

NOTICE 128 OF 2017
HEALTH NUISANCES BY-LAW, 2012

By-Law No.4, 2012

BY-LAW

As Amended by the Health Nuisances Amendment By-Law 2017

To provide for the establishment of municipal Health Nuisances in the Dawid Kruiper Municipality; and for matters connected therewith.

WHEREAS Section 156(1) of the Constitution of the Republic of South Africa, 1996 confers on municipalities the executive authority and right to administer Local Government matters set out in Part B of Schedule 4 and Part B of Schedule 5 to the Constitution;

WHEREAS section 156(2) of the Constitution empowers municipalities to make and administer laws for the effective administration of matters that it has the right to administer;

WHEREAS in terms of section 12 of the Local Government: Municipal Structures Act, 1998, The Dawid Kruiper Municipality has been established, subsequent to the disestablishment of the Mier and //Khara Hais Municipalities;

WHEREAS the disestablished Mier and //Khara Hais Municipalities had their former areas of jurisdiction merged under the jurisdiction of the Dawid Kruiper Municipality;

WHEREAS the Dawid Kruiper Municipality intends to regulate and control health nuisances in a responsible and sustainable manner;

AND NOW THEREFORE BE IT ENACTED by the Council of the Dawid Kruiper Municipality as follows:

1. Definitions

In this by-law unless the context otherwise indicates: -

"animal waste" means the faeces, manure, droppings, shed hair or feathers, bones, horns, blood and entrails of an animal, bird or poultry;

"biodegradable Industrial wastewater" means wastewater that contains predominantly organic waste arising from industrial activities and premises including, but not limited to-

- (a) milk processing;
- (b) processing of fruit and vegetable products;
- (c) sugar mills;
- (d) manufacture and bottling of soft drinks;
- (e) water bottling;
- (f) production of alcohol and alcoholic beverages in breweries, wineries or malt houses;
- (g) manufacture of animal feed from plant or animal products;
- (h) manufacture of gelatine and glue from hides, skin and bones;
- (i) abattoirs;
- (j) fish processing;
- (k) feedlots; and

(l) tannery;

"building, structure or enclosure" means a building, structure or enclosure such as, but not limited to, a stable, shed, dove-cote, kennel, pen, sty, camp, kraal, cow-shed, lean-to, room, tent, vehicle, stream, dam, pool, pan, drain, or ditch (open, covered, or enclosed) erected or constructed in or upon land or premises and which is used in connection with the keeping of an animal by an owner of an animal or owner or user of land;

"communicable disease" means an illness due to a specific infectious agent or its toxic products which arises through transmission of the agent or its products from an infected person, animal or inanimate reservoir to a susceptible host, either directly or indirectly through an intermediate plant or animal host, vector or inanimate environment."

"domestic wastewater" means wastewater arising from domestic premises, and may contain sewage;

"health nuisance" inter alia, any act, omission or failure or condition which in the opinion of the municipality is hazardous for the health or offensive or detrimental or substantially encroach upon the convenience of the public.

"hazardous waste" means waste that has the potential, even in low concentrations, to have an adverse effect on the environment and environmental health because of its inherent toxicological, chemical or physical characteristics;

"irrigation" means the application of water to any land or grounds for any purpose and includes waste water or water containing waste generated through any activity.;

"Municipality" means the Dawid Kruiper Municipality;

"noise pollution" means any change in the environment caused by noise, emitted from any activity, including construction and the provision of services, whether engaged in by any person or an organ of state, where that change has an adverse effect on human health or well-being or will have such an effect in the future;

"occupier" means any person who occupies any premises or part thereof without regard to 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; and
- (e) the owner of those premises;

"person" means a natural and legal person, including but not limited to an association of persons, a partnership, and a company;

"**premises**" means any building, structure, or tent together with the land on which it is situated and the adjoining land used in connection with it and includes any land without any building, structure or tent and any vehicle, conveyance or ship;

"**waste**" means any matter or waste material arising from the use of any land or premises, excluding hazardous waste and health care waste;

"**wastewater**" means water containing waste, including sewage, or water that has been in contact with waste material and may include biodegradable industrial wastewater and domestic wastewater;

2. Health nuisance

2.1 A health nuisance exists or occurs if any of the following occurs on land or premises:

- (a) A water pool, ditch, gutter, dung pit or heap is so foul or in such a state or so situated or constructed to be injurious or dangerous to health;
- (b) an accumulation of waste or other matter which is injurious or dangerous to health occurs;
- (c) where sewage sludge is disposed of or utilized in a manner that does not comply with the guidelines for the utilization and disposal of waste water sludge as published by the Department of Water Affairs and Forestry as revised by the department from time to time.
- (d) a building, structure or enclosure is -
 - (i) so constructed, situated, used or kept as to be injurious or dangerous to health;
 - (ii) kept or permitted to remain in a state as to be injurious or dangerous to health; or
 - (iii) infested with pests or vermin or in a state that is conducive to the breeding of pests or vermin;
- (e) a building, structure or enclosure is erected without first removing or decontaminating in an approved manner, any faecal, animal or vegetable waste disposed of on the land or premises; or
- (f) a building or structure is demolished without first eradicating all vermin;
- (g) a dwelling or any other premises is occupied for which no proper and sufficient supply of potable water is available;
- (h) a dwelling or building is occupied for which no proper toilet facilities, as required in terms of the National Building Regulations and Building Standards Act, Act 103 of 1977, is available;
- (i) a dwelling or building is occupied which is not properly ventilated in accordance with the National Building Regulations and Building Standards Act, Act 103 of 1977; or

- (j) a dwelling that is not ventilated so as to destroy or render harmless any gases, vapours, dust or other impurities generated which are dangerous to health;
- (k) a dwelling that is so overcrowded, lighted or ventilated as to be injurious or dangerous to the health of those employed therein or thereon; or cause or give rise to smells or effluvia which are dangerous to health.
- (l) conditions exist that are conducive and contributing to the spread of a communicable disease;
- (m) organic matter or animal waste are used or kept in a manner that attracts vector, vermin, or pests such as, but not limited to rats, mice, flies and mosquitoes;
- (n) unhygienic conditions that may be injurious or dangerous to health are present on any part of the land or premises;
- (o) a carcass or the remains of an animal, bird or aquatic fauna or any animal waste remains unburied or not suitably disposed of for more than 24 hours after death.
- (p) any act or omission in contravention of any Act, including authorizations, regulations, prescribes or conditions promulgated in terms of such an Act.

2.2 A health nuisance exists if -

- (a) pests, vermin, vector, from whatever source exists on any land or premises;
- (b) any other activity, condition or thing declared to be a health nuisance under any law exists or occurs on or emanates from land or premises

3. Prohibition on creation, existence or occurrence of a health nuisance

3.1 No person may, in any area under the jurisdiction of the municipality -

- (a) create a health nuisance;
- (b) perform any act which may cause a health nuisance;
- (c) organise, allow or permit an activity, event or function in or on land or premises, or use, cause, allow or permit to be used land or premises for a purpose which by its nature or otherwise or by reason of its consequences creates or is likely to create a health nuisance;
- (d) unless he or she is authorised or permitted by law to do so or does so with the written permission of the municipality and in accordance with any conditions imposed by the municipality-
 - (i) in a public place activate, handle or use any material, object or thing which is likely to cause a health nuisance;
 - (ii) introduce into or handle in a public place any material, object or thing or any liquid or solid substance which by its nature or by reason of the manner of its introduction or handling creates a health nuisance;

- (e) carry, convey, or cause or permit to be carried or conveyed through or in any street or public place, any objectionable material or thing, liquid or solid, which is or may become dangerous to health, unless such objectionable material or thing is covered with a suitable material to prevent the creation of any health nuisance;
- (f) by an action directly or indirectly or by negligence allow that a health nuisance be created or continued.

3.2 A person who contravenes a provision of subsections (1) commits an offence.

4. Duty to eliminate or reduce a health nuisance

4.1 The owner, occupier or user of land or premises must-

- (i) ensure that a health nuisance does not exist or occur on his or her land or premises; and
 - (ii) within 24 hours of becoming aware of the existence of a health nuisance on the land or premises report the existence of the health nuisance to the municipality and eliminate the health nuisance -
- (b) The owner of land or premises must ensure that a health nuisance as defined in section 3(1)(k), (l) and (m) does not occur on his land or premises and within 24 hours of becoming aware of the existence of a health nuisance on the land or premises report the existence of the health nuisance to the municipality and eliminate the health nuisance.
- (c) For the purposes of subsection (1)(a), the owner, occupier or user of land or premises must, for the purpose of eliminating or reducing the quantity of -
- (i) flies, use best practice methods;
 - (ii) mosquitoes -
- (aa) drain accumulated water at least once every seven days;
 - (bb) by making use of best practice methods to control mosquitoes and their larvae
 - (cc) in the case of wells, provide a mosquito-proof cover and a pump;
 - (dd) fit tanks, barrels and similar containers in which mosquitoes may breed with mosquito proof covers or mosquito wire gauze screens in a manner that prevents mosquitoes gaining access to water contained in them; and
 - (ee) regularly clear clogged or sagging gutters and down pipes so that stagnant water cannot accumulate in them; and
- (iii) vermin, use mouse traps or vermin poison or any other best practice methods.

4.2 The owner, occupier or user of land or premises must ensure that every well, hole, pit, reservoir, pond or excavation thereon is not filled in a way, or with any material, that may cause an adjacent well, borehole or underground water source to be polluted or contaminated.

- 4.3 The occupier must cause all waste to be placed in refuse receptacles provided by the owner or by the responsible authority to be disposed of in a manner contemplated in section 27.
- 4.4 The owner, occupier or user of land or premises must dispose of any hazardous material or substance in such a way that it will not cause a health nuisance or pollute a water body, water source, borehole or underground water source.
- 4.5 The owner, occupier or user of land or premises who contravenes a provision of subsection (1), (2), and (4), or the occupier who contravenes a provision of subsection (3) commits an offence.

5. Penalty Clause

Any person who contravenes or fails to comply with any provision of this By-law shall be guilty of an offence and liable on conviction to a fine or, in default of payment, to imprisonment not exceeding 6 months, or to both a fine and such imprisonment.

6. Short title

This By-law shall be called the Health Nuisance By-law, 2012.

DAWID KRUIPER MUNICIPALITY

HEALTH NUISANCES AMENDMENT BY-LAW, 2017

GENERAL EXPLANATORY NOTE

[] Words in bold type and square brackets indicate omissions from existing enactments.

_____ Words underlined with a solid line indicate insertions in existing enactments.

To provide for the amendment of the Health Nuisances By-Law, 2012; to provide for the substitution of the name "//Khara Hais", wherever it appears; to provide for the insertion of a preamble; and to provide for matters connected therewith.

BE IT ENACTED by the Council of the [//Khara Hais] Dawid Kruiper Municipality, as follows: -

Insertion of a preamble of the Dawid Kruiper Municipality: Health Nuisances By-law, 2012:

1. The Dawid Kruiper Municipality: Health Nuisances By-Law, 2012 (hereinafter referred to as the principal By-Law), is hereby amended by the insertion of the following preamble:

"WHEREAS Section 156(1) of the Constitution of the Republic of South Africa, 1996 confers on municipalities the executive authority and right to administer Local Government matters set out in Part B of Schedule 4 and Part B of Schedule 5 to the Constitution;

WHEREAS section 156(2) of the Constitution empowers municipalities to make and administer laws for the effective administration of matters that it has the right to administer;

WHEREAS in terms of section 12 of the Local Government: Municipal Structures Act, 1998, The Dawid Kruiper Municipality has been established, subsequent to the disestablishment of the Mier and //Khara Hais Municipalities;

WHEREAS the disestablished Mier and //Khara Hais Municipalities had their former areas of jurisdiction merged under the jurisdiction of the Dawid Kruiper Municipality;

WHEREAS the Dawid Kruiper Municipality intends to regulate and control health nuisances in a responsible and sustainable manner;

AND NOW THEREFORE BE IT ENACTED by the Council of the Dawid Kruiper Municipality as follows:"

Amendment of section 1 of the Dawid Kruiper Municipality: Health Nuisances By-Law, 2012

2. Section 1 of the principal By-Law is hereby amended:
- (a) by the deletion of the definition of "council",
 - (b) by the deletion of the definition of "local municipality";
 - (c) by the insertion before the definition of "none pollution" of the following definition:
"Municipality" means the Dawid Kruiper Municipality."

Amendment of section 6 of the Dawid Kruiper Municipality: Health Nuisances By-Law, 2012:

3. The following section is hereby substituted for section 6 of the principal By-Law:
"6. This By-Law is called Dawid Kruiper Municipality: Health Nuisances Amendment By-Law, [2012] 2017 "