**\_\_\_\_\_\_\_\_\_\_\_\_\_MUNICIPALITY: DISASTER MANAGEMENT BY-LAW, 20\_\_**

Adopted by Council on the:

Promulgated on:

**DISASTER MANAGEMENT BY LAW, 20\_\_**

**To ensure public safety before, during and or after the occurrence of a catastrophic event, to make provision for and/or to authorise the issue of directions applicable when a local state of disaster has been declared as contemplated in section 55(1) of the Local Government: Disaster Management Act, 2002 (Act No. 57 of 2002); and to provide for matters incidental thereto.**

**PREAMBLE**

**WHEREAS** the **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**Municipality must establish and implement a framework for disaster management in the municipality aimed at ensuring an integrated and uniform approach to disaster management in its area in line with section 42(1) of theLocal Government: Disaster Management Act, 2002 (Act No. 57 of 2002);

**AND WHEREAS** in terms of section 55(2) of the Local Government: Disaster Management Act, 2002 (Act No. 57 of 2002) a municipality may make by-laws or issue directions, or authorise the issue of directions concerning the areas listed in the section,

**NOW THEREFORE** the \_\_\_\_\_\_\_\_\_\_\_ municipal council, acting in terms of section 156 read with Part B of Schedule 5 of the Constitution of the Republic of South Africa, and read with section 11(3)(e) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby makes the following By-law:

**TABLE OF CONTENT**

**CHAPTER 1**

**INTERPRETATIONS**

1. Definitions
2. Interpretation
3. Application
4. Object of by-law

**CHAPTER 2: THE DISASTER MANAGEMENT SECTOR PLAN**

1. Implementation of the disaster management sector plan

**CHAPTER 3: DISASTER MANAGEMENT STRUCTURES**

1. Establishment of the Disaster Management Centre
2. The Municipal Disaster Management Advisory Forum
3. Head of municipal disaster management centre
4. Delegation or assignment by the Head of the National Centre
5. Assistance to National Centre and provincial disaster management centre

**CHAPTER 4: MUNICIPAL STATE OF DISASTER**

1. The issuing of directions.
2. Lapsing of a municipal state of disaster

**CHAPTER 5: OFFENCE AND PENALTIES**

1. Offences and penalties

**CHAPTER 6: TITLE OF BY-LAW**

1. Short title and commencements

**CHAPTER 1**

 **INTERPRETATIONS**

**Definitions**

1. In this by-law, unless the context otherwise requires-

**“Act”** means the Disaster Management Act, 2002 (Act No. 57 of 2002);

**“Council”** means the Council of the\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Municipality;

**“Disaster”** means a progressive or sudden, widespread or localised, natural or human-caused occurrence which—

(a) causes or threatens to cause—

(i) or disease;

(ii) damage to property, infrastructure or the environment; or

(iii) disruption of the life of a community; and

(b) is of a magnitude that exceeds the ability of those affected by the disaster to cope with its effects using only their own resources;

**“Disaster Management”** means a continuous and integrated multi-sectorial, multidisciplinary process of planning and implementation of measures aimed at—

(a) preventing or reducing the risk of disasters;

(b) mitigating the severity or consequences of disasters;

(c) emergency preparedness;

(d) a rapid and effective response of disasters and (e) post-disaster recovery and rehabilitation;

“**Disaster Management Memorandum of Understanding**” for the purposes of these bylaws means an agreement entered into between the \_\_\_\_\_\_\_\_\_\_\_\_\_\_ Municipality with its neighbouring municipalities to ensure joint efforts during a disaster/catastrophic to ensure a well-coordinated assessment and provision of disaster relief measures during such catastrophe.

**“the Disaster Management Sector Plan”** means the comprehensive disaster management plan detailing the an integrated and uniform approach to disaster management;

 **“Emergency Preparedness”** means a state of readiness which enables organs of state and other institutions involved in disaster management, the private sector, communities and individuals to mobilise, organise, and provide relief measures to deal with an impending or current disaster or the effects of a disaster;

**“Local Disaster”** means disaster classified as a local disaster in terms of section 23;

**“Mitigation”** in relation to a disaster, means measures aimed at reducing the impact or effects of a disaster;

**“Municipality”** means the \_\_\_\_\_\_\_\_\_\_\_ Municipality and includes any political structure, political office bearer or duly authorised agent or any municipal employee working in accordance with this by-law by virtue of the power vested with the municipality or delegated or sub-delegate to some political party political office bearer municipal, delegated or sub delegated structure;

**“municipal disaster management centre**” means the centre contemplated in section 43 of the Act;

**“Post-Disaster Recovery and Rehabilitation**” means efforts, including development aimed at creating a situation where- (a) normality in conditions caused by a disaster is restored; (b) the effects of a disaster are mitigated; or (c) circumstances are created that will reduce the risk of a similar disaster occurring; and

**“Prevention”** in relation to a disaster means measures aimed at stopping a disaster from or preventing an occurrence from becoming a disaster.

**Interpretation of By-law**

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

**Application of By-law**

**3.** (1) This By-law applies to all areas which fall under the jurisdiction of the Municipality and is binding on all persons to the extent applicable.

(2) This by-law shall be read with the Act as amended, the Major Hazard Installations Regulations, 2001 and other applicable legislation.

**Object of by-law**

**4.** The object of this by-law is to ensure public safety before, during and or after the occurrence of a catastrophic event, to make provision for and/or to authorise the issue of directions applicable when a local state of disaster has been declared as contemplated in section 55(1) of the Local Government: Disaster Management Act, 2002 (Act No. 57 of 2002) and to provide for matters incidental thereto.

**CHAPTER 2**

 **THE DISASTER MANAGEMENT SECTOR PLAN**

**Implementation of the disaster management sector plan**

**5.** (1) The Municipality must implement its Disaster Management Sector Plan as prescribed in section 42(1) and section 53 of the Act.

(2) The Disaster Management Sector Plan must be adopted by the Council.

(3) The Municipality must enter into a Disaster Management Memorandum of Understanding with its local municipalities in order to implement its Disaster Management Sector Plan.

(4) Whenever a disastrous event as defined in section 49 of the Act occurs or is to occur, the Municipality must act in accordance with its disaster management sector plan.

**CHAPTER 3**

**DISASTER MANAGEMENT STRUCTURES**

**Establishment of the Disaster Management Centre**

**6**.(1) The Municipality must establish a disaster management centre for its municipal area after consultation with the local municipalities within its district to undertake the powers and duties contemplated in section 44 of the Act.

(2) The Municipality may operate such centre in partnership with its local municipalities.

**The Municipal Disaster Management Advisory Forum**

**7**.(1) The Municipality must establish the municipal disaster advisory forum contemplated in section 51 of the Act.

**Head of municipal disaster management centre**

**8**.(1) The Municipality must appoint a person as head of its municipal disaster management centre as contemplated in section 45 of the Act, to undertake the functions outlined in the Act.

**Delegation or assignment by the Head of the National Centre**

**9**. (1) The Municipality, by agreement in writing with the Head of the National Centre, as defined in the Act, may perform powers or duties entrusted to the National Centre.

**Assistance to National Centre and provincial disaster management centre**

**10**.(1) A municipal disaster management centre may assist the National Centre and the relevant provincial disaster management centre, as provided for in section 26(3) of the Act to, amongst other things—

(a) identify and establish communication links with disaster management role-players in the municipal area in compliance with section 16 of the Act;

(b) develop and maintain a disaster management electronic database envisaged in section 17 of the Act in so far as the database applies to the municipality; and

(c) develop guidelines in terms of section 19 of the Act for the—

(i) preparation and regular review of disaster management plans and strategies, including contingency plans and emergency procedures; and

 (ii) the integration of the concept and principles of disaster management and particularly prevention and mitigation strategies, with development 40 plans and programmes;

(2) (a) A municipal disaster management centre may, in writing request any organ of state or person in possession of information reasonably required by that centre for the purpose of subsection (l)(a) or (b), to provide such information to the centre within a reasonable period determined by the centre; and

 (b) If a municipal organ of state fails to comply with a request, the municipal disaster management centre must report the failure to the executive mayor or mayor as the case may be, of that municipality, who must take such steps as may be necessary to secure compliance with the request, including reporting the failure to the municipal council.

**CHAPTER 4**

**MUNICIPAL STATE OF DISASTER**

**The issuing of directions**

**11**.(1) Whenever a local state of disaster has been declared by notice in the Provincial Gazette, and subject to the provisions of section 55(3) of the Act, Council may make further by-laws or issue directions, or authorise the issue of directions on all the areas listed in section 55(2) of the Act.

1. Whenever a local state of disaster has been declared by notice in the Provincial Gazette, the Municipality must, within its jurisdiction—
2. release any available resources of the municipality, including stores, equipment, vehicles and facilities to deal with such a disaster in an effective and prompt manner;
3. release its emergency personnel as required to effectively render emergency services during a disaster/ catastrophic event;
4. implement all or any of the provisions of its disaster management plan, framework and these bylaws to effectively deal with the effects of such catastrophic event;
5. if it is of the opinion that the safety of its residents is at stake or compromised in any way and circumstances, require the evacuation to temporal accommodation or shelter of all or part thereof of the population from the disaster stricken or threatened area for the purposes of preserving life, the municipality shall evacuate all the affected people to a place of safety.
6. If it is of no doubt that before, during or after the occurrence of a disaster or catastrophic event, the flow of traffic, including people to and from the disaster stricken area poses danger, ensure the regulation of such traffic, people/persons and goods to, from or within the disaster stricken or threatened area in order to preserve life or ensure safety.
7. If it is of the opinion that, occupation of premises believed to be vulnerable to an impending disaster or already stricken by the disaster and such occupancy pose a high risk to occupiers, prohibit occupation of such premises and where necessary evacuated the affected community to ensure their safety; and
8. Where applicable, suspend or limit the sale, dispensing or transportation of alcoholic beverages to that area to prevent any uncontrollable behaviour of persons under the influence of alcohol, which may result in mortality/fatality rate increasing.

**Lapsing of a municipal state of disaster**

**12**. A municipal state of disaster that has been declared as prescribed—

(a) lapses three months after it has so been declared;

(b) may be terminated by the council by notice in the provincial gazette before it lapses in terms of paragraph (a); or

(c) may be extended by the council by notice in the provincial gazette for one month at a time before it lapses in terms of paragraph (a) or the existing extension is due to expire.

**CHAPTER 5**

**OFFENCE AND PENALTIES**

**Offences and penalties**

**13.**(1) Any person that fails to comply with an oral or written instruction by the municipality issued in terms of the directions issued in terms of this by-law, commits an offence.

(2) A person is guilty of an offence if that person fails to comply with a request made by the National Centre or by a provincial or the municipal disaster management centre.

(3) A person convicted of an offence is liable on conviction to a fine not exceeding R 10 000 or to imprisonment not exceeding six months or to both a fine and imprisonment. In the case of a continuous offence, an additional fine not exceeding R5 000 for each day on which the offence continues or additional imprisonment must be applied, provided that the period of such additional imprisonment shall not exceed 90 days.

**CHAPTER 6**

 **TITLE OF BY-LAW**

**Short title and commencement**

**14.**(1) This by-law is called the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Municipality Disaster Management By-law, 20\_\_\_.

(2) Except for the directions issued in terms of section 5, this by-law commences on the date of publication thereof in the Provincial Gazette.

(3) The directions issued under section 5 shall commence on the date when it is issued in terms of section 5(2).