTER 2 OBJECTS OF BY-LAW

Objects of By-law

3. The objects of this By-law are to–

- (a) provide legal and administrative measures necessary for the Municipality to discharge its municipal health obligations in terms of Section 152 (d) of the Constitution;
- (b) regulate certain activities, conduct, processes, or trades which, owing to their nature are likely to pose a risk to the health and safety of any person or persons within the area of jurisdiction of the Municipality; and
- (c) provide measures for managing and controlling and providing a safe supply of food, milk and milk products within the area of jurisdiction of the Municipality.

CHAPTER 3 APPLICATION

Application of By-law

4. This By-law–

- (a) applies to all areas which fall under the jurisdiction of the eThekweni Municipality;
- (b) in relation to food products must be read in conjunction with the *Regulations Regulating General Hygiene Requirements for Food Premises the Transport of Food, and related matters* published in terms of the Foodstuffs, Cosmetics and Disinfectants Act, under Government Notice R. 638, dated 22 June 2018 as amended; and
- (c) in relation to milk and milk products must be read in conjunction with the *Regulations Relating to Hygiene Requirements for Milking Sheds, the Transport of Milk and Related Matters*, made in terms of section 15(1) of the Foodstuffs, Cosmetics and Disinfectants Act, under Government Notice R961 in Government Gazette 35905 of 23 November 2012, as amended.

CHAPTER 4 FOOD

Handling, conveyance and transportation of food

5.(1) A person may not handle food in a manner contrary to the provisions of this By-law and the Regulations or in such a manner that it causes or is likely to cause a health nuisance and a food safety risk.

(2) A person may not handle, convey, transmit, deliver, store or deposit any food unless such food is effectively protected against droplet contamination or contamination by food pest, insects, dust, dirt, bare hands or other impurities or any other possible cause.

(3) A person may not cause or permit–

- (a) any matter, substance or ingredient which is diseased, unsound, unwholesome or injurious to health to be used in the manufacture or preparation of any article intended for human consumption as food or drink, whether solid or liquid;
- (b) any article of food or drink which is not clean, wholesome, sound and free from any foreign object, disease, infection or contamination to be kept, stored, sold or exposed for sale or introduced into any area of jurisdiction of the Municipality for purposes of sale;
- (c) any bottle, jar, tin or other container or any paper, cardboard or other material which is not clean and free from any matter or substance which might contaminate or infect food or drink to be used for the packing or wrapping of any article of food or drink;
- (d) a food premises to be used as a living or sleeping apartment or to communicate directly or indirectly by door, passage, window or otherwise with any living room or sleeping apartment;
- (e) food to be manufactured, prepared, stored, handled, sold or exposed for sale in a dwelling or other premises not designed, constructed or approved for the manufacture, preparation, storage or exposure of food for sale, without the prior written permission of the authorised official;
- (f) food premises to be used for any purpose incompatible with the business carried on therein;
- (g) articles not required in the process of manufacture, preparation, storage, handling or sale of food to be kept or stored in any food premises;
- (h) any live bird or animal to be kept on food premises except where the business involves the sale of live poultry or animal;

- (i) any confectionery, cooked meat or other unwrapped ready-to-eat foodstuffs to be handled other than by use of some suitable apparatus or instrument;
- (j) any apparel to be hung or kept inside any portion of the premises used for manufacturing, preparing, storing, keeping, handling or exposing food, other than in suitable lockers;
- (k) in any food room, use or permit the use of tobacco in any form whatsoever, subject to the provisions of the Tobacco Products Control Act, 1993 (Act No. 83 of 1993); or
- (l) a toilet facility to be in direct contact in a food preparation area or kitchen facility.

(4) A certificate of acceptability issued in terms of Regulation 638 relating to the conveyance of perishable food in a vehicle, must specify the premises at which the perishable food conveyed and sold from such vehicle is to be prepared.

(5) No perishable food may be conveyed in or sold from a motor vehicle unless it is prepared at the premises so specified.

(6) Any person conveying any meat, poultry or fish must convey such meat, poultry, or fish in a purpose designed vehicle or carrier which –

- (a) is constructed of non-absorbent material;
 - (b) is easily cleansed;
 - (c) provides efficient protection from contamination by dust, flies or any other cause;
- and
- (d) is insulated and provided with refrigeration facilities that are fitted with a thermometer that is able to give accurate temperature readings.

(7) No vehicle which is used for transport of food may be used for any purpose other than for which it is intended.

(8) Every vehicle used for the purpose of conveying meat carcasses which is intended for human consumption must be so designed that all carcasses or parts thereof hang from a beam with stainless steel hooks fitted at such a height that such carcasses or parts thereof do not touch the floor of the vehicle.

(9) A person may not transport or carry any meat, poultry or fish in such a manner that the food may be spoiled or contaminated in any way.

(10) Every person who carries or conveys any carcass of meat intended for sale for human consumption must, whilst so engaged, wear a clean, washable uniforms, together with a rubberised hood and apron.

(11) Any person conveying any food in the course of business, other than by mode of hand, must –

- (a) convey or cause such food to be conveyed in a vehicle designed for that purpose;
- (b) ensure that, where such conveyance vehicle is designed to be loaded and unloaded from an internal passage, any food contained therein is not exposed to contamination by any person entering therein.

(12) Any conveyance vehicle contemplated in subsection (11) must be constructed of non-absorbent material, be easily cleansed and furnish efficient protection from contamination by dust, flies or other cause.

(13) A person may not enter or be within any portion of any vehicle transporting or conveying food other than the driver's cab, except for the purpose of loading or off-loading or cleansing and repair, unless the vehicle is provided with an internal passage which is not used or intended or designed to be used for storing food conveyed in the vehicle.

(14) The driver may not permit any person to sit, stand or recline upon any food being conveyed therein nor upon any portion of the vehicle other than the driver's cab internal passage.

(15) Every person who manufactures or prepares or conveys food for sale for human consumption must ensure that every vehicle, carrier or thing used in connection with the conveyance of any food is –

- (a) kept thoroughly clean and in good order, repair and appearance; and
- (b) may not be used for any purpose which may favour contamination of such food.

(16) All vehicles transporting food must be sanitised and the sanitisation thereof must be carried out at an approved premises.

(17) A person may not sell any perishable food through the medium of a machine or food vending machine –

- (a) unless such machine is of a type approved by the Municipality and authorised in writing by the Municipality to install and use such machine; and
- (b) other than in accordance with the provisions of this section and any condition or restriction imposed by the authorised official in approving a food vending machine or its installation and use.

Inspection and examination of food and food premises

6.(1) An authorised official may at all reasonable times inspect and examine any food and any premises, plant, machinery, utensils, vessels, receptacles, vehicles and the like form, in or by which food is produced, manufactured, prepared, stored, kept or conveyed.

(2) An authorised official may require any person to provide him or her with a sample of food or any documentation or information required by such official for any purpose authorised by this By-law or the Regulations referred to in section 4.

(3) Notwithstanding subsection (1), an authorised may require, by written notice, any person to bring or deliver any specified article, container or package of food for inspection or examination to a place designated by such official.

(4) An authorised official may cut into or open, to the extent necessary, any article, container or package of food in connection with an inspection or examination contemplated in this By-law.

(5) A person may not, in respect of an authorised official acting in terms of this By-law –

- (a) refuse or without lawful reason fail to give access to any such official if he or she requests entrance to or upon any premises;
- (b) refuse or without lawful reason fail to give any information or any food sample, lawfully required by such official; or
- (c) obstruct or hinder such official in the execution of any of his or her duties or the exercise of any of his or her powers under this By-law or the Regulations referred to in section 4.

Restriction or prohibition of sale or supply of food

7.(1) The Municipality may issue a notice to any person requiring him or her to, within the time specified in the notice, discontinue any business dealing with the manufacture, preparation, storage, handling, sale or distribution of food –

- (a) on the specified premises or area ; or
- (b) within the entire area of jurisdiction of the Municipality,

if that person has failed to comply with any provision of this By-law, any notice in terms of this By-law or the Regulations referred to in section 4.

(2) The Municipality may by written notice prohibit, for such period as it may deem necessary, the sale or supply of any food –

- (a) from any premises, place, facility, motor vehicle, vending equipment or any source whereon a food safety risk or health nuisance has occurred, or which, in its opinion, is likely to occur;
- (b) from any premises, place, motor vehicle, vending equipment, or any source which is not registered or approved in terms of this By-law or any other law, if such sale or supply of food causes or is likely to cause a municipal health nuisance;
- (c) from any premises whereon a case of communicable disease has occurred;
- or
- (d) if this, for any other reason or cause, in its opinion, is likely to cause sickness or disease if consumed.

Seizure, detention and destruction of food

8.(1) An authorised official may seize and detain any food, together with any food wrapping or packaging thereof –

- (a) in order to examine such food so as to determine its suitability for human consumption;
- (b) which, in his or her opinion, is: diseased, unsound or unwholesome, contaminated or otherwise unfit for human consumption; or
- (c) from any premises dealing with the manufacture, preparation, storage, handling, sale or distribution of food without being authorised by or in contravention of this By-law or the Regulations referred to in section 4.

(2) The Municipality may authorise the destruction of any food or food samples seized or detained in terms of this By-law.

(3) The Municipality may at the owner's risk, permit such treatment as may render the food or food wrapping or packaging referred to in paragraph (1)(a) fit for human consumption or use.

(4) The removal of all unsound foodstuffs, which includes voluntary surrender, may be subject to a tariff prescribed by the Municipality.

(5) All unsound foodstuffs must be disposed of at an approved waste disposal site under the supervision of an authorised official, subject to a prescribed tariff.

(6) The Municipality is not liable for any harm or loss suffered by any person as a result of it acting in terms of this section.

Standards and requirements for food premises

9.(1) The standards and requirements for food premises as contemplated in this By-law and the Regulations referred to in section 4 apply to all premises dealing with the manufacture, preparation, storage, handling, sale or distribution of food.

(2) A person may not handle food elsewhere than on food premises that meet the requirements of this By-law and the Regulations referred to in subsection (1) and in a manner that complies with this By-law and the said Regulations.

(3) The owner of the food business has a duty to ensure that all buildings, hardened areas, drains, drainage connections and other appurtenances are maintained in good order and condition to the satisfaction of the Municipality.

(4) The food premises must be so constructed as to be fully vermin proof in accordance with the best available method.

(5) The surface of walls must be made of materials which are durable and suitable for the nature of the activities conducted in the food premises and must meet the following requirements –

(a) internal wall surfaces must –

- (i) be smooth, durable, resistant to corrosion, non-toxic and impervious to water,
- (ii) be free from cracks, crevices and other defects;
- (iii) be finished in a light coloured washable paint or ceramic tile;

- (iv) not have any skirting, picture rail, architrave, cover strip or other moulding fitted to it in the kitchen or preparation area; and
 - (v) in food preparation areas where tiles are used, be tiled to a height of 2 (two) metres measured from the floor;
 - (b) where possible, edges must not be formed on a surface as a result of internal wall construction, or if unavoidable must be levelled at an angle of not less than 45° C to the horizontal, or otherwise finished to prevent lodgement of dust, dirt or grease;
 - (c) where preformed materials comprise or form part of the internal surfaces of walls, there must not be any voids or crevices; and
 - (d) door openings, windows, serving hatches and similar fittings including protective fixtures on or in walls must be finished with all edges rounded to a smooth finish and all joints sealed.
- (6) The surfaces of floors must be made of materials which are durable and suitable for the nature of activities conducted in the food premises and for incidental purposes.
- (7) Floors must be –
- (a) smooth to facilitate cleaning, rigid, durable, slip resistant, resistant to corrosion, non-toxic and impervious to water;
 - (b) free of cracks, crevices and other defects; and
 - (c) evenly graded to trapped floor waste outlets connected to a drainage system where necessary.
- (8) The junctions between floors and walls or other vertical surfaces must be suitably covered and firmly supported.
- (9) Suitable and adequate washing, rinsing and sterilising facilities must be installed which must –
- (a) comprise of sinks, together with the necessary draining board or boards; and
 - (b) be made of stainless steel or other approved hard, non-absorbent material.
- (10) The bowl of each sink as contemplated in subsection (9) must be of a minimum capacity of 0, 07 (zero comma zero seven) cubic metres and, when so required by an authorised official there must also be provision for a deep trough or troughs of a minimum capacity of 0, 15 (zero comma one five) cubic metres.

(11) Provision must be made for wash-hand basins as many as may be required and placed in positions readily accessible to employees whilst they are actively engaged in any activities involving the handling of or contact with any food

(12) An adequate supply of approved towels, and soap must be provided in conjunction with wash-hand basins.

(13) Furnishings, fixtures and fittings must be of good, sound materials and construction, without crevices or interspaces likely to collect dust or dirt or to favour harbourage or development of rodents, cockroaches or other vermin.

(14) The owner of the food premises must paint or otherwise suitably renovate any interior or exterior part of the premises when so required.

(15) Every person who carries on a food business must, upon the premises provide sanitary facilities for the use of employees and patrons.

(16) Every premises must be suitably ventilated by means of natural ventilation through openings or openable sections which are directly connected to the outside air and so positioned in the external walls or roof that effective cross - ventilation is possible.

(17) Every premises must be suitably illuminated by means of unobstructed transparent surfaces in the external walls or roof which admit daylight, with an area equal to at least 10% of the floor area in the room concerned artificial illumination which complies with the requirements of the National Building Regulations and the Building Standards Act. 1977, which permits an illumination strength equal to at least 200 lux: Provided that the intensity of the lighting must be adequate based on the nature of the operation and lighting fixtures are appropriately protected to prevent glass contamination of food.

Facilities on food premises

10.(1) The standards and requirements for facilities for food premises as contemplated in the Regulations referred to in section 4 apply to all premises dealing with the manufacture, preparation, storage, handling, sale or distribution of food.

(2) A person may not operate a food business on or using facilities for food premises that do not meet the standards and requirements contemplated in this By-law and the Regulations referred to in section 4.

(3) Every person who carries on any business involving the manufacture, preparation, storage, handling, sale or distribution of food must ensure that –

- (a) the premises used for the purpose of such business, including the furnishings, fittings, fixtures, the yard area and outbuildings are at all times maintained thoroughly clean and tidy and free from rodents, cockroaches and other vermin;
- (b) utensils, crockery or other articles used in connection with the manufacture, preparation, handling, cooking, eating and drinking of any food or beverage are, after each occasion of use, thoroughly cleansed by means of hot water and detergent. .
- (c) the plant, equipment, cooking, eating and other utensils, including crockery, are maintained at all times in a sound and hygienic condition, and free of dirt, grime, dust or any extraneous or unclean substance; and.
- (d) no flesh or carcass of any animal or the carcass of any bird which has died as the result of an accident or disease are prepared for sale, stored, kept, exposed for sale or sold for human consumption.

(4) The Municipality may prohibit the use of any –

- (a) type or class of bottle, jar, tin, carton, plastic tube or other container for the packing of any article of food or drink;
- (b) cork, stopper or cover in connection with items contemplated in paragraph (a); and
- (c) process or method of packing food,

which, in its opinion, is such that food contained therein or thereby is not protected from contamination by any cause or may be adversely affected thereby.

(5) The Municipality may prohibit the use of any vessel, utensil, machine, equipment or apparatus used for the manufacture, preparation, storage, handling, sale or distribution of food which, in its opinion, is –

- (a) unsuitable, worn out, rusted, defective, not functioning properly;
- (b) in such condition that it cannot be rendered clean and sterile; or
- (c) in such condition that food contained therein is not protected from contamination by dust, vermin or other cause.

(6) A person may not use any–

- (a) container, cover, process or method or type or class thereof which is prohibited in terms of subsection (4); or
- (b) vessel, utensil, machine, equipment or apparatus prohibited in terms of subsection (5),

without the written permission from the Municipality.

Water supply to food premises

12. All sinks, wash-hand basins and food preparation areas must be provided at all times with a pure, constant and adequate supply of hot and cold water.

Kitchen, scullery and storage

13. Provision must be made for suitable and adequate –

- (a) preparation area, scullery and storage facilities; and
- (b) facilities for the keeping or containing of food stored or exposed for sale, or delivered to the business,

in such a manner that the food is rendered inaccessible to vermin and pests including cockroaches, rodents, and is protected from dust, flies or contamination from any other causes.

Sewerage, drainage and waste management

14.(1) All wastewater discharging from sink installations, wash-hand basins and floor drains must discharge over an externally situated open disconnecting gully before connecting into the main sewer line.

(2) Where required by the Municipality any waste disposal system shall connect to a suitably sized grease interceptor before it connects to the drain. The grease interceptor shall be so located that it is easily accessible for inspection and cleaning purposes and that intercepted fat, grease and oil can be removed hygienically.

(3) Where any drain or discharge pipe passes through a room which is used as a kitchen, pantry or for the preparation, handling, storage or sale of any food, the means of access to such drain or pipe, for cleaning purposes, must be situated outside such room.

(4) The provisions of subsection (2) do not apply in the case of a waste pipe serving any waste fixture contained in such room.

(5) Every food premises must be equipped with –

- (a) a suitable waste receptacle storage area of adequate size, paved, drained to a gully and connected to the municipal sewer and provided with a standpipe;
- (b) a storage area for the waste receptacles to be cleaned and stored in such a manner that it does not create a health nuisance;
- (c) waste receptacles constructed of durable non-absorbent material, designed to facilitate easy cleansing, equipped with a close-fitting cover and sufficient for the purpose of storing all waste pending removal or disposal as contemplated in the By-law of the Municipality dealing with the removal of waste; and
- (d) an effective means of draining and disposal of wastewater as contemplated by the By-law of the Municipality dealing with sewage disposal.

Storage of perishable foods

15.(1) Where perishable foodstuffs are manufactured, prepared, stored, displayed, handled, sold or distributed, suitable and adequate heating or refrigeration storage equipment must be provided.

(2) Every chilling and freezer facility used for the storage, display or transport of perishable food must be provided with a thermometer which at all times must reflect the degree of chilling of the refrigeration area of such facility.

(3) Every heating apparatus or facility used for the storage, display or transport of heated perishable food must be provided with a thermometer which at all times must reflect the degree of heating of the heating area concerned.

(4) Any chilling and freezer facility referred to in subsection (2), and any heating apparatus or facility referred to in subsection (3), must be in such a condition and positioned so that an accurate reading of temperature may be taken unhampered.

Removal of fumes

16. (1) Suitable and efficient means for the collection, filtration, treatment, conveyance and disposal of fumes, gases, steam and warm air resulting from cooking or other process of manufacture or preparation must be provided in any premises to the satisfaction of the Municipality.

(2) The extraction system must be cleaned and maintained in accordance with applicable prescribed standards.

PERSONNEL PROTECTIVE CLOTHING

17.(1) Every person who carries on any business which involves the manufacture, preparation, storing, handling, sale or distribution of food must—

- (a) provide clean uniforms of light-coloured, washable material and other suitable protective clothing, including head, beard and traditional band coverings, for the use of his or her employees;
- (b) ensure that all employees engaged in the handling of food wear such uniforms at all times whilst so engaged;
- (c) must maintain such uniforms and coverings in a clean and sound condition; and
- (d) Visitors to food premises must, where applicable, wear suitable protective clothing.

(2) Every person who handles food must –

- (a) be clean as to his or her person and clothing and must wear clean uniforms, a clean head covering whilst so engaged;
- (b) wash his or her hands with soap and must rinse them with clean water before commencing to handle any food;
- (c) maintain scrupulous cleanliness of hands with finger nails properly trimmed or cut short, no false nails or nail polish allowed;
- (d) remove his or her uniforms and head covering if any, before entering any toilet;
- (e) thoroughly wash and scrub his or her hands with soap and water;
 - (i) immediately after each occasion of visiting a toilet;
 - (ii) every time he or she has blown his or her nose or after his or her hands have been in contact with perspiration or with his or her hair, nose or mouth;
 - (iii) after handling money or a waste container or waste;
 - (iv) after handling raw vegetable, fruit, eggs, meat or fish and before handling ready-to-consume food; and
- (f) not wear any jewellery, other items or adornment that may come into contact with the food.

Quality of food and standards of prepared foodstuff

18.(1) No person who carries on any business which involves the manufacture, preparation, storage, handling or distribution of food, may, or cause any person to, convey, transmit, deliver, store or deposit for sale or distribute any food which does not conform with the standards prescribed by this By-law or the Regulations referred to in section 4.

(2) Any manufactured, processed, pre-cooked, prepared or ready-to-consume food must meet the standards prescribed in the *Regulations Governing Microbiological Standards for Foodstuffs and Related Matters*, published under Government Notice R692 in GG 17993 of 16 May 1997, in terms of the Foodstuffs Cosmetics and Disinfectants Act, as amended from time to time and such food must not–

(a) have decomposed;

(b) contain antibiotics; and

contain organisms of the genera *Salmonella* and *Shigella* and no species of *Vibrio cholerae* and other pathogenic bacteria.

(2) Any person using edible fats and oils must–

(a) ensure that all used edible oils and fats must be discarded responsibly and not sold, donated or given to any persons for human consumption; and

(b) provide upon the request of an authorised official the details of an approved contractor to remove any used edible fats and oils from the food premises.

Temperature monitoring equipment

19. Every person who carries on a business which involves the manufacture, storage, handling, sale or distribution of perishable food whether frozen, cooked or otherwise, must –

(a) provide and use a suitable thermometer or other suitable temperature monitoring equipment; and

(b) maintain such thermometer or temperature monitoring equipment in good order, in order to ensure that the food is preserved at all times in conformity with the temperatures prescribed in this By-law and relevant regulations.

Bacteriological standards of water and ice

20. In the case of water which enters into or issued in the composition or preparation of food or in the form of frozen confections or other water products or water to be used for the washing of food containers, or in the case of ice –

- (a) no typical faecal coliform or E. Coli may be present;
- (b) Total coliforms must be ≤ 10 per 100ml; and
- (c) when tested at 37 degrees Centigrade the total count of viable organisms may not exceed 100 colonies per millilitre.

Batch identification and date marking

21.(1) Any food packaging container of a foodstuff must be permanently marked in such a way that the manufacturing or producing factory or factory where a final product is produced has a batch number that is visible and identifiable.

(2) An estimated date of durability must –

- (a) be indicated by the manufacturer on the label or container;
- (b) not be removed or altered; and
- (c) contain a best-before- or a use-by-date.

(3) Imported foodstuffs must upon entry into the Municipality have at least 50% of the remaining shelf life left, calculated from the date of manufacture.

Unprocessed products

22.(1) The Municipality, may, if it is of the opinion that conditions prevail that constitute a health nuisance with regard to the packing, storage, display, sale or transport of –

- (a) fresh, raw and unprocessed fruit and vegetables;
- (b) unprocessed maize, wheat, rye, unshelled peanuts, sugar cane, sunflower seed;
- (c) other unprocessed agricultural crops; or
- (d) the handling of any food,

subject to the Regulations referred to in section 4, order that any condition that led to or may lead to said health nuisance be corrected or that any provision of this By-law be complied with; or prohibit the continued use of the facility or food premises concerned.

(2) A person may not handle bottled or packaged drinking water (other than natural mineral water) in contravention of the provisions of the *Codex Code of Hygienic Practice for Bottled/Packaged Drinking Waters (Other than Natural Mineral Waters)*(CAC/RCP 48- 2001).

CHAPTER 5
MILK AND MILK PRODUCTS

Authorisation for milk producer, milk processor and supplier

23.(1) A person may not carry on business as a milk producer or milk processor without the written authorisation of the Municipality, which authorisation may be –

- (a) granted subject to such conditions or restrictions as such official may determine; or
- (b) refused.

(2) No milk dealer may use any automatic vending or other machine for the purpose of selling or dispensing any milk or milk products without the written authorisation of the Municipality, which authorisation may be –

- (a) granted subject to such conditions or restrictions as such official may determine;
- (b) or refused.

(3) No milk producer or milk processor may sell or supply any grade of milk other than that specified in his or her authorisation without the written authorisation of the Municipality.

(4) Application for the authorisation required in terms of subsections (1), (2) or (3) must be made to the Municipality on a prescribed form and upon payment of a prescribed fee.

(5) Every application made in terms of subsections (1) and (2) must be accompanied by the following particulars –

- (a) a locality plan drawn to a scale of not less than 1:1000 showing all roads and dwellings within a radius of 90 m from the premises upon which the business is to be carried on;
- (b) plans and sections to a scale of at least 1:100 of the buildings erected and to be used or proposed to be erected and used for the purposes of the business for which the certificate of registration has been sought;
- (c) particulars of or relating to –

- (i) the plant installed and to be used for the purposes of the business for which the authorisation is sought, including the number, capacity and type or description of all boilers, sterilisers, coolers and other apparatus;
- (ii) any necessary explanatory drawings of the means proposed to be adopted for the disposal of, and to prevent health nuisance arising from, fluids and liquid waste matters discharged from the premises, and solid waste matters;
- (iii) the materials used or to be used in the construction of and the dimensions of the staff quarters (including sleeping, living, mess and change rooms, kitchens, bath or wash rooms and latrines and the like) proposed to be used;
- (iv) the nature of the proposed water supply and the situation of the proposed points of distribution;
- (v) the type of sanitation proposed and the number of seats to be provided;
- (vi) the total area of the land to be used in connection with the business for which an authorisation is sought, the portion or portions to be used as paddocks and the number of bovine animals proposed to be kept;
- (vii) the milk and milk products which he or she intends to sell or supply during the period covered by such authorisation;
- (viii) milk dealers information from milk processors; and
- (ix) including three months laboratory results from the milk producers and milk processor.

(6) The Municipality may refuse an application for authorisation in terms of subsections (1) if, in its opinion the—

- (a) locality of the premises sought to be registered is unsuitable, having regard to environment or to accessibility or distance of the premises from a milk depot;
- (b) buildings, plant, water supply or other condition or circumstance is contrary to any provisions of this By-law; or
- (c) granting of authorisation would be prejudicial to the public health.

(7) The Municipality may refuse an application for authorisation in terms of subsections (2) if, in its opinion the granting of such authorisation would be harmful to the public health.

(8) Any person authorised in terms of this section must –

- (a) carry on his or her business in accordance with this By-law and any conditions or restrictions imposed by the Municipality; and

(b) only use the buildings, plant, equipment, containers, vehicles and water supply specified in the authorisation or in the certificate of registration relating to the buildings or plant issued to him or her in terms of this chapter.

(9) An authorisation contemplated in subsections (1) and (2) will not be valid in respect of any premises other than those specified in the authorisation.

(10) An authorisation contemplated in subsections (1) and (2) is valid until 31 December of the year of issue and must be renewed once annually.

(11) An application for renewal together with the prescribed fee must be lodged with the Municipality at least 1 month prior to the date of expiry of the authorisation.

(12) No authorisation may be transferred from the holder thereof to any other person except by endorsement by the Head or Health or other authorised official.

(13) In the event of a holder disposing of his or her business to another person, such other person must make written application with the Municipality for transfer of authorisation to his or her name.

(14) The Municipality may cause an inspection to be carried out on premises, or request any information before endorsing a transfer of authorisation, or require both such inspection and information.

(15) If the Municipality is of opinion that there are reasonable grounds to suspect that the holder conducts his or her business in –

(a) such a way as to create a health nuisance or that conditions constituting a health nuisance have been or are being created; or

(a) contravention of the provisions of this By-law or any condition of the authorisation, it may issue written notice to the holder of such authorisation of its intention to revoke or suspend an authorisation for a specified period, if such holder fails to comply with the notice within the period stipulated in the notice.

(16) If the holder fails to take the necessary measures to comply with the notice as contemplated in subsection (15) within the period stipulated in such notice, the Municipality may revoke or suspend, as the case may be, the authorisation concerned without further notice to the holder

(17) The holder may in writing make application to the Municipality for repeal of revocation or suspension of an authorisation, setting out the extent to which the conditions which led to such revocation or suspension have been rectified.

(18) If the Municipality is of opinion that any condition that gave rise to the revocation or suspension of an authorisation has been rectified, it may, upon application contemplated in subsection (17), repeal such revocation or suspension by endorsement on the certificate concerned.

Authorisation for building and plant

24 (1) Where an alteration or addition is being made to any premises, the person to whom an authorisation has been granted to effect such alteration or addition, in respect of such premises must–

- (a) inform the Municipality of such alterations or additions;
- (b) furnish the Municipality with a plan in duplicate, showing the existing buildings, together with the alterations and additions, and
- (c) after the plan has been approved, attach such plan to the original application and certificate.

Alteration building or plant and conditions of certificate

25.(1) In the event of any person to whom an authorisation contemplated in section 23 has been issued intends altering –

- (a) any of the conditions subject to which such certificate has been issued; or
- (b) the plant or the building,

he or she must make written application to the Municipality for such alteration.

(2) An application contemplated in subsection (1) must contain detailed description of the desired alteration and the reasons thereof and must be accompanied by –

- (a) the original written authorisation; and
- (b) In the case of alteration of a plant or building, detailed plans thereof.

(3) The Municipality may endorse the desired alteration in the original authorisation if he or she is satisfied that the alterations meet the requirements of this By-law and will not cause a health nuisance.

Restrictions relating to milk dealers

26.(1) No milk dealer may sell any milk or milk products –

- (a) other than milk or milk products conforming to the specifications prescribed by this By-law, obtained from an authorised milk processor, in bottles or other containers filled, packed or wrapped in accordance with the requirements of this By-law; or
- (b) for consumption off the premises otherwise than in the sealed and unopened bottles or containers in which such milk or milk products were obtained from the authorised milk dealer; provided that nothing herein contained may preclude the sale on such premises of ice-cream in cones, cups or similar containers for immediate consumption.

(2) All milk and milk products kept by a milk dealer on premises for sale must be stored in a cold room at a temperature below 4°C.

(3) Every milk dealer must, in handling ice-cream on the premises, use approved apparatus, instruments or dispensing machinery.

(4) Where ice-cream in the possession of a milk dealer thaws, it may not thereafter be re-frozen or sold.

(5) Nothing in this By-law may be construed as preventing the preparation of partially frozen ice-cream mix upon the premises of a milk dealer.

Furnishing of documents on demand

27.(1) Every milk producer, milk processor or milk dealer must, on demand by an authorised official, produce for inspection, all invoices, accounts, books, records and other documents relating to the production, manufacture, preparation or supply of milk or milk products by him or her.

(2) Every milk producer, milk processor or milk dealer must furnish an authorised official contemplated in subsection (1), with a list of names and addresses of –

- (a) customers or persons to whom he or she supplied milk or milk products; and
- (b) persons from whom he or she obtained milk or milk products; during such period as such duly authorised official may specify, together with such invoices, accounts, books, records and other documents as are necessary to substantiate such lists.

(3) An official of the Municipality who during the course of his or her duties under this By-law, acquires any information in relation to the financial affairs, trade records or business administration of any person or firm with whom this By-law is concerned may not disclose such information otherwise than as in accordance with law or as required by his or her normal course of duty.

(4) Any such authorised official who discloses any such information as aforesaid otherwise than as in accordance with law or as required by his or her normal course of duty is guilty of misconduct and may be disciplined by the Municipality in accordance with applicable laws and procedures relating to misconduct of employees.

Introduction of milk and milk products into the Municipality

28.(1) No person other than a registered milk processor or registered milk producer may introduce any milk or milk products into the Municipality for sale or distribution for human consumption or for pasteurisation.

(2) All milk and milk products introduced into the Municipality must, until the contrary is proved, be deemed to have been introduced for one or other of the purposes aforesaid.

List of suppliers

29. Every milk producer, milk processor or milk dealer must keep a list of the names and addresses of customers or other persons to whom milk or milk products are sent or from whom milk or milk products are received from time to time.

Samples of milk or milk products

30.(1) An authorised official may require any person to provide him or her any sample of milk or milk product required by such official for any purpose authorised by this By-law.

(2) A person may not refuse or without lawful reason fail to provide any sample contemplated in subsection (1) to such authorised official.

Inspection and examination of depots

31.(1) The Municipality may require, by notice, any person to bring or deliver any specified article, container or package of milk or milk product, for inspection or examination to any depot established for the purpose.

(2) An authorised official has the power to cut into or open any article, container or package of milk or milk product in connection with such inspection or examination.

Detention, seizure and destruction of milk or milk products

32. Any authorised official may restrict or prohibit the sale of and may detain or seize any milk or milk product which is diseased, unsound, unwholesome, or otherwise unfit for human consumption and authorise its destruction under this By-law.

Owner's risk

33. The Municipality may, at the owner's risk, permit such treatment as may render the milk or milk product referred to in section 67 fit for human consumption.

Prohibiting sale or supply of milk or milk products

34. The Municipality may prohibit, for such period as it deems necessary, the sale or supply of any milk or milk products –

- (a) from any premises whereon a case of communicable disease has occurred;
- (b) from any source wherefrom milk or milk products previously supplied is suspected to have been the cause of any case of communicable disease;
- (c) wherein the presence of tubercle bacilli has been detected by a veterinary officer or a competent bacteriologist;
- (d) if it is of the opinion that consumption thereof is likely to cause sickness or disease;
- (e) if it does not meet the standards set in terms of this By-law; or
- (f) at or from any premises where the requirements of this By-law are not met.

General requirements for premises

35.(1) Subject to the provisions of the National Building Regulations and Standards Act, A person may not carry on any business which involves the manufacture, production, preparation, storing, handling, sale or distribution of milk or milk products in or upon any premises which do not comply with the following provisions –

- (a) walls must be constructed of brick, concrete, or other approved solid material and the internal surface of such walls must be well and smoothly rendered; provided that in respect of any portion or portions of the premises used for the manufacture or preparation, storage, handling, sale or distribution of milk or milk products, internal walls must in addition be suitably covered with tiles or other approved impervious material;
- (b) the floors of all portions of the premises must be constructed of concrete or other similar solid and impervious rat-proof material and must be adequately drained;
- (c) the roof must be constructed of iron, asbestos, slate, tiles or other approved impervious material.
- (d) all ceilings must be of approved solid material covered with lime or cement plaster or other suitable impervious material finished to a smooth surface and rendered dust-proof;
- (e) adequate natural or artificial means of lighting and ventilation in conformity with the standards laid down in terms of National Building Regulations and Standards Act and the Occupational Health and Safety Act 85 of 1993 and the applicable Regulations in terms of this legislation must be provided;
- (f) the buildings must be so constructed as to obviate, as far as practicable, any harbourage for rats or other vermin and the milk room, wash room, feed stores and structures used in connection with the manufacture, preparation, storage, handling, sale or distribution of any milk products must be rendered fully rodent-proof and;
- (g) a pure, ample and convenient water supply must be laid on to all points requisite for the proper functioning of hygiene and sanitary amenities;
- (h) where the water supply is not obtained from the Municipality's water mains the purity standard approved by the Municipality;
- (i) there must be no opening or inlet into any drain from any portion of the premises used for the production, manufacture, preparation, storage, handling, sale or distribution of milk or milk products and no water closet, privy, urinal or stable may directly communicate with such portions of the premises;
- (j) no soil or wastepipe may be conducted through any portion of a building used for the production, preparation, storage, handling, sale or distribution of milk or milk products;

- (k) there must be provided an adequate yard space of which the surface must be properly hardened and drained and such yard must be kept free from lumber or litter capable of breeding mosquitoes or attracting vermin;
- (l) A person may not erect, alter, adapt or convert any building to be used for the production, manufacture, preparation, storage, handling, sale or distribution of milk or milk products after the promulgation of this By-law, unless adequate yard space for the storage of waste receptacles, together with access thereto other than through the shop or manufactory, is provided; and
- (m) effective means of draining and disposal of waste liquids and stormwater must be provided.

(2) The owner or person in control of any business which involves the manufacture, production, preparation, storing, handling, sale or distribution of milk or milk products must maintain all buildings, hardened areas, drains, drainage connections and other appurtenances in good repair and condition.

(3) The owner or person in control any business which involves the manufacture, production, preparation, storing, handling, sale or distribution of milk or milk products must paint with a light-coloured washable paint or otherwise suitably renovate any exterior part of the premises owned by him when so required by the Municipality.

Structural requirements for premises of milk producers

36.(1) Every milk producer must in or upon the premises used by him or her for the purpose of his or her business, provide –

- (a) a milking shed or sheds which must have –
 - (i) walls of a height measured internally not less than 2,5 (zero comma five) metres from the floor to the underside of the wall plate, which walls must have a smooth and impervious finish of light-coloured material or paint;
 - (ii) a milking passage not less than 1,5 (one comma five) metres in width, provided that in the case of a double-byre shed a central passage must be provided with a minimum width of 2,4 (two comma four) metres;
 - (iii) a solid and impervious floor, adequately drained to an outside gully which must be connected to an approved drainage system effective for the disposal of waste or soil water;
 - (iv) stanchions and other fittings suitably constructed of metal or other impervious material;

- (v) a manure disposal system such that the immediate vicinity and the dairy premises as far as practicable are free of flies; and
 - (vi) an area paved with concrete or other approved solid material at the entrance to, and exist from, the shed extending for a minimum distance of 10 metres from the entrance and 5 (five) metres from the exit and of a width of not less than either that of the shed or a cattle race if provided;
- (b) a milk room which must –
- (i) be dust and fly-proof;
 - (ii) be provided with a ceiling which must be painted with a light-coloured washable paint;
 - (iii) have walls at least 2,4 (two comma four) metres in height measured from the floor to the ceiling and the inside wall surfaces must have a smooth and impervious finish of light-coloured material or paint;
 - (iv) be equipped with doors which must be capable of being locked;
 - (v) have a solid and impervious floor adequately drained to an outside gully which must be connected to an approved drainage system effective for the disposal of waste or soil water;
 - (vi) be of a minimum floor area of 13,5 (thirteen comma five) square metres, exclusive of a cold room or immersion tank;
 - (vii) be adjacent to the milking shed and may communicate directly therewith provided the interleading opening is fly-screened with a self-closing door;
 - (viii) not communicate directly with any dwelling or feed store;
 - (ix) be used solely for the purposes for which authorisation was issued in respect of milk producers and milk dealers; and
 - (x) not have any motor, engine or boiler, other than a unit with a built-in electric motor, installed or used in therein;
- (c) a wash room which must –
- (i) comply with the provisions of subsection (b);
 - (ii) be of a minimum floor area of 11 (eleven) square metres; and
 - (iii) communicate directly with the milk room, provided that where one or more bulk milk tanks are installed the minimum area to be provided for the washing of utensils must be 9 square metres;
- (d) a feed store which must be so constructed and maintained as to exclude rodents and which must have no direct opening to the milk room or wash room, and no feed must be milled in a feed store unless such store is completely disconnected from the milk shed, milk room or wash-room; and

- (e) fenced paddocks for the exercising of bovine animals, provided that such paddocks must not be situate within 15 m of the milk shed, milk room or wash room.

Standards and requirements for milksheds

37. Every milkshed must meet the standards prescribed by the *Regulations Relating to Hygiene Requirements for Milking Sheds, the Transport of Milk and Related Matters* made in terms of section 15(1) of the Foodstuffs, Cosmetics and Disinfectants Act, under Government Notice R961 in Government Gazette 35905 of 23 November 2012, as amended from time to time.

Milk apparatus

38. Every milk producer, milk processor or milk dealer must for the purpose of his or her business provide approved apparatus for the handling, straining, mixing, preparation, cooling, storing and conveying of milk or milk products and for the cleansing or sanitising of plant, equipment and utensils.

Equipment, furniture, fittings and fixtures

39.(1) A person may not carry on any business which involves the production, manufacture, preparation, storing, handling, sale or distribution of milk or milk products in or upon any premises which do not comply with the following provisions, namely –

- (a) supply of sufficient sinks or troughs, of approved design, materials and construction in the wash room and at such other places as may be prescribed by the Municipality;
- (b) constant and adequate supply of steam and hot water laid on to all sink installations, troughs and such other points as the Municipality may prescribe;
- (c) furnishing, fixtures and fittings of good sound materials and construction, without crevices or interspaces likely to collect dust or dirt or to favour harbourage or development of rodents, cockroaches or other vermin; and
- (d) refrigeration facilities such that milk or milk products can be kept at a temperature of 4°C or less at all times.

(2) Every person who carries on any business involving the production, manufacture, preparation, storage, handling, sale or distribution of milk or milk products must maintain all equipment, plant, machinery, furniture, fittings and fixtures used in connection with such business in good order and condition.

Protection, storage and distribution of milk and milk products

40. Every person who carries on any business involving the production, manufacture, preparation, storage, handling, sale or distribution of milk or milk products must ensure that –

- (a) the premises used for the purposes of such business including the furnishing, fittings and fixtures, the yard area and outbuildings must at all times be maintained thoroughly clean and tidy and, as far as practicable, free from rodents, cockroaches and other vermin;
- (b) no vessel, utensil or apparatus used in connection with the business is worn out, rusted or in such condition that it cannot be rendered clean and sterile;
- (c) all milk vessels, utensils and apparatus are kept in good repair, are thoroughly cleansed and thereafter sanitised after each occasion of use and are stored or kept thereafter in such a manner as to remain clean;
- (d) no article of wearing apparel may be hung or kept inside any portion of the premises used for the production, manufacture, preparation, storage, handling, sale or distribution of milk or milk products; and
- (e) proper and sufficient facilities for the keeping or containing of milk or milk products stored or exposed for sale such that the milk or milk products are thereby rendered inaccessible to cockroaches and rodents, and protected from dust and flies.

Unsuitable equipment and compatible use

41.(1) The Municipality may forbid the use of any vessel, utensil or apparatus used in connection with any business involving milk or milk products which, in its opinion, is –

- (a) unsuitable, worn out, rusted or otherwise defective; or
- (b) in such condition that it cannot be rendered clean and sterile.

(2) A person may not use a vessel, utensil or apparatus forbidden in terms of subsection (1) without the written permission of the Municipality, upon sufficient proof that such equipment has been suitably reconditioned such that it may not cause the contamination of milk or milk products or danger to public health.

(3) No room for the production, manufacture, preparation, storage, handling, sale or distribution of milk or milk products may be used or allowed to be used as a living or sleeping apartment or communicate directly or indirectly by door, passage, window or otherwise with any living room or sleeping apartment or water closet.

(4) No milk or milk products may be manufactured, prepared, stored, handled, sold or exposed for sale in a living or sleeping apartment, sanitation annexe, stable or other premises not designed, constructed or intended for the production, manufacture, preparation, storage, handling or exposure of milk or milk products.

(5) No room for the production, manufacture, preparation, storage, handling, sale or distribution of milk or milk products may be used for any purpose incompatible with the business carried on in such room.

(6) Articles not required in the process of production, manufacture, preparation, storage, handling, sale or distribution of milk or milk products may not be kept in any room aforesaid.

Prohibition of live animals

42. No milk processor or milk dealer may keep or permit any live animal in or upon the premises.

Use of tobacco

43. A person may not, whilst actively engaged in the production, manufacture, preparation, storage, handling, sale or distribution of milk or milk products use tobacco in any form whatsoever.

Contamination of milk

44. No milk producer, milk processor or milk dealer may, or cause any person to, handle, convey, transmit, deliver, store or deposit any milk or milk products, unless such milk or milk product is effectively protected against contamination where there is a reasonable possibility of it becoming contaminated by flies, dirt, dust or any other cause.

Delivery of milk or milk products

45.(1) No milk producer or milk processor may sell milk or milk products except in an approved type container which is properly sealed.

(2) A person may not remove milk or milk products from a container referred to in subsection (1) or break the seal thereof, before delivery to the purchaser.

- (3) Each container must be so labelled or marked as to show clearly –
- (a) the nature of the milk or milk product contained therein; and
 - (b) in the case of milk or cream, the name of the milk producer or milk processor and the address of the premises where such product was produced, pasteurised, or otherwise processed, as the case may be, or such other means of identification as may be approved by the Municipality.

Storing of milk

46. No milk producer or milk processor may permit any milk or milk products or any clean bottles, cans and other containers or utensils used in connection therewith to be stored or kept elsewhere than in a milk room, cold room or wash room.

Transfer of milk or milk products

47. Except as otherwise provided in this By-law, no milk producer or milk processor may transfer or allow to be transferred, milk or milk products from one container to another otherwise than in milk room.

Milkshed, milk room and wash room not to be used for other purposes

48. Every milk producer must ensure that every milkshed, milk room and wash room used by him or her for the purposes of his or her business is used only for the purposes for which it is intended.

Milking procedure

- 49.** Every milk producer must ensure that –
- (a) no milking is undertaken elsewhere than in a milking shed which complies with the provisions of this By-law;
 - (b) the animals to be milked are clean;
 - (c) the udder and teats are washed with running water before being milked, and adequate steps are taken to prevent contamination of milk by urine, faecal matter or other extraneous substance;

- (d) every milker washes his or her hands and finger nails thoroughly with an approved soap and clean water before commencing milking and immediately after every interruption thereof;
- (e) every person who milks by hand uses only an approved lubricant kept in a container provided with a closely-fitting lid which is replaced immediately after each occasion of use and such container is internally and externally free of any extraneous substance;
- (f) the foremilk from each animal at every milking is examined for evidence of mastitis by passing it into a strip cup or other approved testing appliance;
- (g) the first stream of milk from each teat, and foremilk showing evidence of any abnormality and the milk from any cow known or suspected to be unhealthy or diseased is discarded in such manner as to avoid contaminating any other milk;
- (h) all milk, immediately after milking, is passed through a clean strainer of an approved single-use type and is removed from the milking shed to the milking room;
- (i) milk on arrival in the milk room is immediately cooled and maintained until despatched at a temperature not exceeding 4°C;
- (j) milking stools and any other equipment are so constructed and of such material as to be capable of effective cleansing and be maintained clean at all times;
- (k) hobbles of the chain type only are used; and
- (l) no milking pail or milk-can is used for any other purpose whatsoever.

Cleansing of milk shed

50.(1) Every milk producer must –

- (a) cause the floor of the milking shed to be thoroughly washed within one hour of the completion of each occasion of milking and as often as may be necessary; and
- (b) cause the ceiling, walls and ledges of every milk shed used by him to be kept free from dust, dirt or cobwebs.

(2) No milk producer may permit any grooming or sweeping in the milk shed while milking is in progress.

Storage of forage in milk shed

51. No milk producer may permit the stacking or storing of cattle feed in any milk shed, milk room or wash room.

Keeping of animals in milk shed

52. No milk producer may permit the use of any milk shed for the keeping therein of animals other than animals used for milking.

Swine and poultry

53. No milk producer may keep –

- (a) any swine or poultry within 140 metres of the milk shed, milk room or wash room; and provided that this does not preclude the keeping of swine or poultry within 45 metres of such shed or rooms in an approved sty or sties of solid construction, with concrete floors and suitable drainage; and provided, further, that such sty or sties are maintained in a clean condition and free of any nuisance; or
- (b) any poultry unless so kept as to prevent any access to or contamination of milk or milk utensils.

Erection and use of dipping tank or spray race

54. No milk producer may erect or use a dipping tank or spray race within 45 metres of the milkshed, milk room or wash room.

Prohibited supply of milk of animals

55. No milk producer may sell or supply for human consumption milk from a cow –

- (a) within 14 days preceding the birth of a calf or during the 6 days following such birth; or
- (b) that has been treated with an antibiotic drug by the intramammary route within a period of 72 hours following such treatment.

Controlling milk and milk product introduction and distribution

56.(1) Unless authorised in writing by the Municipality –

- (a) no milk producer may sell any milk or milk product for human consumption unless he has obtained such milk or milk product from his or own shed;
- (b) no milk producer may sell any milk or milk product for human consumption to any person other than a milk processor authorised under this By-law;
- (c) no milk processor may sell for human consumption any milk or milk product other than milk or milk products obtained from a milk producer or milk processor;

- (d) no person other than a milk processor may, within the Municipality, purchase or receive for human consumption any milk or milk product except from a milk dealer or registered milk dealer; and
- (e) no milk dealer or person other than a milk processor may hawk milk or milk products or deliver the same otherwise than to a consumer against a specific order.

(2) All milk or milk products sold or supplied in terms of this By-law by a milk producer, milk processor or milk dealer must, unless the contrary is proved, be deemed to have been sold or supplied for human consumption.

Ice-cream restrictions

57. (1) All ice-cream sold by a milk processor must conform to the standards prescribed by this By-law and be packed in cartons or other approved containers fitted with tight-fitting covers or wrapped in clean paper or other approved material in a milk room.

(2) Every milk processor must store all wafers and ice-cream ingredients in such a manner as to preclude the contamination thereof.

(3) No milk processor may re-freeze or cause or permit to be re-frozen or sell any ice cream which has thawed.

Milk tankers

58.(1) No milk producer, milk processor or other person may, except with the authorisation of the Municipality, use any bulk tanker for the transportation of milk or milk products in terms of this By-law.

(2) A permission contemplated in subsection (1) may be refused, or granted subject to such conditions or restrictions as the Municipality may determine.

Transportation of milk and milk products

59. The following apply with regards to the transportation of milk and milk products –

- (a) the *Regulations Regulating General Hygiene Requirements for Food Premises the Transport of Food, and related matters* published in terms of the Foodstuffs, Cosmetics and Disinfectants Act, under Government Notice R. 638, dated 22 June 2018 as amended the *Regulations Relating to the Hygiene Requirements for Milking*

Sheds, the Transport of Milk and Milk Products and Related Matters, in terms of the Foodstuffs, Cosmetics and Disinfectants Act, published under Government Notice R. 961, dated 23 November 2012, as amended; and

(b) any other applicable law.

Hygiene requirements

60. (1) The following apply with regards to hygiene requirements in respect of milk and milk products –

(a) the provisions of the the *Regulations Regulating General Hygiene Requirements for Food Premises the Transport of Food, and related matters* published in terms of the Foodstuffs, Cosmetics and Disinfectants Act, under Government Notice R. 638, dated 22 June 2018 as amended

(b) the *Regulations Relating to the Hygiene Requirements for Milking Sheds, the Transport of Milk and Milk Products and Related Matters*, in terms of the Foodstuffs, Cosmetics and Disinfectants Act, published under Government Notice R. 961, dated 23 November 2012; and

(c) any other applicable law.

Quality and standards for milk and milk products

61. (1) No milk processor may pasteurise, or otherwise process any milk or milk products unless such milk or milk products, upon arrival at the premises of such milk dealer, are in conformity with the standards prescribed by this By-law and the Regulations referred to in section 59.

(2) No milk producer or milk processor may sell milk or milk products unless such milk or milk products conform to the specifications prescribed in this By-law.

(3) Every milk producer, milk processor and milk dealer must provide and use the equipment necessary for accurately determining the temperature of all milk or milk products on the premises.

(4) Every milk processor must provide and use the equipment and other facilities necessary for determining the acidity of milk or milk products received by him or her for pasteurisation or other process.

(5) No milk producer, milk processor or milk dealer may add any preservative, water, dried or condensed milk or any other extraneous matter to any milk sold or produced by him or her or in his or her premises for purposes of sale or delivery to a purchaser or consumer nor may he or she reconstitute milk.

(6) No milk producer, milk processor or milk dealer may add any unclean, unwholesome or harmful substance to or adulterate any milk product sold or produced by him or her or in his or her premises for purposes of sale or delivery to a purchaser or consumer.

(7) No milk may, whilst in transit to or on arrival at a milk depot exceed 0,18 % acidity or a temperature of 7° Celsius.

(8) No sour cream, cultured or similarly prepared milk which has been pasteurised may on examination contain –

- (a) more than 50 coliform organisms per millilitre or, in the semi-solid state, per 1,0 gram;
- (b) Escherichia coli type I organisms in 1,0 millilitre or, in the semi-solid state, 1.0 gram;
- (c) any viable pathogenic organisms; or
- (d) any substance inhibitory to bacteria growth.

(9) Milk, milk products or other ingredients used in the manufacture of ice-cream must be heat-treated by being retained at a temperature of not less than 69°C for a period of not less than 30 minutes in an approved pasteurising plant, and thereafter immediately cooled to a temperature of not more than 5°C.

(10) Ice-cream may not contain –

- (a) more than 10 coliform organisms per millilitre or, in the semi-solid state, per 1,0 gram;
- (b) E coli type I organisms in 1,0 millilitre or, in the semi-solid state, 1.0 gram;
- (c) any viable pathogenic organisms; or
- (d) any substance inhibitory to bacteria growth.

(11) Pasteurised milk and milk products, when tested by the phosphatase test, must give a negative result.

(12) Samples of milk taken under this By-law must be taken with sterilised equipment and transferred to sterilised sample containers, taking precautions to prevent the contamination of the sample, and the sample container must be –

- (a) stoppered and within 5 minutes of the sample being taken; and
- (b) surrounded by crushed ice or other suitable refrigerant capable of reducing the temperature of the sample to and maintaining the sample at a temperature not exceeding 7° C nor less than 0° C.

(13) All milk and milk products may not on examination contain any viable pathogenic organisms.

CHAPTER 6 ENFORCEMENT

Routine inspections

62.(1) An authorised official may enter any premises in which this By-law applies, at any reasonable time and –

- (a) inspect such premises in order to ensure compliance with this By-law;
- (b) question any person who he or she believes may have information relevant to the inspection;
- (c) require the person in charge of such premises to produce, for inspection or for the purpose of obtaining copies or extracts thereof or therefrom, any document that such person is required to maintain in terms of this By-law or any law; and
- (d) take samples of any substance that is relevant to the inspection.

(2) An authorised officer may issue a compliance notice to the person in charge of the premises if a provision of this By-law has not been complied with.

(4) A compliance notice remains in force until the relevant provision of the By-law has been complied with and the Municipality has issued a compliance certificate in respect of that notice.

(5) An authorised officer who removes any item other than that contemplated in subsection

(1) (d) must –

- (a) issue a receipt for it to the person in charge of the premises; and
- (b) subject to the Criminal Procedure Act, 1977 (Act No. 51 of 1977), return it as soon as practicable after achieving the purpose for which it was removed.

(6) The Municipality is not liable for any harm or loss suffered or incurred by any person as a result of it acting in terms of this By-law.

CHAPTER 7 OFFENCES AND PENALTIES

Offences

63. (1) A person is guilty of an offence if he or she –

- (a) obstructs or hinders in any manner whatsoever an authorised official who is performing a function under this By-law;
- (b) refuses to provide to an authorised official such information as is required to allow an authorised official to perform a function in terms of this By-law;
- (c) knowingly gives false or misleading information to an authorised official;
- (d) unlawfully prevents the owner of any premises, or a person working for the owner, from entering the premises in order to comply with a requirement of this By-law;
- (e) impersonates an authorised official;
- (f) contravenes or fails to comply with any provision of this By-law; or
- (g) contravenes or fails to comply with any order or notice lawfully issued under this By-law.

(2) A person is guilty of a continuing offence if he or she continues with the offence after notice has been served on him or her in terms of this By-law requiring him or her to cease committing such offence, or after he or she has been convicted of such offence.

Penalties

64.(1) Any person who is convicted of an offence under this By-law is liable to a fine of an amount not exceeding R200 000 or to imprisonment for a period not exceeding 2 years, or to both such fine and imprisonment.

(2) In the case of a continuing offence, an additional fine of an amount not exceeding R1000 or imprisonment for a period not exceeding 10 days, for each day on which such offence continues or both such fine and imprisonment, will be imposed.

CHAPTER 8

MISCELLANEOUS PROVISIONS

Presumptions

65.(1) When an employee of a person in the course of his or her employment performs any act or is guilty of an omission which constitutes an offence under this By-law, the employer is deemed also to have performed the act or to be guilty of the omission and the employer is liable on conviction to the penalties referred to in this By-law, unless the employer proves to the satisfaction of the Court that –

- (a) in performing the act or being guilty of the omission, the employee was acting without the employer's knowledge or permission;
- (b) all reasonable steps were taken by the employer to prevent the act or omission in question; and
- (c) it was not within the scope of the authority or the course of the employment of the employee to perform an act of the kind in question.

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

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

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

(5) In any prosecution for an offence under this By-law the accused is deemed to know the provisions of this By-law and to know that the offence with which he or she is charged is a contravention thereof unless he or she proves to the satisfaction of the Court that he or she did not have and could not reasonably be expected to have that knowledge.

Exemptions

66.(1) Any person may by means of a written application, in which the reasons are given in full, apply to the Municipality for exemption from any provision of this By-law.

(2) The Municipality may –

- (a) grant an exemption in writing and the conditions in terms of which the exemption was granted, if any, and the period for which such exemption is granted must be stipulated therein;
- (b) alter or cancel any exemption or condition in an exemption; or
- (c) refuse to grant an exemption.

(3) In order to consider an application in terms of subsection (1), an authorised official may obtain the input or comments of the owners or occupants of surrounding premises.

(4) An exemption does not take effect before the applicant has undertaken in writing to comply with all conditions imposed in terms of subsection (2), however, if an activity is commenced before such undertaking has been submitted to the Municipality, the exemption lapses.

(5) If any condition of an exemption is not complied with, the exemption lapses immediately.

Appeals

67.(1) A person whose rights are affected by a decision taken by the Municipality in terms of this By-law may appeal against that decision in terms of the Appeals provision contained in the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) by giving written notice of the appeal and reasons thereof to the municipal manager within 21 days of the date of the notification of the decision.

(2) The municipal manager must promptly submit the appeal to the appropriate appeal authority.

(3) The appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable period.

(4) The appeal authority must confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights which may have accrued as a result of the decision.

(5) The appeal authority must furnish written reasons for its decision on all appeal matters.

(6) All appeals lodged are done so in terms of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) and not in terms of this By-law.

(7) Where a conviction has been affirmed by a court of law and the accused wishes to appeal such conviction, the appeal must take place in terms of the court's appeal process and not in terms of subsections (1) to (5).

Delegations

68.(1) Subject to the Constitution and applicable national and provincial laws, any –

- (a) power, excluding a power referred to in section 160(2) of the Constitution;
- (b) function; or
- (c) duty

conferred, in terms of this By-law, upon the council, or on any of the Municipality's other political structures, political office bearers, councillors or staff members, may be delegated or sub-delegated by such political structure, political office bearer, councillor, or staff member, to an entity within, or a staff member employed by, the Municipality.

(2) The delegation in terms of sub-section (1) must be effected in accordance with the system of delegation adopted by the council in accordance with section 59(1) of the Local Government: Municipal Systems Act, 2000 (Act No.32 of 2000), subject to the criteria set out in section 59(2) of said Act.

(3) Any delegation contemplated in this section must be recorded in the Register of Delegations, which must contain information on the–

- (a) entity or person issuing the delegation or sub-delegation;
- (b) recipient of the delegation or sub-delegation; and
- (c) conditions attached to the delegation or sub-delegation.

Repeal of laws

69. (1) The Durban Food By-law published under Provincial notice no. 627 of 1950 commencing on the 14 December 1950 and published in Provincial gazette no. 2323 dated 14 December, 1950, thereafter extended to the entire jurisdiction of the Ethekewini Municipality by resolution dated 29th February 2012, made in terms of clause 35 of PN 343 of 2000, gazetted in MN 20 of Provincial Gazette 744 dated 10 May 2012 is hereby repealed.

Short title and commencement

70.(1) This By-Law is called the eThekweni Municipality: Food, Milk and Milk Products By-law, 2022 and takes effect six months from the date of publication thereof in the *Provincial Gazette* or on such earlier date as may be determined by the publication of a commencement notice in the *Provincial Gazette*.