



LEKWA LOCAL  
MUNICIPALITY

# **DRAFT TRAFFIC BY-LAW**

**To provide for the regulation of public transport and traffic in the area of jurisdiction of the Lekwa Local Municipality; and to provide for matters connected therewith.**

#### **Preamble**

**WHEREAS section 165(2) of the Constitution provides that a Municipality may make and administer by-laws for the effective administration of the matters which it has the right to administer;**

**WHEREAS municipal public transport is listed as a local government matter in Part B of Schedule 4, to the extent set out in section 155(6)(a) and (7) of the Constitution;**

**WHEREAS municipal roads and traffic and parking is listed as local government matters in Part B of Schedule 5, to the extent set out in section 155(6)(a) and (7) of the Constitution;**

**WHEREAS the Municipality intends to control nuisances emanating from the operation of public transportation within the jurisdiction of the Lekwa Local Municipality; and**

**WHEREAS by virtue of proclamation No.1114, dated 19 October 2018, Law Enforcement Officers appointed by a municipality are provided with certain powers in relation to road traffic and road transportation legislation that is operative in the area of a municipality,**

**WHEREAS by virtue of section 80A of the National Road Traffic Act, the Municipality may make by-laws not inconsistent with that Act with the concurrence of the Premier in respect of matters related to the safety of traffic on public roads, the duties of drivers and the use of vehicles on public roads, the provision of services involving the plying for hire or transporting of passengers for reward, the use of warning devices, the use of a public road by traffic in general, the limitation**

of age of drivers of vehicles drawn by animals, and any form or token deemed expedient and the nature and extent of information to be furnished for that purpose,

**AND NOW THEREFORE, BE IT ENACTED** by the Council of the Lekwa Local Municipality as follows:

DRAFT

## **CONTENTS**

<b>CHAPTER 1: INTERPRETATION.....</b>	<b>5</b>
<b>CHAPTER 2: POWERS AND DUTIES OF AUTHORISED OFFICIALS.....</b>	<b>11</b>
<b>CHAPTER 3: CONDUCT OF DRIVERS, CONDUCTORS AND PASSENGERS.....</b>	<b>13</b>
<b>CHAPTER 4: ANIMALS .....</b>	<b>15</b>
<b>CHAPTER 5: ROAD SAFETY .....</b>	<b>18</b>
<b>CHAPTER 6: COMMUNICATION DEVICES.....</b>	<b>32</b>
<b>CHAPTER 7: DRIVING WHILE UNDER THE INFLUENCE.....</b>	<b>34</b>
<b>CHAPTER 8: IMPOUNDMENT OF VEHICLES AND FORFEITURE TO THE CITY....</b>	<b>35</b>
<b>CHAPTER 9: OFFENCES AND PENALTIES.....</b>	<b>40</b>
<b>CHAPTER 10: GENERAL PROVISIONS .....</b>	<b>40</b>

## CHAPTER 1: INTERPRETATION

### Definitions

#### 1. In this by-law, unless the context indicates otherwise –

**“Act”** means the National Road Traffic Act, 93 of 1996;

**“authorised official”** means an employee of the Municipality responsible for carrying out any duty or function or exercising any power in terms of this by-law and includes a traffic officer, a law enforcement officer and any other employee lawfully delegated to carry out or exercise such duties, functions or powers;

**“bus”** means a motor vehicle designed or adapted for the conveyance of more than 16 persons, including the driver;

**“car seat”** means a portable child restraining seat which can be mounted onto a seat in a vehicle, be means of the seatbelt, which is specifically designed to protect children from injury or death in the event of a collision;

**“Cart Horse Protection Association”** means the organisation registered as such as a non-profit organisation with registration number 005-761NPO;

**“Municipality”** means the Lekwa Local Municipality, a municipality established by the Lekwa Local Municipality Establishment Notice No. 479 of 22 September 2000, issued in terms of Section 12 of the Local Government: Municipal Structures Act, 1998, or any structure or employee of the Municipality acting in terms of lawfully delegated authority;

**“Council”** means the Council of the Municipality;

**“dangerous goods”** means the commodities, substances and goods listed in the standard specification of the South African Bureau of Standards SABS 0228 “The identification and classification of dangerous substances and goods”;

**“driver”** means any person who drives or attempts to drive any vehicle or who rides or attempts to ride a pedal cycle or who leads any draught, pack or saddle animal or herd or flock of animals, and **“drive”** or any like word has a corresponding meaning;

**“edge of the roadway”** means the boundary between the roadway and the shoulder, which is indicated by an appropriate road traffic sign, or in the absence of such sign –

- (a) in the case of a road with a bituminous or concrete surface, the edge of such surface;  
or
- (b) in the case of any other road, the edge of the improved part of the road intended for vehicular use;

**“electronic hailing service”** means a public transport service operated by means of a motor vehicle, which

- (a) is available for hire while roaming; and
- (b) is equipped an electronic e-hailing technology-enabled application

and the term **“e-hailing”** and **“e-hailing vehicles”** has the same meaning.

**“e-hailing tag”** means a tag issued in terms of section 13(2);

**“emergency vehicles”** means a vehicle which is authorised in terms of section 22 to use sirens and display identification lights that flash intermittently;

**“holding area”** in relation to a taxi, means a place, other than a rank, where a taxi remains until space for it is available at a rank or stopping place;

**“holder”** in relation to a rank token, means the owner to whom a rank token has been issued in terms of section 4(2);

**“kerb line”** means the boundary between the shoulder and the verge, or in the absence of a shoulder, the part between the edge of the roadway and the verge;

**“law enforcement officer”** means a law enforcement officer appointed by the Municipality in terms of Proclamation No 1114 of 19 October 2018 promulgated under section 334(1) of the Criminal Procedure Act, 51 of 1977 to enforce applicable road traffic and road transportation legislation that is operative in the municipal area ;

**“licensing authority”** means a registering authority appointed in terms of section 3 of the Act;

**“motor cycle”** means a motor vehicle which has two wheels and includes any such vehicle having a side car attached, but does not include a bicycle or scooter to which an electric motor is attached;

**“motor tricycle”** means a motor vehicle, other than a motor cycle or a tractor, which has three wheels and is designed to be driven with the type of controls usually fitted to a motor cycle, but does not include a tricycle or scooter to which an electric motor is fitted;

**“motor vehicle”** means any self-propelled vehicle and includes –

- (a) an attached trailer, and
- (b) a vehicle having pedals and an engine or an electric motor as an integral part thereof or attached thereto and which is designed or adapted to be propelled by means of such pedals, engine or motor, or both such pedals, engine or motor, but does not include –
  - (i) any vehicle propelled by electrical power derived from storage batteries and which is controlled by a pedestrian; or
  - (ii) any vehicle with a mass not exceeding 230 kilograms and specially designed and constructed, and not merely adapted for the use of any person suffering from some physical defect or disability and used solely by such person;

**“number plate”** means a plate prescribed in terms of the Regulations on which the licence number of a motor vehicle or motor trade number is displayed;

**“operating licence”** means an **“operating licence”** as defined in section 1 of the National Land Transport Act, 5 of 2009;

**“owner”** in relation to a vehicle, means –

- (a) the person who has the right to the use and enjoyment of a vehicle in terms of the common law or a contractual agreement with the title holder of such vehicle;
- (b) any person referred to in paragraph (a), for any period during which such person has failed to return that vehicle to the title holder in accordance with the contractual agreement referred to in paragraph (a); or

- (c) a motor dealer who is in possession of a vehicle for the purpose of sale, and who is registered as such in accordance with section 4 of the Act; and  
“**owned**” or any like word has a corresponding meaning;

“**park**” means to keep a vehicle, whether occupied or not, stationary for a period of time longer than is reasonably necessary for the actual loading or unloading of persons or goods, but does not include any such keeping of a vehicle by reason of a cause beyond the control of the person in charge of such vehicle;

“**pedal cycle**” means any bicycle or tricycle designed for propulsion solely by means of human power;

“**permit**” means a “**permit**” as defined in section 1 of the National Land Transportation Act, 2009 (Act 5 of 2009);

“**ply for hire**” means the use of a vehicle for conveying passengers for hire or reward;

“**public road**” means any road, street or thoroughfare or any other place (whether a thoroughfare or not) which is commonly used by the public or any section thereof or to which the public or any section thereof has right of access, and includes –

- (a) the verge of any such road, street or thoroughfare;
- (b) any bridge, ferry or drift traversed by any such road, street or thoroughfare; and
- (c) any other work object forming part of or connected with or belonging to such road, street or thoroughfare;

“**public transport conductor**” means a person who, in a place or on a public road, renders a conductor service to public transport drivers and passengers, including –

- (a) soliciting and touting for business;
- (b) controlling and managing access to vehicles; and
- (c) collecting fares;

“**public transport facility**” means any space demarcated specifically for public transport vehicles of any nature;

**“public transport vehicle”** means a public motor vehicle used for the conveyance of passengers or of passengers and goods for hire or reward, including buses, taxis and e-hailing vehicles;

**“public transport service”** means a scheduled or unscheduled service for the carriage of passengers by road whether subject to contract or not, and where the service is provided for a fare or any other consideration or reward, and except where clearly inappropriate, the term **“public transport”** must be interpreted accordingly;

**“rank”** includes –

- (a) a public transport interchange or a place upon a public road from which a public transport service may ply for hire or convey and drop off passengers for reward; and
- (b) any place designated or demarcated as a rank for the exclusive parking of specific public transport vehicles by a road traffic sign and **“ranking”** and **“public transport facility”** have corresponding meanings;

**“rank token”** means a rank token issued in terms of section 4;

**“Regulations”** means the Regulations promulgated under the National Road Traffic Act, 1996 (Act No. 93 of 1996) published under GNR 225 dated 17 March 2000;

**“retro-reflector”** means a object or device placed on a vehicle for purposes of reflecting light back in the direction it came from and the term **“retro-reflective”** has a corresponding meaning;

**“roadway”** means that portion of a road, street or thoroughfare improved, constructed or intended for vehicular traffic which is between the edges of the roadway;

**“roadworthy”** means a vehicle which complies with the relevant provisions of the Act and is otherwise in a fit condition to be operated on a public road;

**“shoulder”** means that portion of a road, street or thoroughfare between the edge of the roadway and the kerb line;

**“stop”** means the bringing to a standstill of a vehicle by the driver thereof;

**“stopping place”** in relation to –

- (a) a taxi, means a place designated by the Municipality where a taxi may stop to pick up or drop off passengers, and
- (b) a bus, means a demarcated stop where a bus may stop to pick up or drop off passengers;

**“taxi”** means a public transport motor vehicle, other than a public bus, used for the conveyance of passengers or of passengers and goods for hire or reward such as a minibus or a midibus, and includes metered taxis;

**“taxi facility”** means a holding area, special parking place, stopping place, rank, terminal and any other facility that is specifically identified and designated by the Municipality for the exclusive use of taxis;

**“taxi rank”** means any place designated or demarcated as a taxi rank or for the exclusive parking of taxis by a road traffic sign;

**“traffic officer”** means a traffic officer appointed by the Municipality in terms of section 3A of the Act and any member of the Lekwa Police Force approved by the member of the Executive Council in terms of section 64A(4) of the South African Police Service Act No. 68 of 1995;

**“tractor”** means a motor vehicle designed or adapted mainly for drawing other vehicles and with a gross combination mass not exceeding 24 000 kg, but does not include a truck-tractor;

**“trailer”** means a vehicle which is not self-propelled, and which is designed or adapted to be drawn by a motor vehicle, but does not include a side-car attached to a motor cycle;

**“trolley”** means a device used to transport anything or person and which is propelled or pulled by human or animal power, and includes a pram or cart;

**“truck-tractor”** means a motor vehicle designed or adapted –

- (a) for drawing other vehicles; and
- (b) not to carry any load other than that imposed by a semi-trailer or by ballast, but does not include a tractor or a haulage tractor;

**“vehicle”** means a device designed or adapted mainly to travel on wheels or crawler tracks and includes such a device which is connected with a draw-bar to a breakdown vehicle and is used as part of the towing equipment of a breakdown vehicle to support any axle or all the axles of a motor vehicle which is being salvaged other than such a device which moves solely on rails;

**“verge”** means that portion of a road, street or thoroughfare, including the sidewalk, which is not the roadway or the shoulder; and

**“wheeled device”** means an object that has wheels attached to it so that the object can be used for the conveyance of goods or materials but does not include personal shopping carts designed for toting groceries, perambulators, wheeled suit cases or any device authorised by the municipality.

## **CHAPTER 2: POWERS AND DUTIES OF AUTHORISED OFFICIALS**

### **2. Powers and duties of authorised official –**

- (1) An authorised official may, subject to the provisions of any other law – (a) when in uniform, require the driver of any vehicle to stop such vehicle;
- (b) drive any vehicle where necessary in the performance of his or her duties if, in the case of a motor vehicle, he or she is licensed to drive a motor vehicle of the class concerned;
- (c) if a person, being the driver or the person apparently in charge of a motor vehicle, appears, by reason of his or her physical or mental condition, howsoever arising, to be incapable for the time being of driving or being in charge of that vehicle, temporarily forbid the person to continue to drive or be in charge of that vehicle and make the arrangements for the safe disposal or placing of the vehicle as in his or her opinion may be necessary or desirable in the circumstances;
- (d) regulate and control traffic upon any public road, and give such directions as may, in his or her opinion, be necessary for the safe and efficient regulation of the traffic, which may include the closing of any public road, and, where he or

she is of the opinion that the driver of a motor vehicle is hampering or impeding the normal flow of traffic on a public road, direct the driver to remove the vehicle from such road and to follow another route with the vehicle;

(e) require any person to furnish his or her name and address and other particulars which are required for his or her identification or for any process if the officer reasonably suspects this person of having committed an offence in terms of this by-law or any other law or, if in the opinion of the officer, he or she is able to give evidence in regard to the commission of any such offence;

(f) in respect of any motor vehicle, demand from the owner, operator or driver thereof to produce any document prescribed in terms of this by-law or any other law;

(g) impound any document referred to in paragraph (f) produced to him or her and which in his or her opinion may afford evidence of a contravention of or failure to comply with any provision of this by-law or any other law related to road traffic matters and where any document is so impounded, the authorised official shall issue a receipt in respect thereof to the person concerned.

(2) For the purposes of this section –

(a) a law enforcement officer may only exercise such powers conferred on the officer under his or her certificate of appointment within the municipal area

(b) a traffic officer, other than a member of a municipal police service, may only exercise his or her powers within the municipal area of the Municipality otherwise in accordance with an appointment under section 3A(1)(d) or (2) of the Act;

(c) a member of a municipal police service may only exercise his or her powers within the municipal area of the Municipality otherwise in accordance with section 64F(3) of the South African Police Service Act No. 68 of 1995.

(1) operating licence, which must be displayed on the front window of the vehicle.

## **CHAPTER 3: CONDUCT OF DRIVERS, CONDUCTORS AND PASSENGERS**

### **31. Preventing engagement of a public transport vehicle**

No person may, by using force, intimidation, threats or by any other means, prevent or try to prevent –

- (a) any person from obtaining or engaging a public transport vehicle; or (b) the driver of a public transport vehicle from taking on passengers.

### **32. Conveying dangerous or offensive articles in public transport vehicles**

A person who is in charge of a public transport vehicle may not knowingly convey a person or thing or allow that person or thing to be conveyed in such vehicle, whether or not the public transport vehicle has been engaged, if that person or thing –

- (a) is not permitted to be conveyed in terms of an existing law; or
- (b) has obviously been exposed to or contaminated by an infectious or contagious disease as contemplated in the Act.

### **33. Boarding and disembarking of public transport vehicles**

- (1) No person may board a public transport vehicle until all persons desiring to disembark from such vehicle have done so.
- (2) No person may insist on boarding a public transport vehicle where the number of passengers would be in excess of the total number of passengers which it is authorised to carry.
- (3) No person may board or alight or attempt to board or disembark from any public transport vehicle whilst such vehicle is in motion.

### **34. Queues at public transport facilities**

- (1) At any established ranking facility, the Municipality may erect or cause to be erected a queue sign that consists of a notice board indicating the location and the manner in which persons waiting to enter a public transport vehicle will stop and form a queue, and such a sign may be supplemented by queuing barriers in the form of rails or lines marked on the surface of the area to be demarcated for the purpose of queuing.

- (2) Every passenger queuing must comply with all the instructions given by a public transport conductor or authorised official when on duty.

**35. Garments and identification of public transport service conductor**

Every public transport service conductor must, while on duty and presenting himself or herself as available for service, be dressed in a retro-reflective bib or jacket and must ensure that an identification card issued to him or her in terms of any other law is visibly displayed.

**36. Duty of care**

The owner, driver and conductor of a public transport vehicle must, at all times, exercise a duty of care by maintaining the inside of such public transport vehicle in a sanitary state of affairs.

**37. Payment of fares**

A passenger must pay the determined fare for the journey ~~on request~~.

**38. Rights and duties of passengers when a public transport vehicle becomes defective**

- (1) If a public transport vehicle becomes defective or, for any reason whatsoever, is unable to proceed, the passengers must, at the request of the driver, disembark such defective vehicle and the passengers are entitled to a refund to the amount of their fares so paid.
- (2) Upon agreement with the driver of the defective public transport vehicle, passengers are allowed to travel with the next available public transport vehicle for the remainder of the distance in respect of the paid fares, at the cost of the owner of the defective public transport vehicle.
- (3) A driver who refuses to refund a passenger, as contemplated in subsection (1), or who refuses to allow a passenger to travel in the manner as contemplated in subsection (2) commits an offence.

**39. Actions prohibited on a public transport vehicle**

- (1) The following actions are prohibited on a public transport vehicle:
  - (a) smoking;
  - (b) playing offensive or excessively loud music;

- (c) using obscene or offensive language;
- (d) interfering with any passenger;
- (e) damaging anything and interfering with the equipment of the public transport vehicle in any way;
- (f) forcibly causing the driver to deviate from his route;
- (g) endangering the life of another person; (h) interfering with the actions of the driver; and
- (i) riotous or indecent behaviour.

(2) Any person who commits any act referred to in section (1) above commits an offence in terms of this By-law and may be removed from the vehicle by the driver and shall forfeit any fees paid in respect of the public transport service in question. **40.**

#### **Behaviour prohibited at a public transport facility**

A person who causes a disturbance or behaves in a riotous or indecent manner commits an offence in terms of this By-law and may be removed from the vicinity of a public transport facility by any authorised official.

#### **41. Property left in public transport vehicles**

The driver of a passenger-carrying vehicle must carefully examine the vehicle after a trip, and if a passenger has left behind any property in the vehicle, the driver must –

- (a) deliver that property to the person who left it behind; or
- (b) if he or she is unable to deliver that property to the person who left it behind, take the property, as soon as possible, to the lost property office of his or her employer or to the nearest police station and de-posit it with the officer on duty and obtain a receipt for it.

### **CHAPTER 4: ANIMALS**

#### **42. Animals**

No passenger may enter a public transport vehicle with any animals other than a guide dog assisting a blind person.

#### **43. Animals on public road**

- (1) No person may allow his or her bovine animal, horse, ass, mule, sheep, goat, pig, ostrich or any other animal to be untended on any section of a road reserve.
- (2) Any animal referred to in subsection (1) found on the road reserve is presumed to have been left there or allowed to stray onto the road by the owner.
- (3) No person may drive any animal or animals referred to in subsection (1) on a public road, or any part of the road reserve without displaying a visible red light in front of and behind such animals so as to make them visible to traffic between the hours of sunset and sunrise.
- (4)
  - (a) The authorised official may impound any animal found within a road reserve in contravention of subsection (1).
  - (b) Impounded animals must be held in terms of the City's policies and procedures relating to the impoundment of animals.
  - (c) The Municipality may charge a daily or monthly tariff for the storage or safekeeping of impounded animals which must be paid prior to the release of the animals.
  - (d) All costs relating to the impoundment, transport, and storage or safekeeping of the animals will be for the cost of the owner of the animals.
  - (e) Animals may only be released to the owner upon proof of ownership being presented.
  - (f) The Municipality shall through reasonable effort attempt to establish the ownership of the impounded animals, including publishing in a local newspaper where necessary.
  - (g) Where the Municipality is able to establish ownership of the animals, the Municipality must –
    - (i) inform the owner of the impoundment of the animals;
    - (ii) inform the owner of the costs related to impoundment and the amount already due to the Municipality because of the impoundment;

- (iii) provide the owner with an opportunity to make representations regarding the impoundment and the amount owed;
- (iv) inform the owner of the possible sale or disposal of the impounded animals in order to recover the costs related to the impoundment of the animals;
- (v) Where the Municipality is unable to establish the ownership of the impounded animals in terms of paragraph (f), the Municipality may, after a period of two weeks from the date of impoundment, sell the impounded animals to recover the costs related to the impoundment.

#### **44. Animal-drawn vehicles**

- (1) No person shall operate an animal-drawn vehicle on a public road unless –
  - (a) the name, address and telephone number of the owner thereof is affixed or painted in a conspicuous position on the left side of such vehicle in letters not less than 25 millimetres high;
  - (b) it is affixed with a license plate issued by the carhorse protection association;
  - (c) the vehicle and the harness and other equipment thereof are in an efficient and safe condition; and
  - (d) it is fitted in front on both sides of the body thereof, with lamps emitting a white light forward, and at the rear on both sides of the body thereof, with lamps emitting a red light to the rear: Provided that in the case of a vehicle drawn by animals not controlled by reins, there shall be a person who leads the animals while he or she is carrying a lamp which emits a white light forward at the head of the foremost animal, in lieu of the lamps emitting a white light forward and a red light to the rear and provided further that the provisions of this subsection shall only apply if the vehicle referred to in in sub-regulation (1) is used between sunset and sunrise and any other time when, due to insufficient light or unfavourable weather conditions, persons and vehicles upon the public road are not clearly visible at a distance of 150 metres;
  - (e) there are fitted, on the front of such vehicle at the same height, two white retroreflectors, one on each side of the longitudinal centre-line thereof and equidistant therefrom and otherwise complying with the provisions of the Regulations; and

- (f) unless there are fitted on the rear of such vehicle at the same height two red retro-reflectors, one of each side, of the longitudinal centre-line thereof and equidistant therefrom and otherwise complying with the provisions of the Regulations
- (2) No person under the age of 18 may drive or control an animal drawn vehicle on a public road.
- (3) No person may, on a public road, operate an animal drawn vehicle while under the influence of intoxicating liquor or a drug having a narcotic effect.
- (4) The driver of an animal-drawn vehicle on a public road shall at all times give his or her undivided attention to the driving of the vehicle under his or her control, and if the vehicle is standing on a public road, the driver shall not cease to retain control over every animal which is still harnessed to the vehicle, unless some other person competent to do so takes charge of every such animal, or every such animal is so fastened that it cannot move from the place where it has been left.
- (5) No person shall operate on a public road a vehicle drawn by a team of animals not controlled by reins.
- (6) No person shall operate an animal-drawn vehicle without adhering to all traffic rules and signals.
- (7) The driver or other person in charge of a vehicle drawn by an animal shall not, on a public road outside an urban area, permit such vehicle to follow any other vehicle similarly drawn at a distance of less than 150 metres calculated from the foremost animal of such first-mentioned vehicle, except for the purpose of overtaking a vehicle travelling at a slower speed or when a vehicle travelling at a greater speed, having overtaken such vehicle, is drawing away from it.

## **CHAPTER 5: ROAD SAFETY**

### **45. Circumstances under which persons may be carried on goods vehicle**

No person shall operate on a public road a goods vehicle conveying persons unless that portion of the vehicle in which such persons are being conveyed is enclosed to a height of 350 millimetres when seated and 900 millimetres when standing. Provided that no person shall be conveyed in the goods compartment together with any tools or goods, except their personal effects, unless that portion in which such persons are being conveyed is separated

by means of a partition, from the portion in which such goods are being conveyed.

#### **46. Overloading**

No driver of a public transport vehicle may allow more than the specified number of passengers as indicated in the permit onto the vehicle while in operation.

#### **47. Obstruction and disruption of traffic**

- (1) No person may park or allow a public transport vehicle to park in a stopping place designated for specific public transport vehicles.
- (2) No driver of public transport vehicle or his or her conductor may depress the button of a traffic control signal so as to speedily activate the green pedestrian light in order to force vehicular traffic to stop.
- (3) No public transport vehicle may traverse a pedestrian crossing when stopping to enable passengers to be picked up or dropped off.
- (4) No public transport vehicle may park for the purpose of plying for hire in a demarcated parking bay any longer than is required to enable waiting passengers to be picked up or dropped off.

#### **48. Duties of pedestrians**

- (1) A pedestrian may cross a public road only at a pedestrian crossing or an intersection or at a distance further than 50 metres from such pedestrian crossing or intersection.
- (2) Where a marked pedestrian crossing exists at an intersection, a pedestrian may only cross the intersection within the marked pedestrian crossing.
- (3) Where a traffic-control light signal ("robot"), which embodies pedestrian signals, operates at an intersection, a pedestrian may not commence to cross the roadway in a pedestrian crossing at the intersection while the red light of a pedestrian signal is displayed in the direction opposite to that in which he or she is proceeding.
- (4) Where no pedestrian signals are operating at an intersection, but such intersection is controlled by a traffic-control light signal, a pedestrian may not commence to cross the roadway in a pedestrian crossing at the intersection while the red light of

the traffic-control light signal is displayed in the direction opposite to that in which he or she is proceeding.

- (5) Where a traffic-control light signal, which embodies pedestrian signals, are operating at a pedestrian crossing elsewhere than at an intersection, a pedestrian may only commence to cross the roadway in the pedestrian crossing when the green light of the pedestrian signal is displayed in the direction opposite to that in which he or she is proceeding.
- (6) No pedestrian may carelessly, negligently or recklessly disregard, or endanger his or her own safety, or the safety of a person or vehicle using a public road.

#### **49. Duties relating to motor cycle or motor tricycle**

- (1) No person shall drive a motor cycle without resting their feet on the foot rests and without being seated astride the motor cycle or motor tricycle.
- (2) No person shall on a public road carry a passenger on a motor cycle unless such passenger is seated in a side-car or astride on a pillion attached to such cycle and, in such latter event, the feet of the passenger are resting on foot-rests suitable for that purpose.
- (3) Subject to the provisions of sub-section (2), not more than two persons shall ride upon a motor cycle on a public road, excluding a person riding in a side-car attached to such motor cycle.
- (4) Not more than two adult persons shall be carried in a side-car attached to a motor cycle on a public road.
- (5) No person or animal or object shall be carried on a motor cycle or motor tricycle on a public road in front of the driver thereof: Provided that an object of a non-bulky nature may be so carried if securely attached to the motor cycle or motor tricycle or placed in a suitable carrier fitted thereon for that purpose and carried in such a way as not to obstruct the driver's view or prevent his or her exercising complete control over such motor cycle or motor tricycle;
- (6) (a) Persons, other than authorised officials in the performance of their duties, driving motor cycles on a public road, shall drive in single file except in the course of overtaking another motor cycle, and two or more persons driving motor cycles shall not overtake another vehicle at the same time:

Provided that where a public road is divided into traffic lanes, each such lane shall, for the purposes of this paragraph, be regarded as a public road.

(b) For the purposes of paragraph (a), a motor cycle shall include a motor tricycle.

- (7) No person driving a motor cycle or motor tricycle on a public road or seated on such motor cycle or motor tricycle shall take hold of any other vehicle in motion.
- (8) Any person driving a motor cycle or motor tricycle on a public road shall do so with at least one hand on the handlebars of such motor cycle or motor tricycle.
- (9) Any person driving a motor cycle or motor tricycle on a public road shall do so in such manner that all the wheels of such motor cycle or motor tricycle are in contact with the surface of the road at all times.

**50. Use of hooter**

No person shall on a public road use the sounding device or hooter of a vehicle except when such use is necessary in order to comply with the provisions of this By-law or any other law or on the grounds of safety.

**51. Vehicle causing excessive noise**

No person shall operate or permit to be operated on a public road a vehicle in such a manner as to cause any excessive noise which can be avoided by the exercise of reasonable care on his or her part.

**52. Duty to indicate when changing lanes**

- (1) The driver of a vehicle on a public road divided into traffic lanes by appropriate road traffic signs shall not turn from one lane into or across another lane unless he or she can do so without obstructing or endangering other traffic.
- (2) A driver may not turn from one lane into or across another lane without giving a conspicuous signal visible to any person approaching him or her from the front or from the rear or from the side, and of a duration sufficient to warn any such person of his or her intention.

**53. Passing of vehicle**

- (1) Subject to the provisions of sub-section (2) and (4) and section 298 of the Act, the driver of a vehicle intending to pass any other vehicle proceeding in the same direction on a public road shall pass to the right thereof at a safe distance and shall

not again drive on the left side of the roadway until safely clear of the vehicle so passed: Provided that, in the circumstances as aforesaid, passing on the left of such vehicle shall be permissible if the person driving the passing vehicle can do so with safety to himself or herself and other traffic or property which is or may be on such road and –

- (a) the vehicle being passed is turning to its right or the driver thereof has signalled his or her intention of turning to his or her right;
  - (b) such road is a public road in an urban area and – (i) is restricted to vehicles moving in one direction; and  
(ii) the roadway is of sufficient width for two or more lines of moving vehicles;
  - (c) such road is a public road in an urban area and the roadway is of sufficient width for two or more lines of moving vehicles moving in each direction;
  - (d) the roadway of such road is restricted to vehicles moving in one direction and is divided into traffic lanes by appropriate road traffic signs; or
  - (e) he or she is driving in compliance with the directions of an authorised official or is driving in traffic which is under the general direction of such officer, and in accordance with such direction: Provided further that in no event shall any passing referred to in paragraph (a), (b), (c) or (d) be done by driving on the shoulders of the roadway or on the verge of the public road concerned.
- (2) The driver of a vehicle shall not pass other traffic proceeding in the same direction on a public road when approaching –
- (a) the summit of a rise;
  - (b) a curve; or
  - (c) any other place, where his or her view is so restricted that any such passing could create a hazard in relation to other traffic which might approach from the opposite direction, unless –
    - (i) he or she can do so without encroaching on the right-hand side of the roadway; or
    - (ii) the roadway of such road is restricted to vehicles moving in one direction.

- (3) The driver of a vehicle on a public road shall, except in the circumstances referred to in the first proviso to sub-section (1), upon becoming aware of other traffic proceeding in the same direction and wishing to pass his or her vehicle, cause his or her vehicle to travel as near to the left edge of the roadway as is possible, without endangering himself or herself or other traffic or property on the roadway, and shall not accelerate the speed of his or her vehicle until the other vehicle has passed.
- (4) When about to pass oncoming traffic, the driver of a vehicle on a public road shall ensure that the vehicle driven by him or her does not encroach on the roadway to his or her right in such manner as may obstruct or endanger such oncoming traffic.
- (5) The driver of a vehicle intending to pass a stationary bus on a public road shall do so with due care for the safety of persons who are approaching or leaving or may approach or leave such bus.

**54. Prohibition on driving on shoulder of public road, except in certain circumstances**

- (1) Subject to sub-section (2) and section 115 (1) (e) of the Act, no person shall drive a motor vehicle on the shoulder of a public road.
- (2) Notwithstanding sub-section (1), the driver of a motor vehicle may, during the period between sunrise and sunset, drive such motor vehicle on the shoulder of a public road which is designated for one lane of traffic in each direction – (a) while such motor vehicle is being overtaken by another vehicle; and
  - (b) if he or she can do so without endangering himself or herself, other traffic, pedestrians or property on such public road;
  - (c) if persons and vehicles upon a public road are clearly discernible at a distance of at least 150 metres.

**55. Right of way at certain road junctions**

- (1) The driver of a vehicle on a public road shall, when he or she intends entering any portion of a public road which constitutes a junction of two or more public roads where vehicular traffic is required to move around a traffic island within such junction, yield the right of way to all vehicular traffic approaching from his or her right within such junction, unless his or her entry into such junction is controlled by

an instruction given by an authorised official or a direction conveyed by a road traffic sign requiring him or her to act differently.

**56. Certain vehicles may be stopped and parked at any place where necessary**

- (1) The drivers of vehicles of the following vehicles may stop or park the vehicle concerned at any place where it is necessary to do so provided that it does not constitute an unnecessary danger or confusion to other road users:
  - (a) fire-fighting vehicle;
  - (b) fire-fighting response vehicle;
  - (c) emergency medical response vehicle;
  - (d) ambulance when driving in the execution of his or her duties;
  - (e) an authorised official when driving in the execution of his or her duties;
  - (f) disaster risk management vehicle;
  - (g) road maintenance or construction vehicle; and
  - (h) vehicle involved in rendering essential public service.
- (2) A vehicle stopped or parked in terms of sub-section (1) shall, while such vehicle is so stopped or parked, display the identification lights prescribed in section 21.

**57. Compulsory stops**

- (1) The driver of a vehicle on a public road shall stop such vehicle –
  - (a) in compliance with any direction conveyed by a road traffic sign or given by an authorised official in uniform; or
  - (b) at the request or on the signal of a person leading or driving any bovine animal, horse, ass, mule, sheep, goat, pig or ostrich on such road.
- (2) A driver of a vehicle who disobeys a direction to stop in terms of subsection (1)(a) or attempts to evade and elude that officer, commits an offence.

**58. Riding on pedal cycles**

- (1) Persons riding pedal cycles on a public road shall ride in single file except in the course of overtaking another pedal cycle, and two or more persons riding pedal cycles shall not overtake another pedal cycle at the same time.

- (2) No person riding or seated on a pedal cycle on a public road shall take hold of any other vehicle in motion.
- (3) No person riding a pedal cycle on a public road shall deliberately cause such pedal cycle to swerve from side to side.
- (4) No person riding a pedal cycle on a public road shall carry thereon any person, animal or object which obstructs his or her view or which prevents him or her from exercising complete control over the movements of such pedal cycle.
- (5) A person riding a pedal cycle on a public road shall do so with at least one hand on the handle-bars of such pedal cycle.
- (6) Whenever a portion of a public road has been set aside for use by persons riding pedal cycles, no person shall ride a pedal cycle on any other portion of
- (7) A person riding a pedal cycle on a public road or a portion of a public road set aside for use by persons riding pedal cycles, shall do so in such manner that all the wheels of such pedal cycle are in contact with the surface of the road at all times.

#### **59. Racing and sport on public roads**

- (1) For the purpose of this section the expression "race or sport" includes –
  - (a) any race, speed trial, reliability trial, hill climbing competition or sports meeting;  
or
  - (b) any other activity whatsoever-
    - (i) which may constitute a source of danger to traffic; or
    - (ii) which may hamper, impede or disrupt the normal flow of traffic.
- (2) No driver may, without the prior written permission of the municipality, in or on a public road, public place or place to which the public has access –
  - (a) organise or take part in any race, speed test, or sport involving a motor vehicle, motor cycle or motor tricycle;
  - (b) cause their wheels to spin when pulling away from a stationary position;
  - (c) cause their wheels to spin so as to cause the wheels to lose traction for purposes of making any part of the car sway or drift while the wheels are spinning;

(d) cause any of the wheels to lift off the ground while in motion.

- (3) No person may stand in or along the side of a public road, public place or place to which the public has access for purposes of watching or encouraging drivers involved in unauthorised racing, speed test or sport involving a motor vehicle, motor cycle or motor tricycle.

**60. Hindering or obstructing traffic on public road**

- (1) No person may wilfully or unnecessarily prevent, hinder or interrupt the free and proper passage of traffic on a public road.
- (2) No person shall place or abandon or cause to be placed or abandoned on a public road any object that may endanger or cause damage to traffic on such road.

**61. Vehicle left or abandoned on public road**

- (1) Any vehicle –
- (a) left standing on a public road in a position or circumstances which in the opinion of the authorised official is likely to cause danger or an obstruction to other traffic; or
- (b) left in the same place for a continual period of seven days within an urban area; may, without prior notice, be impounded by the authorised official in terms of section 70.

**62. Towing of vehicles**

- (1) No person may operate any vehicle on a public road while towing or drawing another vehicle –
- (a) if the owner of the vehicle being towed does not have a driver's licence for the category of vehicle being towed;
- (b) with a tow rope or chain which is longer than three and a half meters; and
- (c) exceed the speed of 30 kilometres per hour when towing with a rope or a chain.
- (2) No operator of a motor cycle, motor tricycle, motor quad bike or pedal cycle may tow a vehicle, motor cycle, motor tricycle, motor quad bike or pedal cycle.

**63. Parking of vehicles**

- (1) No person shall park a vehicle on a public road –

- (a) in contravention of a road traffic sign;
  - (b) in any position or place which, in the opinion of the authorised official, may constitute a danger or an obstruction to traffic or pedestrians;
  - (c) within any subway or tunnel or within six meters thereof;
  - (d) on the right-hand side of the road facing on-coming traffic;
  - (e) within the railway reserve at a level crossing;
  - (f) within nine meters on either side of a pedestrian crossing;
  - (g) on the same side as a fire-hydrant within an area bounded by the centre-line of the roadway and lines at right angles to such centre line one and a half metres on either side of a fire hydrant;
  - (h) in a manner that obstructs any private or public vehicular entrance to such roadway;
  - (i) on a traffic island, in a pedestrian mall or pedestrian lane; or
  - (j) within five meters of an intersection, unless in accordance with road traffic markings, road traffic signs or on instruction of an authorised official.
- (2) No person may park a vehicle in a parking bay reserved for disabled persons without displaying the official sticker issued by provincial authorities for the conveying of disabled persons which has been issued for that vehicle.
- (3) No person may park a vehicle, motor cycle or motor tricycle in a loading zone and leave it unattended for longer than –
- (a) five minutes in the case of a vehicle other than a delivery vehicle; or
  - (b) 30 minutes in the case of a delivery vehicle.
- (4) The authorised official may impound vehicles parked in contravention of this section in terms of section 70.

#### **64. Stopping of vehicles**

- (1) No person may stop a vehicle, motor cycle or motor tricycle –
- (a) in a subway, or tunnel or on a bridge or within six meters of such subway, tunnel or bridge;

- (b) on the right-hand side of the road facing the oncoming traffic;
- (c) in contravention of any road traffic sign;
- (d) within nine meters of either side of a pedestrian crossing;
- (e) within the railway reserve at a level crossing;
- (f) in any other place where, in the opinion of the authorised official it would cause a danger or an obstruction to other traffic or pedestrians, unless in accordance with road traffic markings, road traffic signs, in order to avoid an accident or on instruction of an authorised official.

**65. General duties of driver or passenger of vehicle on public road**

- (1) No person driving a vehicle on a public road shall –
  - (a) cause such vehicle to travel backwards unless it can be done in safety, or cause it to run backwards for a distance or time longer than may be necessary for the safety or reasonable convenience of any occupant of that vehicle or of other traffic on such road; or
  - (b) follow another vehicle more closely than is reasonable and prudent having regard to the speed of such other vehicle and the traffic on and the condition of the roadway, or more closely than is prescribed in these sections;
  - (c) permit any person, animal or object to occupy any position in or on such vehicle which may prevent the driver thereof from exercising complete control over the movements of the vehicle or signalling his or her intention of stopping, slowing down or changing direction;
  - (d) when driving such vehicle, permit any person to take hold of or interfere with the steering or operating mechanism of the vehicle;
  - (e) when driving such vehicle, occupy such position that he or she does not have complete control over the *vehicle* or does not have a full view of the roadway and the traffic ahead of such vehicle;
  - (f) allow such vehicle to remain unattended on such road without setting its brake or adopting such other method as will effectively prevent the vehicle from moving from the position in which it is left;

- (g) if such vehicle is parked or is stationary at the side of such road, drive the vehicle from that position unless he or she is able to do so without interfering with moving traffic approaching from any direction and with safety to himself or herself and others;
  - (h) fail to give an immediate and absolute right of way to a vehicle sounding a device or displaying an identification light in terms of section 22;
  - (i) allow any portion of his or her body to protrude beyond such vehicle while it is in motion on such road except for the purpose of giving any hand signal which he or she is required or authorised to give in terms of these sections or unless he or she is engaged in examining or testing or parking such vehicle;
  - (j) permit any person or animal to occupy the roof, any step or running board or any other place on top of a vehicle while such vehicle is in motion;
  - (k) cause or allow the engine thereof to run while the motor vehicle is stationary and unattended;
  - (l) negligently or wilfully deposit or cause or permit to be deposited any petrol or other liquid fuel or any oil or grease or other flammable or offensive matter, ashes or other refuse, of whatever nature, from such vehicle upon or alongside such road;
  - (m) cause or allow the engine thereof to run while petrol or other flammable fuel is being delivered into the fuel tank of such vehicle, or cause or allow such engine to be started up before the delivery of the petrol or other flammable fuel into the fuel tank of such vehicle has been completed and the cover of such fuel tank has been replaced, or
  - (n) unless lawfully overtaking another vehicle or as directed by an authorised official, drive in the oncoming lane.
- (2) No person, other than the driver, shall take hold of or interfere with the steering or operating mechanism of a vehicle while it is in motion on a public road, unless it may reasonably be inferred that the driver is no longer capable of steering or controlling such vehicle.
- (3) No passenger in a vehicle on a public road shall permit any part of his or her body to protrude beyond such vehicle.

- (4) No person shall enter or alight from any vehicle on a public road unless such vehicle is stationary and unless he or she can do so with safety to himself or herself and other users of the road.
- (5) No person shall drive, pull or push a vehicle upon a sidewalk: Provided that the provisions of this sub-section shall not apply to a perambulator, wheelchair, baby cart or child's play vehicle.

**66. Duty of driver in the event of an accident**

- (1) No person shall remove any vehicle involved in an accident in which another person is killed or injured from the position in which it came to rest, until such removal has been authorised by an authorised official, except when such accident causes complete obstruction of the roadway of a public road, in which event the vehicle involved may, without such authority and after its position has been clearly marked on the surface of the roadway by the person moving it, be moved sufficiently to allow passage of traffic.
- (2) No person shall remove a vehicle involved in an accident from the scene of such accident, except for the purpose of sufficiently allowing the passage of traffic, without the permission of the owner, driver or operator of such vehicle or a person who may lawfully take possession of such vehicle.

**67. Damage to public roads**

- (1) No person shall on a public road:
  - (a) cause any wheel of any vehicle to drag or spin upon the surface of the roadway, except in the case of an emergency;
  - (b) make use of chocks or shoes between any wheel of any vehicle moving along the roadway and the surface of such roadway; or
  - (c) use any vehicle or thing or move any vehicle or thing on the roadway in a manner causing or likely to cause damage thereto.

**68. Special provisions relating to freeways**

- (1) No person shall operate on a freeway –
  - (a) a vehicle drawn by an animal;
  - (b) a pedal cycle;

- (c) a skateboard, roller skates, roller blades or similar device;
  - (d) a motor cycle having an engine with a cylinder capacity not exceeding 50 cubic centimetres;
  - (e) a vehicle which is propelled by electrical power derived from storage batteries and which is controlled by a pedestrian;
  - (f) any vehicle with a mass not exceeding 230 kilograms which is specifically designed and constructed, not merely adapted, for use by a person with a disability of and which is used solely by that person;
  - (g) a motor tricycle or motor quad bike;
  - (h) a vehicle with a mass not exceeding 230 kilograms and specially designed, constructed or adapted for the use of a person suffering from a physical defect or disability; or
  - (i) a tractor or a haulage tractor.
- (2) No person shall –
- (a) be on a freeway on foot except –
    - (i) within an area reserved for the stopping or parking of vehicles by an appropriate road traffic sign; or
    - (ii) for a cause beyond his or her control;
  - (b) leave or allow an animal to be on a freeway except in or on a motor vehicle or within an area reserved for the stopping or parking of vehicles by an appropriate road traffic sign, or leave an animal in a place from where it may stray onto a freeway;
  - (c) stop a vehicle on a freeway except –
    - (i) in compliance with a road traffic sign or a direction given by an authorised official;
    - (ii) within an area reserved for the stopping or parking of vehicles by an appropriate road traffic sign; or
    - (iii) for any cause beyond his or her control; or
  - (d) give a hand signal when driving a motor vehicle on a freeway except for a cause beyond his or her control.

(3) The provisions of –

(a) sub-section (1)(i) shall not apply to a person who operates a tractor in connection with the construction or maintenance of a freeway;

(b) sub-section (2)(a) shall not apply to –

(i) an authorised official while he or she is engaged in the performance of his or her duties;

(ii) a person while he or she is engaged in rescue or salvage work;

(iii) a person while he or she is engaged in the construction or maintenance of a freeway or the rendering of an essential public service; or

(c) sub-section (2) (c) shall not apply to –

(i) the driver of –

(aa) an ambulance, fire-fighting vehicle or rescue vehicle; or

(bb) a breakdown vehicle while he or she is engaged in the salvaging of another motor vehicle;

(ii) an authorised official who drives a vehicle in the performance of his or her duties; or

(iii) a person who drives a vehicle while it is used in connection with the construction or maintenance of a freeway or the rendering of an essential public service.

## **CHAPTER 6: COMMUNICATION DEVICES**

### **69. Prohibition on use of communication device while driving**

(1) Subject to any other law, no person shall drive a motor vehicle on a public road –

(a) while holding a cellular or mobile telephone or any other communication device in one or both hands or with any other part of the body;

(b) while using or operating a cellular or mobile telephone or other communication device unless such a cellular or mobile telephone or other communication device is affixed to the vehicle or is part of the fixture in the vehicle and remains so affixed while being used or operated, or is specially adapted or designed to

be affixed to the person of the driver as headgear, and is so used, to enable such driver to use or operate such telephone or communication device without holding it in the manner contemplated in paragraph (a), and remains so affixed while being used or operated.

(2) For the purposes of this section –

- (a) the word “headgear” includes a device which is specially designed or adapted to allow the driver to use a cellular or mobile telephone or other communication device in such a manner that he or she does not hold it in one or both hands or with any other part of the body, and which is connected to the cellular or mobile telephone or other communication device concerned, directly or indirectly, while being fitted to or attached to one or both ears of the driver; and
- (b) the phrases “cellular or mobile telephone or any other communication device” and “cellular or mobile telephone or other communication device”, excludes land mobile radio transmission and reception equipment operating in the frequency band 2 megahertz to 500 megahertz that is affixed to the vehicle or is part of the fixture in the vehicle.

(3) Subject to subsection (4), an authorised officer may, in terms of section 72 in the public interest and safety of the public, impound a hand-held communication device, used in contravention of subsection (1).

(4) The authorised officer must, when impounding any hand-held communication device –

- (a) inform the owner of such communication device of the reasons of impounding;
- (b) issue a receipt to the owner of such hand-held communication device, stating the place at which such device may be claimed;
- (c) follow all procedures contained in any policy of the Municipality dealing with the impoundment of property.

(5) Subject to paragraph 5(c) –

- (a) owners of impounded communication devices will have a period of three months from the date of impoundment to retrieve their impounded communication devices;

- (b) communication devices not retrieved within the three-month period referred to paragraph (a) will be forfeited to the Municipality and will become the property of the City;
- (c) the Municipality may, upon prior written application, extend the period by which a cell phone should be retrieved provided that the extension may not be granted more than twice; and
- (d) the Municipality may destroy, sell, donate or take any other measure which it deems necessary to recover the costs relating to the impoundment and storage of communication devices which have been forfeited to the City.

**70. Prohibition on use of television receivers and visual display units in motor vehicles**

- (1) No person may operate on a public road a motor vehicle that has a television receiver or visual display unit in or on the vehicle operated while the vehicle is moving, or is stationary but not parked, if any part or portion of the image on the screen –
  - (a) is visible to the driver from the normal driving position; or
  - (b) is likely to distract the driver or other road users;
- (2) The provisions of sub-section (1) do not apply to the driver if:
  - (a) driving a bus and the visual display unit is, or displays, a destination sign or other bus sign;
  - (b) the visual display unit is, or is part of, a driver's navigational or intelligent driving aid; or
  - (c) driving a double deck bus having a TV monitor.

**CHAPTER 7: DRIVING WHILE UNDER THE INFLUENCE**

**71. General provisions relating to driving under the influence**

- (1) In this chapter operating a vehicle includes sitting behind the steering wheel or operating mechanism of a vehicle, motor cycle, motor tricycle or motor quad bike while the engine is running and in the case of animal drawn vehicles or pedal cycles while sitting on the seat and controlling the reins or handle bars.

- (2) No person may operate a motor vehicle, motor cycle, motor tricycle, motor quad bike, pedal cycle or animal drawn vehicle on a public road whilst under the influence of intoxicating liquor or a drug having a narcotic effect.
- (3) An authorised official may stop any vehicle, motor cycle, motor tricycle, quad bike, pedal cycle or animal drawn vehicle where he or she reasonably suspects the driver of being under the influence of intoxicating liquor or a drug having a narcotic effect.
- (4) An authorised official may arrest the driver of a vehicle, motor cycle, motor tricycle, quad bike, pedal cycle or animal drawn vehicle that he has stopped in terms of subsection (3) for purposes of securing a breath specimen using the prescribed equipment.
- (5) The authorised official may, in the interest of public safety, in terms of section 71, impound the vehicle of a driver whom he reasonably suspects of being under the influence of intoxicating liquor or a drug having a narcotic effect.

## **CHAPTER 8: IMPOUNDMENT OF VEHICLES AND FORFEITURE TO THE MUNICIPALITY**

### **72. General provisions relating to impoundment and forfeiture of vehicles**

- (1) For purposes of this chapter vehicle includes a motor cycle and a motor tricycle, and where relevant a quad bike, pedal cycle or animal drawn vehicle.
- (2) The authorised official may in the interest and safety of the public, without prior written notice, impound vehicles where the –
  - (a) vehicle was involved in reckless or negligent driving or illegal street racing;
  - (b) vehicle is unlicensed or the licence disc has been expired for more than 90 days;
  - (c) vehicle is unregistered;
  - (d) vehicle is not fitted with licence plates,
  - (e) vehicle is damaged or is in a state of disrepair and is, in the opinion of the authorised official, not roadworthy;
  - (f) vehicle is a taxi which is being operated in contravention of the conditions of approval its operating licence or off the approved route;

- (g) vehicle has been left abandoned as specified in section 61;
  - (h) driver of the vehicle is unlicensed, or the driver does not have his or her driver's licence available for inspection;
  - (i) driver of the vehicle is under the influence of intoxicating liquor or a drug having a narcotic effect; or
  - (j) driver did not stop when signalled to do so by an authorised official resulting in the driver having to be pursued and forced to stop;
- (3) The authorised official must issue the driver of the vehicle with a receipt for the vehicle being impounded, which must –
- (a) (i) state the physical condition of the vehicle clearly identifying any dents or damage to; and
  - (ii) include a list of accessories on the vehicle at the time of impoundment;
  - (b) state the address of the impound lot where the vehicle will be kept;
  - (c) state the operating hours for the release of vehicles from the impound lot;
  - (d) describe the costs that may be payable before the vehicle may be released;
  - (e) inform the driver that he or she may make written representations regarding the impoundment and provide the name and contact details of the official to whom representation regarding the impoundment may be made;
  - (f) set out the date and time by which representation must be made;
  - (g) inform the driver of the vehicle of the maximum period of storage;
  - (h) provide information on the application process for the extension of the maximum period of storage; and
  - (i) inform the driver of the vehicle that the vehicle may be forfeited to the Municipality if not collected before the expiry of the maximum period of storage.
- (4) The authorised official must retain a copy of the receipt issued to the driver of the vehicle being impounded which shall serve as prima facie proof of the condition of the vehicle at the time of impoundment.

- (5) The Municipality may charge a daily or monthly tariff for the storage of impounded vehicles which must be paid prior to vehicles being released to the owner.
- (6) The Municipality may levy an impoundment fee for the impoundment of the vehicle.
- (7) The Municipality may recover costs relating to impoundment, transport and storage of the vehicle in terms of its Credit Control and Debt Collection Policy and the Credit Control and Debt Collection By-law, 2006 from the owner of the vehicle.
- (8) Owners of impounded vehicles will have a period of three months from the date of impoundment within which to retrieve their impounded vehicles.
- (9) Vehicles not retrieved within the three-month period referred to in subsection (7) will be forfeited to the Municipality and shall become the property of the municipality.
- (10) The Municipality may, upon written application, extend the period of storage before the end of the three-month period referred to subsection (7) provided that extension may not be granted more than twice.
- (11) The Municipality may destroy, sell, donate or take any other measure which it deems necessary to recover the costs relating to impoundment, transfer and storage of a vehicle which has been forfeited to the municipality.

### **73. Release of impounded vehicles**

- (1) Subject to subsections (5) and (6), vehicles impounded by the Municipality–
  - (a) for reckless or negligent driving or illegal street racing in terms of section 72(2)(a) may only be released, to the registered owner or the person who was driving the vehicle at the time of impoundment, upon the conclusion of the prosecution of the matter;
  - (b) for being unlicensed or where the licence disc has been expired for more than 90 days in terms of section 72(2)(b), may only be released to the registered owner or the person who was driving the vehicle at the time of impoundment, upon presentation of a valid licence disc to the authorised official;
  - (c) for being unregistered in terms of subsection 72(2)(c), may only be released to the registered owner or the person who was driving the vehicle at the time of impoundment upon proof of registration and a valid licence disc being presented to the authorised official;

- (d) where the driver was unlicensed in terms of section 72(2)(h), may only be released to the registered owner if the owner has a driver's licence, or to the person who was driving the vehicle at the time of impoundment if he or she is has a learner's licence and is accompanied by a licenced driver.
  - (e) for not displaying licence plates in terms of section 72(2)(d), may only be released to the registered owner or the person who was driving the vehicle at the time of impoundment upon presentation of valid licence plates and having them affixed to the vehicle; or
  - (f) for not being roadworthy in terms of section 72(2)(e), may only be released to the registered owner or the person who was driving the vehicle at the time of impoundment upon presentation of a roadworthy certificate to an authorised official.
- (2) (a) Vehicles which have been impounded by the Municipality may be temporarily released to –
- (i) a tow truck operating company for transporting the vehicle to a vehicle repair centre;
  - (ii) mechanic;
  - (iii) panel beater;
  - (iv) auto electrician;
  - (v) other motor repair specialist, at the expense of the owner, for purposes of effecting the required repairs to the vehicle, only if transported on a flatbed trailer, with a tow bar or an A-frame.
- (b) Vehicles which have been temporarily released for purposes of repair in terms of subsection 2(a) must be returned to the impound lot by the relevant mechanic, panel beater, auto electrician or other motor repair specialist who collected such vehicle when the necessary repairs have been effected, for purposes of inspection, testing where necessary and release of the vehicle to the registered owner or driver of the vehicle.
- (3) Where vehicles need to be transported to multiple venues in order to effect the repairs such transportation can only be effected via a flatbed trailer, tow bar or Aframe up until such time that the vehicle is roadworthy, registered, licenced and has the licence plates affixed to the vehicle.

- (4) It shall be an offence to remove an impounded vehicle from an impound lot without the proper authorisation to do so in the case of repairs, or without the relevant release papers being issued by an authorised official.
- (5) Exemption from the payment of the impoundment fee –
- (a) may be granted where charges against the driver have been withdrawn;
  - (b) must be granted where the person is found not guilty of the charges;
  - (c) any other circumstances where the authorised official may deem necessary.
- (6) Subject to subsection (5), vehicles which have been impounded by the Municipality may only be released to the registered owner of the vehicle, or the person who was driving the vehicle at the time of the impoundment, upon proof of –
- (a) payment of all costs relating to the impoundment transport and storage of the vehicle;
  - (b) registration, licencing and roadworthy certificate where the vehicle was not road worthy at the time of impoundment.
- (7) Prior to the release of any vehicle from an impound lot –
- (a) Valid proof of address of the owner of the vehicle must be submitted to the authorised official prior to the release of any vehicle from the impound lot.
  - (b) The authorised official may only release an impounded vehicle to another person upon presentation of:
    - (i) letter of authorisation from the registered owner;
    - (ii) certified copy of the registered owner's identity document; and
    - (iii) certified copy of the identity document of the person collecting the vehicle;or
    - (iv) certified copy of a death certificate, in the event that the registered owner is deceased.

## **CHAPTER 9: OFFENCES AND PENALTIES**

### **74. Contravention and penalties**

- (1) A person who contravenes a provision of this By-law commits an offence.
- (2) A person who commits an offence referred to in subsection (1) is, on conviction, liable for a fine or a term of imprisonment not exceeding six months.

## **CHAPTER 10: GENERAL PROVISIONS**

### **75. Short title**

This By-law is called the Lekwa Local Municipality: Traffic By-law, and shall come into operation on a date fixed by the Mayor by proclamation in the *Provincial Gazette*.