

PHUMELELA LOCAL MUNICIPALITY

CHILDCARE SERVICES BY-LAWS

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I, MG Qabathe, Member of the Executive Council responsible for Cooperative Governance, Traditional Affairs and Human Settlement in the Free State Province, after consulting the Minister of Cooperative Governance and Traditional Affairs and the South African Local Government Association: Free State, do hereby in terms of [Section 14\(2\)\(a\)\(i\)](#) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), make standard By-laws as set out in the Schedule.

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1. Definitions

In these By-laws, unless the context indicates otherwise:-

“**approved**” means approved by the authorised officer;

“**authorised officer**” means an officer of the Municipality to whom it has delegated a duty, function or power under these By-laws in relation to the exercise or performance of that duty, function or power;

“**child**” means a child admitted to a child-minder service;

“**child-minder service**” means any undertaking involving the custody and care of a maximum of six children apart from their parents or relatives during the whole or part of the day on all or any days of the week;

“**certificate**” means a certificate issued in terms of [Section \(3\)](#);

“**certificate holder**” means any person to whom a certificate has been issued in terms of [Section \(3\)](#);

“**communicable disease**” means a communicable disease as defined by [Section \(1\)](#) of the

Health Act, 1997 (Act No. 63 of 1977);

“Municipality” means the Municipality established in terms of [Section 12](#) of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with these By-laws by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

“National Building Regulations” means the regulations published under the National Building Regulations and Building Standards Act, 1977 (Act No. 105 of 1977);

“premises” means any building or part thereof including outdoor play areas in or upon which a child-minder service is carried on;

“prescribed” means prescribed by the authorised officer referred to in [Section \(3\)](#).

2. Application of By-laws

- (1) These By-laws applies to all child-minder services within the area of jurisdiction of the Municipality.
- (2) Subject to the provisions of subsection (3), no person must conduct a child-minder service unless it has been registered in terms of [Section \(3\)](#) and he is in possession of a valid certificate issued in terms of that Section.
- (3) A person who is at the date of commencement of these Sections conducting a child-minder service must within one month of the date, or within such extended period as the Municipality may, on application made prior to the expiry of the said period on writing, allow, apply for registration of such service in terms of [Section \(3\)](#) and if he or she fails to do so or his application is refused, he or she must, if he or she continues to conduct such service after such period or after refusal of his application be deemed to have contravened subsection (2).
- (4) A person whose service has been registered in terms of [Section \(3\)](#) must in the conduct of his or her service, ensure that it and the premises in which it is conducted complies with all the requirements of this By-law and he must comply with the conditions and restrictions imposed upon the registration of the service and if he or she fails to do so he or she is guilty of an offence for which the penalties referred to in [Section \(13\)](#) are be applicable.

3. Registration of child-minder services

- (1) Every person who intends to conduct a child-minder service must apply to the authorised officer for registration of that service and must supply such information and plans as that officer may require.
- (2) The authorised officer must approve an application and register the service in respect of which it has been made in terms of subsection (1) if he or she is satisfied:-
 - (a) that the applicant is not a mentally or legally unsuitable person to conduct a child-minder service and that there are no circumstances which are likely to be prejudicial to the health, safety and welfare of children who may be cared for by the service; and

- (b) that the requirements of [Sections 6](#) and [7](#) have been complied with;
 - (c) that the applicant has not before been convicted of any offence involving abuse of children in any way whatsoever; and must refuse the application if he or she is not satisfied, provided that he may afford an applicant an opportunity of effecting compliance with the requirements of [Sections 6](#) and [7](#) within a prescribed period.
- (3) In approving an application for registration the authorised officer may impose such conditions and restrictions, required in terms of these Sections in order to ensure that the health and safety of the children are maintained.
- (4) Upon approval and registration in terms of subsection (2) the authorised officer must issue a certificate to the applicant which must contain a description of the premises in respect of which the registration has been effected and any conditions or restrictions imposed in terms of subsection (3), including restrictions as to the number and ages of the children who may be cared for by the service.

4. Validity of registration

- (1) Subject to the provisions of subsection (2) and of [Section \(5\)](#), registration and the certificate issued in respect thereof is valid for an indefinite period but must be valid only in respect of the premises referred to in [Section \(3\)\(4\)](#).
- (2) If a certificate holder wishes to transfer his or her service to other premises or if the premises referred to in [Section \(3\)\(4\)](#) are or are to be materially altered so that they no longer comply with the requirements of [Section \(6\)](#), the certificate holder must apply to the authorised officer on the prescribed form for the registration of his or her service to be amended accordingly and the provisions of subsections (2), (3) and (4) of [Section \(3\)](#) are *mutatis mutandis* applicable.
- (3) Registration lapses and the registration certificate issued to the certificate holder ceases to be valid:-
- (a) upon his death;
 - (b) if he or she ceases to conduct his or her service.
- (4) A certificate holder must notify the authorised officer in writing if he or she suspends his or her service or ceases to conduct it.

5. Cancellation of registration

- (1) The authorised officer must, by written notice to the certificate holder, cancel registration of a child-minder service if:-
- (a) the certificate holder is convicted of an offence under these Sections or pays an admission of guilt in respect of any such offence; or
 - (b) the certificate holder fails to comply with any condition or restriction imposed in terms of [Section \(3\)\(3\)](#); or
 - (c) if it can be readily proven that the authorised officer is of the opinion that the certificate holder is an unsuitable person to conduct a child-minder service, or that circumstances exist that are likely to be prejudicial to the health, safety and welfare of children being cared for by the service.

- (2) Upon cancellation of registration in terms of subsection (1) the registration certificate ceases to be valid; provided that before cancelling registration the authorised officer may at his or her sole discretion suspend registration to give the certificate holder an opportunity to remedy a defect in the premises or rectify an omission and if the certificate holder does so to his or her satisfaction the authorised officer may elect not to cancel the registration. During the period of such suspension the certificate holder may not conduct his or her child-minder service.
- (3) A certificate holder whose registration has been cancelled in terms of Section (1), may within 14 days of the date of the notice by which he was given notice of such cancellation, appeal in writing to the appropriate committee of Municipality against the cancellation and the decision of the committee is final.
- (4) Cancellation of registration in terms of subsection (1) will not come into effect until the 14 day period referred to in subsection (2) has lapsed, or in the case of an appeal in terms of the said subsection until the cancellation is confirmed by the committee.

6. Requirements for premises

The following minimum accommodation and facilities must be provided in respect of the child-minder service at all times that such service is being conducted:-

- (a) an adequate, suitable and unobstructed indoor floor area approved by the authorised officer and reserved for the use of the children;
- (b) an approved floor covering to the floor area in terms of paragraph (a) above;
- (c) adequate facilities for the preparation of meals on the premises;
- (d) an adequate supply of toilet paper and soap must be available and accessible to the children;
- (e) suitable toilet and wash facilities for children who are not toilet-trained;
- (f) plastic buckets with a close fitting lid or other approved means for the storage of soiled napkins.

7. Equipment for children

The certificate holder must provide equipment for the children complying with the following requirements:-

- (a) approved individual resting or sleeping equipment for each child;
- (b) sufficient crockery and cutlery for the sole use of the children and kept in a clean and good condition at all times.

8. Medical care of children

The certificate holder must:-

- (a) observe all children for any signs of illness, indisposition, injury or other abnormal condition, including possible child abuse;

- (b) immediately notify the parent or guardian of such illness, indisposition, injury or other abnormal condition;
- (c) immediately isolate the child so suffering and devote all care necessary to the comfort and treatment of the child whilst on the premises;
- (d) in the event of a communicable disease or detection of signs of possible child abuse, notify the authorised officer and SAPS immediately;
- (e) keep a record of all injuries and illnesses which occurred or manifested themselves whilst the child was on the premises and keep records of injuries observed on the child which have occurred other than at the premises;
- (f) ensure that all children admitted to the child-minder service have completed basic immunisation schedules considered necessary by the authorised officer vested with the powers and functions referred to in [Section \(3\)](#); provided that if any child is too young such immunisation must be carried out and completed as soon as the child is old enough.

9. Health and safety measures

- (1) The certificate holder must, in the interests of the health and safety of the children:-
 - (a) take effective precautions for the protection of the children against fires, hot-water installations, electrical fittings and appliances and any other article, condition or thing which may be dangerous or likely to cause injury to any child;
 - (b) not accept for admission to the child-minder service or retain in such service any child under the age of five years if there is a swimming or paddling pool on the premises; provided that the provisions of this paragraph must not apply to a person referred to in [Section \(2\)\(3\)](#) in respect of the premises described in the certificate and issued to him or her in terms of [Section \(3\)\(4\)](#) for as long as that certificate remains valid and he or she complies with conditions imposed by the authorised officer in terms of [Section \(3\)\(3\)](#) as to security measures to be taken in relation to the pool on those premises to prevent danger to children;
 - (c) where required re-ensure that all gates or doors of outdoor play areas are close-fitting and securely locked or otherwise closed so as to prevent children from entering or leaving the confines of such areas or the premises of their own accord and to prevent the entrance or presence of domestic animals, including dogs;
 - (d) equip and maintain a first-aid cupboard with first-aid materials and equipment to the satisfactions of the authorised officer and keep it readily available for use and out of reach of the children;
 - (e) store medicines, corrosive and other harmful substances, including alcoholic beverages, in a safe manner and in a place not accessible to the children;
 - (f) ensure that no noxious or poisonous plant or shrub grows on the premises;
 - (g) arrange for the medical examination of employees and other person involved in the conduct of the child-minder service or present on the premises when called upon by the authorised officer to do so and must not allow any such person who is found to be suffering from or to be a carrier or a communicable disease to remain on the premises;

- (2) The provisions of the Regulations relating to Communicable Disease and the Notification Medical Conditions published under Government Notice 2438 dated 30 October 1987 are *mutatis mutandis* applicable to the premises of child-minder services as if they fell within the scope of the expression “teaching institution” in regulation 1 of those Regulations and:-
- (a) a breach by a certificate holder if a duty placed upon a principal in terms of those Regulations is deemed to be a breach of these Sections;
 - (b) the duties placed upon and the powers vested in a medical officer of health under those Regulations must be placed upon or vest in the authorised officer to whom the powers and functions referred to in [Section \(3\)](#) have been delegated for the purposes of these Sections.

10. Management responsibilities

The certificate holder must ensure that:-

- (a) no refuse receptacle or any other potentially harmful or hazardous thing or material is stored in the outdoor play area used by the children;
- (b) the buckets used for the soiled napkins are kept in a clean and sanitary condition at all times and cleaned regularly with an approved disinfectant;
- (c) the children are at all times under adult supervision;
- (d) meals, which are provided to the children must meet the requirements of the authorised officer;
- (e) prepared infant feeds are supplied by parents or guardians in bottles with covered teats;
- (f) the premises are maintained in a clean, hygienic, safe, sound and pest and rodent free condition.

11. Health register

The certificate holder must maintain a health register reflecting the following details of all children admitted to the child-minder service:-

- (a) the child's name and date of birth;
- (b) the name of the parents or guardian and their address;
- (c) the name and address and telephone number of a medical practitioner who may be consulted in emergencies with written authority given by the parents or guardian to send for him;
- (d) details of immunisation;
- (e) details of allergies and any medical treatment which each child may be undergoing.

12. Right of entry and inspection of premises and records

Subject to the provisions of [Section 101](#) of the Local Government: Municipal Systems Act 2000 (Act No. 32 of 2000) an authorised officer may for any purpose connected with the

carrying out of these By-laws, at all reasonable times, enter any premises upon which a child-minder service is conducted, or upon which such officer has reasonable grounds for suspecting the existence of such child-minder service and make such examination, enquiry and inspection thereon as he may deem necessary.

13. Offences and penalties

- (1) Any person who fails to give, or refuses access to any authorised officer, if he or she requests entrance to such premises, or who obstructs or hinders such officer in the execution of his or her duties in terms of these Sections or who fails or refuses to give information or to produce records that he or she may lawfully be required to give or produce to such officer, or who gives to such officer false or misleading information knowing it to be false or misleading, is guilty of an offence.
- (2) A person who contravenes any provision of these Sections or contravenes any conditions or restrictions imposed upon the granting of an application in terms of [Section \(3\)](#) is guilty of an offence and upon conviction liable to the penalties prescribed by a Chief Magistrate of the Magistrate's Court with jurisdiction in the area where the offence was committed.

14. Repeal of By- Laws

Any By-laws relating to Child-minder Services adopted by the municipality or any municipality now comprising an administrative unit of the Municipality is repealed from the date of promulgation of these By-laws.

15. Short title

This By-law is called the Child-minder Services By-law, 2011.