

**NELSON MANDELA MUNICIPALITY**  
**AMBUSH MARKETING BY-LAW**

**PREAMBLE**

**WHEREAS:**

The Nelson Mandela Bay Municipality has an Outdoor Signs (Advertising and Other) By-law in place promulgated on \_\_\_\_\_ pursuant to the provisions of Section 156 of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996). It has identified the need to, in particular, supplement such By-law to deal with ambush marketing and aspects incidental thereto during particular events hosted or co-hosted by or in the City of Port Elizabeth on an ad hoc basis.

The Nelson Mandela Bay Municipality therefore has decided to enact the By-laws herewith to deal with, amongst others, ambush marketing and aspects incidental thereto upon the terms and conditions as set out herein.

**NOW THEREFORE IN CONSIDERATION OF THE AFOREGOING, THE FOLLOWING  
AMBUSH MARKETING BY-LAW AS HEREBY ADOPTED:**

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**CHAPTER 1:**  
**PRELIMINARY PROVISIONS**

**1. DEFINITIONS**

In these By-laws the following terms shall bear the following meanings, unless the context otherwise indicates:

**“Accreditation”** means accreditation in terms of the Accreditation Systems and Procedures;

**“Accreditation Systems and Procedures”** means the accreditation systems and procedures applicable to each individual Event and as determined by the Event Organiser (if necessary and so elected by the Even Organiser) and approved by the Municipality in writing;

**“Advertisement”** means any representation including by not limited to a Billboard, Sign, illustration, object, mark, symbol or device of any kind including any activity of whatsoever nature incorporating any of the foregoing which is visible or audible to the public from, including but not limited to, any street or any public place or any other vantage point or which is under or over-hanging from any bridge, building or other structure, including sky writing, used for Advertising activity; or any combination of such elements with the object of transferring information;

**“Advertising”** means the act or process of notifying, warning, displaying, marketing, promoting, making known or any other act of transferring information including but not limited to an Advertisement in a visual, audible or any other manner;

**“Advertising Structure”** means any physical structure erected or positioned so as to display a Sign or Billboard or Advertisement, or to which a Sign, Billboard or Advertisement is attached;

**“Ambush Marketing”** means the utilisation by a Person of the public value of an Event to gain benefit from Advertising and public relations activities in words,

sounds or any other form, directly or indirectly relating to an Event despite not having any involvement or connection with that Event, and in particular without having made any financial contribution which entitles such Person to derive any benefit from the Event, by including but not limited to:

- (a) using any insignia, marks, phrases or other identifiers of the Event in Advertising which misleads or is likely to mislead the Local Community or the public at large into believing that such Person is an authorised sponsor of, or has contributed to or is in any way affiliated or associated with the Event; or
- (b) giving that Person's own name, trade mark, or other insignia exposure through the medium of the publicity attracted by the event without any authorisation of the Event Organiser;

**"Authorised Official"** means a Person authorised to implement the provisions of these By-laws, including by not limited to –

- (a) a peace officer contemplated in section 334 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977);
- (b) a member of a municipal police service established in terms of section 64A of the South African Police Service Act, 1995 (Act No. 68 of 1995); or
- (c) such employees, agents, delegated nominees, representatives or service providers of the Municipality as are specifically authorised in writing by the Municipality in this regard;

**"Billboard"** means any screen, board or Sign supported by a freestanding structure which may be handwritten, hand drawn or hand painted, paper-posted, sign-written, pasted with vinyl or covered, pasted or written upon by a combination of such methods and which may feature special effects, which displays an Advertisement;

**"By-laws"** means these By-laws relating to Advertising and Ambush Marketing, and includes any notices promulgated in terms hereof;

**“Controlled Site”** means:

- (a) the locations where an Event will be staged including but not limited to a Stadium or any other Venue including any route which may form part of where an Event or any stages thereof may be hosted and the aerial space there above;
- (b) any other areas in respect of which admission is regulated by Accreditation;
- (c) Event Training Sites; and
- (d) Any other area within the area of jurisdiction of the Municipality designated or demarcated by the Municipality as a Controlled Site in respect of an Event.

**“Demarcated Space”** means a portion of a road or the road reserve which has been identified and demarcated as a place where a vehicle may be lawfully parked;

**“Event”** means any sporting, entertainment, recreational, religious, cultural, exhibitional, organisational or similar activities hosted at a Stadium, Venue or along a route and/or within their respective precincts and which is of such stature that the Municipality is satisfied to invoke the operation of the By-laws during the staging of such Event, and shall include any official function, ceremony or event staged, hosted or organised by the Event Organiser or the Municipality in connection with an Event;

**“Event Marks”** means any trade marks, logos, slogans, phrases, branding, designs and the like associated with an Event which a party is entitled to use, whether under licence or otherwise and which have prior to an Event been submitted by the Event Organiser to the Municipality for information purposes as constituting the Event Marks and identified the Persons entitled to use the Event Marks;

**“Event Organiser”** means any Person who plans, is in charge of, manages, supervises or holds an Event or in any manner controls or has a material interest in the hosting of an Event as contemplated by these By-laws and recognised as such by the Municipality in writing;

**“Event Training Site”** means a Venue within the jurisdiction of the Municipality selected to host any Event related training sessions for any group of Persons which is qualified to participate in an Event, including the surrounding and adjacent areas, parking facilities, media areas, concourses, fencing and entrances, under the control of the Municipality;

**“Exclusion Zone”** means the Controlled Sites situated immediately outside the outer perimeter of a Stadium or Venue, as designated or demarcated by the Municipality in writing for an Event;

**“Goods”** means any item or stock displayed or kept by a Trader for the purpose of selling, including animals as defined in the Animal Protection Act, 1962 (Act No. 71 of 1962);

**“Local Community”** in relation to the Municipality includes:

- (a) the residents within the area of jurisdiction of the Municipality;
- (b) the ratepayers of the Municipality;
- (c) any civic organisation and non-governmental, private sector or labour organisation or body which is involved in local affairs within the Municipality; and
- (d) Persons visiting the area of jurisdiction of the Municipality, including visitors to an Event, who, because of their presence in that area, make use of services or facilities provided by the Municipality;

**“Marketing Rights”** means all Advertising, promotional, marketing, merchandising, licensing, franchising, sponsorship, hospitality, publishing, and any other rights and/or associated commercial opportunities (other than the Media Rights) related to or in connection with an Event as granted to the Events Organiser;

**“Media”** means all members of the written press, photographers and electronic media;

**“Media Rights”** means the right to broadcast, transmit, display, film and photograph an Event, as well as all recordings thereof (or any part thereof) in any form and in all media now known or hereafter and the right to exploit such rights;

**“Municipality”** means –

- (a) the Nelson Mandela Metropolitan Municipality established in terms of the Local Government Municipal Structures Act 1998 (Act No. 11 of 1998);
- (b) its successors in title; or
- (c) a municipal owned entity or a delegated nominee fulfilling a responsibility under these By-laws, assigned to it in terms of section 81(2) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), or any other law, as the case may be;
- (d) an Authorised Official;

**“Municipal Services”** means any municipal service provided or system conducted by or on behalf of the Municipality for the collection, conveyance, treatment or disposal of refuse, sewage or storm water or for the generation, impounding, storage, purification or supply of water, gas or electricity, or any other services that may be required for or in connection with an Event;

**“Nuisance”** means –

- (a) any stream, pool, marsh, ditch, gutter, watercourse, cistern, water closet, earth closet, urinal, cesspool, cesspit, drain, sewer, dung pit, slop tank, ash heap or dung heap so foul or in such a state or so situated or constructed as to be offensive or to be injurious or dangerous to health;

- (b) any stable, kraal, shed, run or premises used for the keeping of animals or birds and which is so constructed, situated, used or kept as to be offensive or to be injurious or dangerous to health;
- (c) any accumulation of refuse, offal, manure or other matter which is offensive or is injurious or dangerous to health;
- (d) any public building which is so situated, constructed, used or kept as to be unsafe or to be injurious or dangerous to health;
- (e) any occupied dwelling for which no proper and sufficient supply of pure water is available within a reasonable distance;
- (f) any factory or industrial or business premises not kept in a cleanly state and free from offensive smells arising from any drain, water closet, earth closet, urinal or any other source or not ventilated so as to destroy or render harmless and inoffensive as far as practicable any gases, vapours, dust or other impurities generated, or so overcrowded or so badly lighted or ventilated as to be injurious or dangerous to the health of those employed therein or thereon;
- (g) any factory or industrial or business premises causing or giving rise to smells or effluvia which are offensive or which are injurious or dangerous to health;
- (h) any area of land kept or permitted to remain in such a state as to be offensive;
- (i) any other activity, condition or thing declared to be a nuisance by the Minister in terms of section 39(2) of the Health Act, 1977 (Act No. 63 of 1977);
- (j) an unreasonable interference with –
  - (i) the health or well-being of a Person;



- (ii) the use and enjoyment by an owner or occupier of his or her property;
- (iii) the use and enjoyment by a member of the public of a Public Open Space;

**“Organ of State”** means –

- (a) any department of State or administration in the national, provincial or local sphere of government; and
- (b) any other functionary or institution –
  - (i) exercising a power or performing a function in terms of the Constitution of the Republic of South Africa Act, 1996 or a provincial Constitution; or
  - (ii) exercising a public power or performing a public function in terms of any legislation, but does not include a court of law and a judicial officer;

**“Person”** means a legal person which includes a natural person, partnership, firm, corporation, corporation trust, unincorporated association, joint venture, company and close corporation;

**“Premises”** means an erf, stand, land, lot, plot, agricultural holding, farm portion or similar land entity registered in a deeds registry, or traditional land allotment and Controlled Site within the area of jurisdiction of the Municipality;

**“Public Advertising Media”** means such advertising media space (including, without limitation, light and electricity posts, and advertising space on public buildings) as is owned, leased, administered by or under the direct control of the Municipality;

**“Public Open Space”** means any land which –

- (a) is owned by an Organ of State; or

- (b) is let or over which an Organ of State has certain real rights arising from the filing in the Deeds Office or other registration office of a general plan of a township, agricultural holding or other division of land, or any alteration, addition to or amendment of such land approved by the Surveyor General, on which is marked the land to which the public has a common right of use; or
- (c) is controlled and managed by the Municipality; or
- (d) is either –
  - (i) set aside in terms of any law, zoning scheme or spatial plan, for the purpose of public recreation, conservation, the installation of public infrastructure or agriculture; or
  - (ii) predominantly undeveloped and open and has not yet been set aside for a particular purpose in terms of any law, zoning scheme or spatial plan;
  - (iii) used for public recreational or cultural purposes, and includes any park, botanical garden, sports ground and playground, libraries, multimedia libraries, museums, art centres, sports facilities, sports fields, sports centre, public gymnasiums and swimming pools, community halls, community centres and any place at which group activities of an indoor sporting, cultural or recreational nature can be pursued.

**“Public Road”** means a square, public street, avenue, road, sidewalk, an island located within a street, avenue or road, subway, avenue, bridge, walkway, public passageway and any thoroughfare shown on the general plan of a township or in respect of which the public has acquired a prescriptive or other right of way and which is more fully described in the National Road Traffic Act, 1996 (Act No. 93 of 1996);

**“Responsible Person”** in relation to a Sign, Billboard, Advertising Structure and/or Advertisement includes;

- (a) a Person who owns or leases from such owner the Advertising Structure applicable to a Sign, Billboard and/or Advertisement;
- (b) a Person who owns or leases from such owner any land including any structures erected on which any Sign, Billboard and/or Advertisement is displayed;
- (c) a Person apparently over the age of 16, where such person appears to be in charge and/or in control of the Sign, Billboard, Advertisement or Advertising Structure;

**“Safety and Security Plan”** means the safety and security plans to be implemented in respect of an Event by the Event Organiser and in accordance with the provisions of the Safety at Sports and Recreational Events Act, 2010 (Act No. 2 of 2010) if applicable;

**“Sign”** means any method of displaying writing, letters, numbers, figures, objects, Event Marks, photographs, symbols or illustrations and includes, but not limited to, a non-physical sign projected onto a building or other structure or in the air with the aid of modern technology (e.g. laser beams), which device, article or non-physical sign is visible or distributed in any way whatsoever from a road or public place, for the purpose of Advertising, and whether the surface of the sign is attached to or forms part of a building, or is fixed to the ground or to a pole, tree, screen or boarding, Person, vehicle or other movable object, or is displayed or distributed in any other way including, but not limited to, security signs, projecting signs, trailer signs, boundary wall signs, tourism signs, window signs, signs on buildings, sky signs, roof signs, flat signs, signs painted on walls and roofs of buildings, aerial signs, development signs, service facility signs, signs for sponsored road traffic projects, building wrap signs, construction site signs, tower and bridge signs, on-premises building signs, signs at residential properties or community signs, forecourt signs, balcony, veranda, canopy and under-awning signs, functions signs by public bodies, real estate agent signs, electronic signs, signs for sale of goods or livestock, signs pulled or attached to vehicles or aircrafts including sky banners, including any Billboard, but excluding road traffic signs and street name signs;

**“Stadium”** means any stadium within the geographical area of jurisdiction of the Municipality that will be used for purposes of an Event, including the entire premises thereof inside the perimeter fence, the aerial space above such stadium premises, all parking facilities, hospitality areas, media zones, concession areas and commercial display area;

**“Term”** means the period of an Event as designated by the Municipality in the resolution passed by its Municipal Council to invoke the operation of the By-laws for the term of such Event;

**“Ticket”** means the evidential item representing that the Ticket Holder has the right to enter a Stadium or Venue to attend an Event and to obtain a particular seat or any specified or general seating area allocated to the Ticket for that purpose in accordance with the Ticket terms and conditions and all applicable laws, and **“Ticketing”** shall have a corresponding meaning;

**“Ticket Holder”** means a Person who has the right in terms of a Ticket to attend a Stadium or Venue where an Event is hosted to obtain a particular seat or any specified or general seating area allocated to the Ticket for that purpose;

**“Traffic-free Zone”** means any Public Road or area that is identified by the National Commissioner of the South African Police Service, after consultation with all other stakeholders, as a traffic-free zone and that is clearly marked in the prescribed manner as a traffic-free zone;

**“Venue”** means any area or place, other than a Stadium where an Event is hosted, that has a seating or standing spectator capacity of at least 2,000 Persons within which other permanent or temporary structures may be erected and which may be demarcated by an enclosed or semi-enclosed permanent or temporary structure;

## **2. APPLICATION OF BY-LAWS**

- (1) For the purpose of these By-laws a reference to any legislation is a reference to that legislation and the regulations promulgated thereunder, as at the date of promulgation of these By-laws and as amended or re-enacted from time to time.

- (2) These By-laws must be construed as an addition to the Municipality's existing by-laws relating to Advertising, Controlled Sites, Public Open Spaces, Public Roads and Traffic Guidance, if any, and to the extent that conflicts may arise between the Municipality's existing by-laws relating to the foregoing and these By-laws, the provisions of these By-laws shall prevail.
- (3) If any provision in these By-laws vests or imposes any power, function or duty of the Municipality in or on an employee of the Municipality, and such power, function or duty has in terms of section 81(2) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), or any other law been assigned to a service provider, the reference in such provision to such employee must be read as a reference to the service provider or, where applicable, an employee of the service provider authorised by it.
- (4) The By-laws will apply to all Persons physically present within the area of jurisdiction of the Municipality.
- (5) These By-laws shall only apply and be operative when invoked by a resolution of the municipal council of the Municipality and for a Term. There shall however be no obligation on the Municipality or any of its employees or officials or members of its municipal council to invoke the provisions of the By-laws as contemplated by these By-laws and it shall always be the obligation of the Event Organiser to follow the applicable processes of the Municipality and its Municipal Council timeously for the passing of a resolution to invoke the operation of the By-laws.

### **3. PURPOSE OF BY-LAWS**

- (1) Nelson Mandela Bay has become a desirable destination for the hosting of major international sports, recreational, religious, cultural, exhibitional, organisational and similar Events.
- (2) A need has arisen to provide for Events hosted in a safe and secure environment, promoting Marketing Rights in respect of such Events and to ensure that Advertising, Controlled Sites, Public Open Spaces, Public Roads and Traffic Guidance are effectively dealt with in accordance with

these By-laws as well as any other applicable provincial and national legislation relevant to the staging and hosting of an Event.

- (3) Events having publicity value have become important vehicles for the Advertising of products, services and the like. Ambush marketing has become a prevalent threat to the viability of sponsorship of Events and hosting thereof since, without the sponsorship, many sporting and entertainment Events are not economically viable. It is therefore in the interest of the Municipality, Event Organisers, sponsors and other interested parties that steps are taken to minimise Ambush Marketing.
- (4) In this regard, the Municipality is, within its area of jurisdiction during the Term of an Event, responsible for –
  - (a) the regulation of Advertising;
  - (b) the effective administration of Controlled Sites;
  - (c) the regulation of Special Events;
  - (d) appropriate traffic guidance, the adoption of management and control measures including the provision of Public Road users with all necessary information, such as, including but not limited to, information about actual and anticipated road closures, detours, parking areas, Traffic-free Zones, and where possible, directions and suitable routes to and from Stadia and Venues to ensure the orderly and safe flow of traffic;
- (5) The purpose of the By-laws is to give effect to the foregoing and all aspects incidental thereto.

## **CHAPTER 2:** **ADVERTISEMENTS**

### **4. GENERAL PROHIBITION**

- (1) No Person may in or at any place owned, leased, administered by or under the control of the Municipality or any Premises falling within the area of jurisdiction of the Municipality, including but not limited to Controlled Sites, Exclusion Zones, Demarcated Spaces and/or Traffic-free Zone, engage in Ambush Marketing for the Term.
  
- (2) A Person may not, except with the prior approval of the Municipality, conduct any Advertising amounting to Ambush Marketing on any Public Advertising Media within the Municipality's areas of jurisdiction during the Term of an Event and for such period thereafter as may be agreed to in writing between the Municipality and the Event Organiser in the following areas:
  - (a) Controlled Sites;
  - (b) Demarcated Spaces;
  - (c) Exclusion Zones;
  - (d) A Stadium and Venue;
  - (e) Public Open Spaces;
  - (f) Traffic-free Zones;
  
- (3) No Person may show, place, display, erect or maintain or in any manner whatsoever exhibit a Sign, Billboard, Advertisement and/or marketing material amounting to Ambush Marketing at a Controlled Site, or within an Exclusion Zone or a Traffic-free Zone for the Term of an Event without the prior written approval of the Municipality.

## **5. SAFETY**

A Person may not erect, maintain or display a Sign, Billboard, Advertisement or an Advertising Structure in a Controlled Access Site or an Exclusion Zone which –

- (a) constitutes a danger to any Person or property;

- (b) is so placed or contains an element which distracts or is likely to distract the attention of drivers in a manner likely to lead to unsafe driving conditions;
- (c) is illuminated to the extent that it causes discomfort to or inhibits the vision of approaching pedestrians or drivers;
- (d) is attached to a road traffic sign or signal;
- (e) combined with a road traffic sign or signal obscures a road traffic sign or signal;
- (f) creates confusion with a road traffic sign or signal
- (g) interferes with the functioning of a road traffic sign or signal or creates a road safety hazard;
- (h) obscures a pedestrian's or driver's view of pedestrians, road or rail vehicles and features of the road, railway or pavement such as junctions, bends and changes in width;
- (i) projects over a pedestrian or cycle circulation route, unless the minimum vertical distance from the ground or road level, whatever the case may be to the underside of such Sign, Billboard, Advertisement or Advertising Structure is approved by the Municipality in writing;
- (j) obstructs a fire escape or firefighting equipment; or
- (k) is placed closer than the minimum clearance prescribed by the Municipality with regard to overhead power lines.

**CHAPTER 3:**  
**CONTROLLED SITES**



**6. DESIGNATION OF CONTROLLED SITES AND EXCLUSION ZONES**

- (1) In addition to those areas listed in the definition of "Controlled Site" the Municipality may designate any additional areas as Controlled Sites.
- (2) Designation of Controlled Sites must be indicated to the Local Community by means of signage, notice in the newspapers or in the Government or Provincial Gazette or in such other manner as may be appropriate in the circumstances.
- (3) The Municipality may designate additional areas as "Exclusion Zones" other than those referred to in the definition of "Exclusion Zone", which falls within its jurisdiction.
- (4) Designation of Exclusion Zones must be indicated to the Local Community by means of signage, notice in the Government or Provincial Gazette or newspapers, or in such other manner as may be appropriate in the circumstances.

**7. GENERAL PROHIBITION APPLICABLE TO CONTROLLED SITES**

A Person may not for the Term of the Event in or upon any Controlled Site and/or Exclusion Zone –

- (a) smoke, eat, drink or sleep in any Controlled Site and/or Exclusion Zone where these activities are forbidden;
- (b) interfere with any works being carried out, including but not limited to, installation of equipment, plant or infrastructure located within or upon a Controlled Site and/or Exclusion Zone;
- (c) remove any object or part thereof or any fixture, fitting or equipment from a Controlled Site and/or Exclusion Zone;
- (d) use abusive or otherwise objectionable language or behave in an abusive, objectionable or disorderly manner in a Controlled Site and/or Exclusion Zone;

- (e) hamper, disturb, obstruct or harass or in any other way cause a Nuisance to any other Person using or entering any Controlled Site and/or Exclusion Zone;
- (f) damage or indirectly cause damage to any part of a Controlled Site and/or Exclusion Zone or its contents or equipment;
- (g) spill or drop any substance that may cause danger or harm to any user of a Controlled Site and/or Exclusion Zone;
- (h) commit any act of vandalism including, but not limited to, painting, defacing or marking any part of any Controlled Site and/or Exclusion Zone;
- (i) lie, sit, stand, congregate or walk, in a manner that otherwise causes an obstruction of any nature whatsoever, within any Controlled Site and/or Exclusion Zone;
- (j) tout or solicit a driver of a motor vehicle who parks a motor vehicle at a Controlled Site and/or Exclusion Zone for the purpose of or under pretext of looking after or watching over the motor vehicle;
- (k) urinate, excrete or behave or act in a manner that may be considered an act of public indecency within any Controlled Site and/or Exclusion Zone;
- (l) deposit or leave or cause to be left any object which may endanger or cause harm to or be a Nuisance to any user of a Controlled Site and/or Exclusion Zone;
- (m) carry, brandish or otherwise display or use within a Controlled Site and/or Exclusion Zone any weapon, traditional weapon or any other object that may cause harm;
- (n) beg or solicit money from any other Person in a Controlled Site and/or Exclusion Zone;

- (o) bathe, wade, swim or wash him or herself, an animal or any object, including clothing, in any water body located within or upon a Controlled Site and/or Exclusion Zone;
- (p) camp or reside at or next to a Controlled Site and/or Exclusion Zone;
- (q) unlawfully enter a to which access has been restricted or prohibited;
- (r) make, light or otherwise start a fire except in a facility specifically designed for an provided by the Municipality for that purpose;
- (s) throw any object, of any nature whatsoever, within or onto a Controlled Site and/or Exclusion Zone; or
- (t) engage in Ambush Marketing.

**CHAPTER 4:**  
**PUBLIC ROADS AND TRAFFIC GUIDANCE**

**8. GENERAL PROHIBITION IN RESPECT OF PUBLIC ROADS**

A Person may not during the Term of an Event –

- (a) erect or cause, or permit to be erected, or place any object including any banner, rope, wire, cord, pole, barbed-wire fence, railing, paling, wall or any other barrier or obstruction of any nature whatsoever upon, under, over or across any Public Road;
- (b) use any material or goods that are likely to cause any damage or harm to any part of a Public Road or to harm any of the users including but not limited to pedestrians, cyclists, motorcyclists and motorists;
- (c) spill or drop any substance on or over or across a Public Road including but not limited to discharging any water, chemical or oil substance, that may in any way endanger or harm any road users

including but not limited to pedestrians, cyclists, motorcyclists and motorists;

- (d) interfere with any works being carried out by the Municipality or any authorised service provider or third party on a Public Road or in relation to any Municipal Services including digging holes, trenches, pits or tunnels on or under any Public Road, or painting, defacing or marking any Public Road;
- (e) commit any act of vandalism including but not limited to painting, defacing or marking any part of a Public Road;
- (f) hamper, disturb, obstruct or harass any Public Road user including but not limited to any pedestrian, cyclist, motorcyclist or motorist using or entering any Public Road;
- (g) cause any animal to stray or walk onto a Public Road, excluding guide dogs and animals assisting an Authorised Official in law enforcement duties;
- (h) tout or solicit a driver of a motor vehicle who parks a motor vehicle in a Public Road at or near a place of entertainment for the purpose of or under pretext of looking after or watching over the motor vehicle;
- (i) urinate, excrete or behave in a manner that may be considered an act of public indecency on a Public Road or within any Controlled Access Site.

## **9. GENERAL PROHIBITIONS IN RESPECT OF ROAD TRAFFIC CONTROL**

A Person may not during the Term of an Event –

- (a) other than an Authorised Official, direct any form of traffic by means of any visible or audible signal;
- (b) drive a vehicle of any nature whatsoever including but not limited to any car, bus, minivan, truck, bicycle, pedal-cycle, coaster, sled,

motorcycle, caravan, trailer, cart, tractor or earth moving equipment into or within a Traffic-free Zone or park any such vehicle in that Traffic-free Zone unless a prescribed notice authorising the presence of the vehicle in that Traffic-free Zone has been validly issued and obtained and is visibly displayed on the vehicle in the prescribed manner;

- (c) travel upon a pedal cycle, motorcycle, coaster, sled, roller-skates, or any other similar device cling to or attach himself or herself or such pedal cycle, coaster, sled roller-skates or device to any other moving vehicle, on a Public Road;
- (d) except with the Approval of the Municipality where applicable, park or cause to be parked any vehicle of whatsoever nature in a Demarcated Space and/or Traffic-free Zone;
- (e) use or obstruct any emergency lane or any other special lane on any Public Road which has been demarcated by the Municipality for special use of any body, authority or Person associated with an Event.

#### **10. INSTRUCTION BY AUTHORISED OFFICIAL**

An Authorised Official may, for purposes of implementing or giving effect to, including but not limited to, the Safety and Security Plan or any other aspect of an Event where the circumstances necessitate, and in the interests of ensuring or promoting traffic control and safety during an Event –

- (a) instruct a Person to refrain from using a Public Road; and
- (b) instruct any Person to remove any vehicle of whatsoever nature, whether parked, stationary or in transit, from a Public Road, Controlled Site, Exclusion Zone and/or Traffic-free Zone.

#### **11. ROAD CLOSURE ACTION BY MUNICIPALITY**

The Municipality may, after giving appropriate notices as it may deem necessary, close temporarily any Public Road, street or thoroughfare vested in the

Municipality for purposes of traffic control, management or guidance or for purposes of implementing or giving effect to the Safety and Security Plan and/or an Event whether or not in the vicinity of any Controlled Site, Event Training Site, Traffic-free Zone and/or Demarcated Area.

## **12. VICARIOUS LIABILITY**

- (1) When a Person who is an employee, subcontractor, agent or assistant of a Person and/or Responsible Person performs any act or omission which constitutes an offence in terms of these By-laws, the Person and/or Responsible Person is deemed to have committed the act or omission himself, herself or itself and is guilty of the same offence as the employee, subcontractor, agent or assistance unless he, she or it can prove that –
  - (a) in committing the act or omission the employee, subcontractor, agent or assistant was acting without his, her or its permission or knowledge;
  - (b) he, she or it took all reasonable steps to prevent the act or omission; and
  - (c) it was not within the scope of authority of the employee, subcontractor, agent or assistant to perform such act or omission.
- (2) Proof that prior instructions forbidding the act or omission were issued to the employee does not excuse the Person and/or Responsible Person from liability for the employee, subcontractor, agent or assistant's act or omission which amounts to a contravention of provisions of these By-laws.

## **CHAPTER 5:**

### **MISCELLANEOUS PROVISIONS**

## **13. POWERS OF ENTRY TO INSPECT PREMISES**

An Authorised Official may, in relation to any Sign, Billboard, Advertising Structure or Advertisement erected, positioned or displayed in a Controlled Site, an Exclusion Zone, Demarcated Space, Traffic-free Zone and/or on any Public Advertising Media in the circumstances as contemplated in sections 4(2) and (3),

inspect the approval granted in respect of that Sign, Billboard, Advertising Structure or Advertisement, as the case may be.

#### **14. REMOVAL AND IMPOUNDMENT OF SIGNS**

- (1) If any Sign displayed is in contravention of these By-laws, the Municipality may serve a notice on the Responsible Person of the Sign, Billboard, Advertising Structure or Advertisement or the person whose product or services are advertised, calling upon such person to remove such Sign Billboard, Advertising Structure or Advertisement to remove such Billboard, Advertising Structure or Advertisement or carry out such alterations thereto or do such work as may be specified in such notice, within a timeframe specified therein including but not limited to immediate removal.
- (2) Should the Municipality's directive as set out in the notice, not be carried out within the time period specified therein, the Municipality may, without further notice to the Responsible Person or such Person on whom notice was served, remove and impound, alter or do such work in respect of the Sign, Billboard, Advertising Structure or Advertisement as may be set out in such notice.
- (3) The Municipality is not obliged to compensate any Person for loss or damage resulting from the removal of, alteration to or work done in respect of such a Sign, Advertising Structure, Billboard or Advertisements.
- (4) If a Sign, Billboard, Advertising Structure or Advertisement in the reasonable opinion of the Municipality, constitutes a danger or is obscene the Municipality may, without serving any notice, carry out the removal of such Sign.
- (5) Any costs incurred by the Municipality in removing, storing or undertaking alterations to or performing work in respect of a Sign, Billboard, Advertising Structure or Advertisement may be recovered from the Responsible Person of a Sign, Billboard, Advertising Structure or Advertisement.

- (6) The Responsible Person of a Sign, Billboard, Advertising Structure or Advertisement that is removed by the Municipality may, unless some other circumstances of whatsoever nature may militate against such return, apply to the Municipality within 7 (seven) days of the date of the removal or impoundment of the Sign, Billboard, Advertising Structure or Advertisement, to have the Sign, Billboard, Advertising Structure or Advertisement returned, subject to reimbursement of the Municipality's costs of removal and storage.
- (7) Should the Responsible Person of any Sign, Billboard, Advertising Structure or Advertisement that is removed by the Municipality fail to collect such Sign, Billboard, Advertising Structure or Advertisement within 30 (thirty) days after a court case relating to such removal is finalised, the Municipality may destroy the Sign, Billboard, Advertising Structure or Advertisement or otherwise dispose of it as it deems fit.
- (8) The Municipality is not liable for damages of whatsoever nature (including but not limited to direct, indirect, incidental and/or consequential) arising from the impoundment, removal or disposal of any Sign, Billboard, Advertising Structure or Advertisement.

**15. ACCESS RIGHTS AND RESTRICTIONS ON CONTROLLED SITES AND EXCLUSION ZONES**

The right of access to and use of a Controlled Site will be regulated through Accreditation and Ticketing depending on the nature of the Controlled Site and the nature of the event being held at such Controlled Site, and no Person other than –

- (a) an Accredited Person;
- (b) a Ticket Holder; or
- (c) a Person duly authorised or permitted to enter a Controlled Site

may not be permitted access to a Controlled Site.



**16. INSTRUCTIONS BY AUTHORISED OFFICIALS IN RESPECT OF CONTROLLED SITE**

An Authorised Official may instruct any Person to leave a Controlled Site if –

- (a) the Authorised Official reasonably believes that the Person is contravening any provision of these By-laws; and
- (b) such Person fails to immediately terminate such contravention upon the instruction of that Authorised Official.

**17. SEARCH AND SEIZURE POWERS OF THE MUNICIPALITY**

- (1) Subject to any applicable legislation, including without limitation, the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000) and the Road Traffic Act, 1989 (Act No. 29 of 1989), an Authorised Official may search, remove or impound any Goods, property, container, structure, materials, substance, shelter, tent or vehicle of any nature whatsoever, whether or not unattended, subject to any requirements to give notice in terms of these By-laws; –
  - (a) left or parked at in a Controlled Site which has not been designated as a Demarcated Space;
  - (b) which he or she finds in a park or on a Public Road or public place and which in their opinion constitutes an infringement of these By-laws, whether or not such Goods, property, container, structure, materials, substance, shelter, tent or vehicle which is in the possession of or under the control of any Person at the time of such impoundment or removal.
- (2) An Authorised Official must issue a receipt from an approved receipt book to the Person who appears to be in control of the Goods, property, structure, materials, substance, container, shelter, tent or vehicle concerned.

- (3) Any Goods, property container, structure, materials, substance, shelter, tent or vehicle contemplated in sub-section (1) must be marked in a suitable manner and kept in safe custody.
- (4) Any Person whose Goods, property, container, structure, material, substance, shelter or tent is impounded in terms of these By-laws must, before such Goods, property, materials, substance, container, shelter, tent or vehicle is returned to him or her pay to the Municipality the storage costs as determined by the Municipality from time to time.
- (5) The owner thereof may claim any impounded Goods, property, container, structure, materials, substance, shelter, tent or vehicle on production of proof of ownership to the satisfaction of the Municipality.
- (6) Any Goods, property, structure, materials, substance, container, shelter, tent or vehicle which has not been claimed within a period of three months from the date of impoundment, may be destroyed if of no commercial value, or sold by public auction and the proceeds thereof may be retained by the Municipality to defray its costs and expenses with regard to the contravention, impoundment and storage.
- (7) The Municipality is not liable for compensation to any Person for damages arising out of the damage to or the loss of any Goods, Property, container, structure, materials, substance, shelter, tent or vehicle removed in terms of sub-section 19.1 or sale thereof by public auction, and the owner of such Goods, property, materials, substance, container, tent or vehicle may not claim and does not have a right of redress against the Municipality, should such Goods, property, materials, substance, container, tent or vehicle be handed over in good faith to a Person other than the owner thereof.
- (8) Any Goods of a perishable nature will only be kept for 24 hours from impoundment and will be disposed of at the discretion of the Municipality.

## **18. OFFENCES AND PENALTIES**

A Person who –

- (a) contravenes or fails to comply with any provision of these By-laws;
- (b) does not cease any action which that Person is required to cease under these By-laws; or
- (c) fails or refuses, neglects to comply or continuously fails, refuses, neglects to comply even after notices of breach or lawful instructions have been issued in terms of these By-laws; or
- (d) fails to comply with any notice, or direction, or conditions contained in any licence granted by the Municipality; or
- (e) obstructs an Authorised Official in the execution or performance or attempted execution or performance of any duty to be discharged by such Authorised Official in the exercise of any power conferred by these By-laws,

is guilty of an offence and liable on conviction to a fine not exceeding R10 000-00 (Ten Thousand Rand) or, in default of payment, to imprisonment for a period not exceeding 6 (six) months, or both, and in the case of a continuing offence, to a further fine not exceeding R15 000-00 (Fifteen Thousand Rand), or in default of payment to imprisonment not exceeding 12 (twelve) months, for every day during the continuance of such offence after a written notice has been issued by the Municipality and served on the Person concerned requiring the discontinuance of such offence.

## **19. SERVICE OF NOTICES**

- (1) A notice issued by the Municipality in terms of these By-laws is deemed to be duly issued if an Authorised Official of the Municipality signed it.
- (2) Any notice or other document that is served on a Person in terms of these By-laws is regarded as having been duly served –
  - (a) when it has been delivered to that Person personally;

- (b) when it has been delivered to a Person apparently over the age of 16 on the day of the commissioning of the offence as contemplated in section 18 above where such Person appears to be in charge and/or in control over the Sign, Billboard, Advertisement or Advertising Structure;
  - (c) when it has been left at that Person's place of residence or business in the Republic of South Africa with a Person apparently over the age of 16 years;
  - (d) when it has been posted by registered mail to that Person's known residential or business address in the Republic of South Africa, and an acknowledgment of the posting thereof from the postal service is obtained;
  - (e) if that Person's address in the Republic of South Africa is unknown, when it has been served on that Person's agent or representative in the Republic of South Africa in the manner provided by section 21(2)(a) to 21(2)(c);
  - (f) if that Person's address and agent or representative in the Republic of South Africa is unknown, when it has been posted in a conspicuous place on the land or business premises to which it relates;
  - (g) in the event of a body corporate, when it has been delivered at the registered office of the business premises of the body corporate or when it has been delivered, at the request of that Person, to his or her e-mail address;
- (3) Service of a copy is deemed to be service of the original.
- (4) When any notice or other document is served on the owner, occupier, possessor, wearer or holder of any property, or right in any property, or person older than 16 and apparently in charge or in control of the Sign, Billboard, Advertisement and/or Advertising Structure, it is sufficient if that person is described in the notice or other document as the owner, occupier or holder of the property or right in question or as the person in

charge or in control over the Sign, Billboard, Advertisement or Advertising Structure and it is no necessary to name that person.

**20. MAGISTRATES' COURT JURISDICTION**

Notwithstanding anything to the contrary contained in any law relating to Magistrates' Court, a Magistrate shall have jurisdiction, on the application of the Municipality to such Magistrates' Court, to make an order for the enforcement of any of the provisions of these By-laws or of any approval, refusal or condition granted or applicable in terms thereof.

**21. SHORT TITLE AND COMMENCEMENT**

These By-laws are called the Advertising and Ambush Marketing By-laws, and shall operate for the Term and under the circumstances as referred to in section \_\_\_ above.