



EMALAHLENI LOCAL MUNICIPALITY

DRAFT

**BY-LAW FOR THE REGULATION OF THE ACQUISITION AND USE OF SCRAP
METAL**

In accordance with the powers bestowed upon the Municipal Council of the Emalahleni Local Municipality in terms of section 11(3) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), read together with section 156 of the Constitution of the Republic of South Africa, Act 106 of 1996, the Municipal Council of the Emalahleni Local Municipality hereby adopts the Acquisition and use of Scrap Metal By-law of the Emalahleni Local Municipality, to take effect upon publication in the Provincial Gazette.

BE ENACTED by the Council of the Emalahleni Local Municipality, as follows:

TABLE OF CONTENTS

CHAPTER 1

Interpretation

1.	Definitions	3
2.	Interpretation of By-law	5
3.	Objects of By-law	5
4.	Application of By-law	

CHAPTER 2

Registration

5.	Appointment of registration board	6
6.	Registration of dealers	6
7.	Non-registration of certain persons	6
8.	Registration of scrap metal yards	7
9.	Municipality's right of refusal	7
10.	Dealer to furnish description of premises	8

CHAPTER 3

Acquisition of Scrap Metal

11.	The procurement of scrap metal materials	8
12.	The duty to report stolen goods	9
13.	Impounding or confiscation of stolen goods	9

CHAPTER 4

Use and operation of scrap metal yards

14.	Access to premises	11
15.	Prohibited conduct and activities	11
16.	Record keeping	12
17.	The storing of scrap metal	12

CHAPTER 5

General Provisions

18.	Authorised officials	12
19.	Powers and functions of authorised officials	13
20.	Compliance Notice	14
21.	Revocation of registration	15

CHAPTER 6**Enforcement**

- | | | |
|-----|------------------------|----|
| 22. | Offences and penalties | 16 |
| 23. | Notices | 17 |

CHAPTER 7**Miscellaneous**

- | | | |
|-----|------------------------------|----|
| 24. | Delegations | 17 |
| 25. | Repeal | 18 |
| 26. | Short title and commencement | 18 |

CHAPTER 1
INTERPRETATION

1. Definitions

In this By-law, unless the context otherwise indicates–

"Authorised official" means a person authorised to implement the provisions of this By-law, including but not limited to –

- (a) peace officers as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977);
- (b) municipal or metropolitan police officers as contemplated in the South African Police Service Act, 1995 (Act No. 68 of 1995); and
- (c) such employees, agents, delegated nominees, representatives and service providers of the Municipality as are specifically authorised by the Municipality in this regard: Provided that for the purposes of search and seizure, where such person is not a peace officer, such person must be accompanied by a peace officer;

"Constitution" means the Constitution of the Republic of South Africa, 1996;

"Council" or **"Municipal Council"** means the Emalahleni Municipal Council, a Municipal Council referred to in section 157(1) of the Constitution;

"Dealer" means a second-hand dealer or a scrap metal dealer;

"Firearm" means a devise defined in section 1 of the Firearms Control Act, 2000 (Act No 60 of 2000, as amended);

"Magistrate" means any Magistrate of the District or Regional Court, within the jurisdiction of Emalahleni;

"Municipality" means the Emalahleni Local Municipality and its legal successors, and when referred to as –

- (a) a legal entity, means Emalahleni Local Municipality as described in section 2 of the Local Government: Municipal Systems Act, (Act No. 32 of 2000); and
- (b) a geographic area, means the Municipal area of the Emalahleni Local Municipality as determined from time to time in terms of the Local Government: Municipal Demarcation Act, 1998 (Act No. 27 of 1998);

"Municipal Manager" means a person appointed in terms of section 82 of the Municipal Structures Act;

“Municipal Structures Act” means the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

“Motor vehicle” means any self-propelled vehicle, as envisaged in section 1 of the National Road Traffic Act, 1996 (Act No.93 of 1996), and includes–

- (a) a 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 and engine or motor.

"Notice" means a written notification issued or pictogram displayed in terms of this By-law which is prominently and legibly displayed in any part where the scrap metal business is conducted or presented to any person;

“Nuisance” means any act, omission or condition which is offensive, injurious or dangerous to health, or which materially interferes with the ordinary comfort, safety, convenience, peace or quiet of any person;

“Occupational Health and Safety Act” means the Local Government: Occupational Health and Safety Act, 1993 (Act No. 85 of 1993);

"Person" means a natural or juristic person;

"Prescribed fee" means a fee determined by the Council by resolution in accordance with the Policy;

“Registration board” means a board of individuals appointed by the Municipality to issue licenses as envisaged in this By-law and to regulate members of the scrap metal trade and profession;

“SAPS” means the South African Police Service;

“SAPS 13 register” means the register kept to account for objects seized and confiscated by the South African Police Service;

“Scrap metal” includes-

- (i) any old metal or broken metal;
- (ii) any broken, worn out or defaced or manufactured, or partly manufactured, processed or wrought articles which are not fit for the purpose for which they were manufactured, processed or wrought or which are no longer so required;
- (iii) metallic waste; or
- (iv) any metal, occurring as a mineral in a raw or natural state, in quantities of less than one thousand pounds in weight, except when utilized bona fide as raw metal geological specimens.

“Scrap metal dealer” means any person who carries on a trade or

business which consists wholly or partly of buying and selling scrap metal, whether the scrap metal sold is in the form in which it was bought or otherwise, and includes any person who, from a person other than a scrap metal dealer, buys or acquires scrap metal for further processing or for the manufacture of other things or for export, but does not include any person engaged in mining who in the course of his mining business buys or sells scrap metal from or to another such person;

“Second-hand goods” means any goods which have been bought or delivered or are possessed for sale after use by a previous owner, and include goods received by any person from their previous owner in partial or full consideration for any contract, or by way of deposit or part deposit in respect of any hire-purchase or instalment sale agreement, but does not include re-possessed goods so long as the said goods remain in the possession of the seller thereof;

“Second Hand Goods Act” means the Local Government: Second-Hand Goods Act, 2009 (Act No. 6 of 2009);

“Systems Act” means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

“Trade Metrology Act” means the Local Government: Trade Metrology Act, 1973 (Act No. 77 of 1973);

“Waste Act” means the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008).

2. Interpretation of By-law

- (a) This By-law shall be read with any applicable provisions of the Constitution, the Second-Hand Goods Act, the Trade Metrology Act, Waste Act and the Occupational Health and Safety Act and any other applicable legislation.
- (b) In the event that there is a conflict of interpretation between the English version of this By-law and a translated version, the English version shall prevail.

3. Objects of the By-law

The objects of this By-law are to –

- (a) promote public safety and prevent the theft of scrap metal materials by regulating the acquisition of scrap metal within the jurisdiction of the of the Municipality;
- (b) regulate the management, and proper use and enjoyment of scrap metal material for the benefit of the public;

- (c) promote economic development by supporting the legitimate scrap metal industry while discouraging illegal and unethical practices;
- (d) establish a fair and transparent system for the acquisition and use of scrap metal that protects the rights of all stakeholders, including scrap metal dealers, consumers, and the general public;
- (e) engage user groups and stakeholders in a formalised manner; and
- (f) to provide for matters incidental thereto.

4. Application of the By-law

This By-law applies to –

- (a) any person who directly or indirectly partakes in the sale, purchasing or procurement of scrap metal materials, within the jurisdiction of the Municipality;
- (b) any premises or business operating as a scrap metal yard, distributor, wholesaler or private salesperson of scrap metal, or representing themselves as such, within the jurisdiction of the Municipality;

CHAPTER 2

REGISTRATION

5. Appointment of the registration board

- (1) The Municipality reserves the right to appoint a registering authority, to be responsible for the registration of scrap metal dealers and scrap metal yards, within the jurisdiction of the Municipality.
- (2) The registering authority shall be responsible for the administration of the Act.
- (3) The registering authority may delegate any of his powers or functions under this Act, to any police officer or public officer.

6. Registration of dealers

- (1) From the date of commencement of this By-law, no person shall carry on the business of a second-hand dealer or scrap metal dealer, or purport themselves to be such, without being registered as such in terms of this By-law.
- (2) An application for registration as a scrap metal dealer under this By-law, must be made in the prescribed form, to the registering authority and may be granted or refused at the discretion and consideration of said authority
- (3) Every application for registration as a scrap metal dealer, under this By-law, must be accompanied by the payment of the appropriate prescribed fee.

- (4) Registration as a scrap metal dealer under this By-law, shall be effective from the date of its entry in the register as such by the registering authority, for a period of one year, subject to renewal upon application and payment of the renewal fee.

7. Non-registration of certain persons

- (1) Save with the consent of the registering authority, the registering authority shall not register any person in terms of this By-law who—
- (a) is below the age of 18 years;
 - (b) has been tried and convicted of an offence under this By-law;
 - (c) has been convicted of an offence involving- fraud, forgery and uttering;
or
 - (d) has, within the last 5 years been convicted of an offence under the law of the Republic, for which such person was sentenced to a term of imprisonment without the option of a fine.
- (2) Nothing in this section provided shall be deemed to impair or delimit the general discretion of the licensing authority to refuse registration under this By-law.

8. Registration of scrap metal yards

- (1) From the date of commencement of this By-law, no person may carry out the business of being a second-hand dealer or scrap metal dealer at such premises, other than persons registered for such purpose, in terms of this By-law.
- (2) An application for the registration of a premises as a scrap metal yard, must be made in the prescribed form, to the registering authority and may be granted or refused at the discretion and consideration of said authority or the MEC.
- (3) Every application for registration of a premises as a scrap metal dealer yard, brought under this By-law, must be accompanied by the payment of the appropriate prescribed fee.
- (4) The registration of a premises as a scrap metal yard under this By-law, shall be effective from the date of its entry thereof in the register as such by the registering authority, for a period of one year, subject to renewal upon application and payment of the renewal fee.

9. Dealer to furnish description of premises

- (1) Every person making an application for registration in terms of section 8 of this By-law, is required at such time of the application being made to

furnish the registering authority with the following documentation to be submitted in accompaniment with the completed registration form:

- (a) documentation evidencing proof of ownership of the property for which application is being made for, or alternatively a valid lease agreement evidencing the lawful use of such premises;
- (b) zoning documentation to evidence whether such premises may be used for the purposes intended by the person making such application;
- (c) a written description of the premises, accompanied by colour pictures of the internal and external features of the premises;
- (d) a business proposal setting out the intended use of said premises;
and
- (e) a map or plan of such premises.

10. Municipality's right of refusal

- (1) The Municipality reserves the right to refuse to grant an application brought in terms of section 6 or 8 of this By-law.
- (2) An applicant for registration in terms of section 6 of this By-law who is refused such registration, is barred from reapplying for such registration for a period of 1 year, calculated from the date of receipt of such refusal.
- (3) In such instance of refusal of an application made in terms of this By-law, the Municipality must provide written reasons for such refusal to the unsuccessful applicant within 14 days of refusal.

CHAPTER 3

ACQUISITION OF SCRAP METAL

11. The procurement of scrap metal materials

- (1) All scrap metal dealers operating within the jurisdiction of the Municipality, are required to comply with the provisions of this By-law and any other applicable laws or regulations related to the acquisition and use of scrap metal.
- (2) Scrap metal dealers are only permitted to acquire scrap metal materials from sources that are legally permitted to sell or dispose of said materials, and shall maintain records of the origin, quality, and composition of the materials procured.
- (3) Scrap metal dealers shall not engage in any form of theft, unauthorised removal, or vandalism of property in order to obtain scrap metal materials and shall cooperate with authorised officials and other authorities in the investigation and prosecution of any such activities.

- (4) Scrap metal dealers are prohibited from purchasing or accepting scrap metal materials from any person who cannot provide proof of ownership or lawful acquisition of such materials, or who is known or suspected to have obtained the materials through illegal means.
- (5) Scrap metal dealers shall maintain accurate records of all transactions involving the acquisition and sale of scrap metal materials, including the quantity, quality, and price of the materials, and shall make such records available to the registering authority and other authorised officials upon request.
- (6) The Municipality may periodically inspect the premises and records of scrap metal dealers to ensure compliance with this By-law and any other applicable laws or regulations related to the acquisition and use of scrap metal.
- (7) The Municipality may refuse to issue or renew licenses or registrations for scrap metal dealers who are found to be in violation of this By-law or any other applicable laws or regulations related to the acquisition and use of scrap metal

12. The duty to report stolen goods

- (1) Scrap metal dealers and members of the public who are consumers of said goods, are required to report any suspicious or unlawful activities involving the sale or acquisition of scrap metal materials to the registering authority, Municipality or law enforcement officials.
- (2) Scrap metal dealers are required to report any transactions that raise suspicion or concern to the Municipality and law enforcement officials, as to the origin or legality of the materials originating from supply sources and are further required to make available to said authorities the records of transactions from which said concerns arose.
- (3) If a scrap metal dealer, or consumer within the public, becomes aware of the sale of stolen scrap metal material, they shall immediately report the matter to the registering authority, Municipality or law enforcement officials, providing all available information about the seller, material, and any other relevant information.
- (4) Failure to report the sale of stolen scrap metal material shall be deemed to be a contravention of this By-law and may result in the suspension or revocation of the dealer's license or registration.
- (5) The Municipality shall undertake to maintain a register of all reports received concerning suspicious or unlawful activities involving the sale of suspected stolen scrap metal materials and shall take appropriate measures to investigate and prosecute such activities.

13. Impoundment or confiscation of stolen goods

- (1) In such circumstances where the registering authority is led to reasonably believe that the scrap metal procured and intended to be sold at a scrap metal yard or by a scrap metal dealer as second-hand goods, is in fact stolen scrap metal, the registering authority is authorised in terms of Section 22 of this By-law to impound or confiscate the said suspected stolen goods.
- (2) Such seizure of suspected stolen goods and materials may be effected without a warrant if the authorised official has reasonable grounds to believe that the said goods and materials are stolen property, and if:
 - (a) the person in control of the vehicle or premises consents to such stop, entry, search or seizure; or
 - (b) the authorised official has reasonable grounds to believe that a warrant will be issued, if the authorised official applied for it, and the delay caused by the obtaining of such a warrant would defeat the object of the stop, entry, search or seizure.
- (3) If subsection (2) does not apply, then an authorised official may stop, enter and search any premises or person and may seize goods and materials suspected of having been stolen, only on the authority of a warrant.
- (4) A judge in chambers or a magistrate may issue a warrant contemplated in subsection (3) on written application by an authorised official if it appears from information under oath or affirmation that –
 - (a) there are reasonable grounds for believing that said goods or materials are stolen goods;
 - (b) the search and seizure is likely to yield information pertaining to the theft of said goods; and
 - (c) the search and seizure is reasonably necessary for the purposes of this By-law.
- (5) An authorised official who seizes property as envisaged in subsection (1) shall deliver such seized property to a police station within the jurisdiction of the Municipality for safe keeping, to be duly entered into the SAPS13 register as an exhibit.
- (6) Any authorised official who seizes property as envisaged in subsection (1) must issue the owner or person who was in control of said property, with a seizure notice containing the following information:
 - (a) An itemised list of the property seized;
 - (b) the full name, identity number or passport number, and contact details of the person;
 - (c) confirmation as to whether the seized property is owned by the person from whom it was seized or whether it was just in said persons control,

if the latter is found to be the case the details of the owner of the property must be provided as envisaged in subsection (a);

- (d) the relevant section of this By-law which was contravened;
- (e) a written description of the property to be seized;
- (f) the address where such seized property will be kept;
- (g) the terms and conditions to be met for the release of the seized property;
- (h) where representations may be made for the release of the property or where payment of an admission of guilt may be made; and
- (i) a signed acknowledgement by the person from whom said property was seized, confirming receipt of said seizure notice and that they understand the contents thereof.

CHAPTER 4

USE AND OPERATION OF SCRAP METAL YARDS

14. Access to premises

- (1) No person may without the authorisation of the relevant scrap metal dealer or operational manager of a scrap metal yard, enter or remain in such premises without the said persons knowledge thereof and consent.
- (2) A person entering a scrap metal yard must at all times, act in strict compliance with the provisions of this by-law, as well as any lawful instructions and orders as may be issued or given by an authorised official.
- (3) Any person who acts in contravention of the rules provided in the Act concerning prohibited conduct and activities, may at the discretion of the relevant scrap metal dealer or operational manager of a scrap metal yard, be instructed to vacate said premises.

15. Prohibited conduct and activities

- (1) Subject to the provisions of Section 14 of this By-law, a person entering a scrap metal yard premises may not –
 - (a) conduct himself or herself in a manner which is inappropriate, improper or indecent;
 - (b) cause a nuisance, annoyance or disturbance to any other person within the premises, including, but not limited to, a disturbance by shouting, screaming or playing excessively loud music;
 - (c) leave any child unattended and unsupervised in such premises;
 - (d) damage, tamper with or destroy any equipment, amenity or structure within the premises;
 - (e) sell, offer or display for sale or hire any commodity or article or distribute any pamphlet, book, handbill, or other printed or written

matter without prior written consent of the Dealer or operations manager of the premises;

- (f) carry, possess or discharge a firearm within a scrap metal yard;
- (g) engage in any other conduct in contravention of this By-law or any other applicable By-law of the Municipality;
- (h) perform any act that may detrimentally affect the health of any visitors or employees within the scrap yard premises.

16. Record keeping

- (1) The registering authority must keep and maintain a register, in the prescribed form, of all scrap metal dealers and scrap metal yards, registered as such, for purposes of this By-law.
- (2) The record of such is required to be kept for no less than 10 years after the registration of such person or premises, even if such registration is not renewed.
- (3) Any record of renewal of such registration is required to be kept for a period of no less than 10 years from the date of such renewal.
- (4) Any record of the revocation of the registration of a person or premises, is required to be kept for a period of no less than 10 years from the date of such revocation.

17. The storing of scrap metal

- (1) Scrap metal dealers are required to ensure that all scrap metal materials within a scrap metal yard are stored in a manner that is safe, secure, and in compliance with all applicable health and safety regulations and environmental regulations and standards.
- (2) Scrap metal yards are to be located in areas designated for such purpose by the Municipality, and must be compliant with all zoning, building, and land use regulations applicable within said area.
- (3) Scrap metal yards are required to have appropriate fencing, lighting, and other security measures in place to prevent the theft, vandalism and unauthorised access to the premises and materials.
- (4) Adequate storage facilities must be made available on the premises for the storage of scrap metal materials, the storage facilities must be durable and designed to prevent any such materials stored therein from causing harm to persons or the environment.
- (5) Scrap metal Dealers are prohibited from using such premises to store any materials of a hazardous or toxic nature.

CHAPTER 5

GENERAL PROVISIONS

18. **Authorised Officials**

- (1) The Municipality may appoint any member of its staff as an authorised official.
- (2) Any duly appointed authorised official must be in possession of the prescribed staff identification card when exercising any power in terms of this By-law and must, upon request, produce such card.
- (3) Should the authorised official considered in subsection (2) fail to produce the staff identification card then no power granted in terms of this By-law can be exercised.

19. **Powers and functions of authorised officials**

- (1) An authorised official may without a warrant stop, enter, search and seize any article, vehicle, premises or person if the authorised official has reasonable grounds to believe that an offence in terms of this By-law has been or is being committed through use or such article, by said person or on or in such vehicle or premises if:
 - (c) the person in control of the vehicle or premises consents to such stop, entry, search or seizure; or
 - (d) the authorised official has reasonable grounds to believe that a warrant will be issued, if the authorised official applied for it, and the delay caused by the obtaining of such a warrant would defeat the object of the stop, entry, search or seizure.
- (2) If subsection (2) does not apply, then an authorised official may stop, enter and search any vehicle, premises or person and may seize an article contemplated in subsection (5)(h) only on the authority of a warrant.
- (3) A judge in chambers or a magistrate may issue a warrant contemplated in subsection (3) on written application by an authorised official if it appears from information under oath or affirmation that –
 - (d) there are reasonable grounds for believing that a contravention of this By-law has occurred;
 - (e) the search and seizure is likely to yield information pertaining to the contravention; and
 - (f) the search and seizure is reasonably necessary for the purposes of this By-law.

- (4) In enforcing or investigating compliance with this By-law, an authorised official may-
- (a) be accompanied by an interpreter, a police official or any other person who may be able to assist with the inspection;
 - (b) inspect any article which may be relevant to the investigation;
 - (c) examine, analyse, measure or make a copy of an article and remove it for examination, analysis, measurement, copying or extraction;
 - (d) require a person to produce or to deliver at such time and place as may be determined by the authorised official, an article for inspection;
 - (e) take a photograph or make an audio-visual recording of any person or anything for his or her investigation;
 - (f) question a person who, in the opinion of the authorised official, may be able to furnish information on a matter to which this By-law relates;
 - (g) direct a person to appear before him or her at such time and place as may be determined by the authorised official and question such person either alone or in the presence of any other person on a matter to which this By-law relates; and
 - (h) seize an article –
 - (i) which is concerned in or is on reasonable grounds believed to be concerned in an offence in terms of this By-law;
 - (ii) which may afford evidence of an offence in terms of this By-law; or
 - (iii) which is intended to be used or is on reasonable grounds believed to be intended to be used in the commission of an offence in terms of this By-law.
- (5) A person who so requests may, if possible, make a copy of an article to be removed or seized in terms of this section.
- (6) When an authorised official remove or seizes an article, the authorised official must issue a receipt to the owner or person in control thereof and, if possible, return the article as soon as practicable after achieving the purpose for which the article was removed or seized.
- (7) An authorised official must exercise their powers and functions with strict regard for decency and order, and with regard for each person's right to dignity, freedom, security and privacy.

20. Compliance Notice

- (1) The authorised official may serve a written compliance notice on any person if there are reasonable grounds for believing that the person is in contravention of this By-law. The compliance notice must –

- (a) describe the conduct constituting a contravention of this By-law;
 - (b) indicate which provision of this By-law or condition of approval is contravened;
 - (c) where relevant, state that the unlawful conduct constitutes an offence and indicate the penalty;
 - (d) where relevant, be issued together with a fine;
 - (e) instruct the person to cease the unlawful conduct;
 - (f) where relevant, impose conditions which must be complied with and specify the steps to be taken to comply;
 - (g) state that failure to comply with the notice constitutes an offence and indicate the penalty; and state that, in the event of non-compliance with the notice, the Municipality may take one or more of the following measures:
 - (i) issue the person with a fine for not complying with the compliance notice;
 - (ii) take steps to remedy any adverse effect arising from the person's actions and recover the costs from such person;
 - (iii) apply to a competent court for appropriate relief including the costs of the application; or
 - (iv) lay a criminal complaint.
- (2) The compliance notice may –
- (a) instruct the person within a specified time to, in writing, inform the Municipality what steps have been taken to comply with the notice;
 - (b) instruct a person at their cost to take specified action to the satisfaction of the Municipality within a specified time period to:
 - (i) cease, modify or control an activity causing, continuing or contributing to environmental harm;
 - (ii) investigate, evaluate and assess the impact of a specific situation or activity and report thereon;
 - (iii) undertake and complete specific measures;
 - (iv) eliminate or remove an encroachment or unauthorised structure;
 - (v) rehabilitate the affected environment; or
 - (vi) any combination of the provisions listed in paragraphs (i) to (v).
- (3) Should the person who has been issued with a compliance notice fail to comply, or inadequately comply with the compliance notice or authorisation, then the Municipality may take measures which it considers appropriate to remedy the situation and may authorise another person to take such measures.

- (4) The Municipality may recover costs incurred by it or any authorised person, for the measures undertaken as envisaged in subsection (3) from any or all of the persons on whom a compliance notice was issued.

21. Revocation of registration

- (1) The registering authority may revoke the registration of a dealer or title held by a scrap metal yard premises in terms of this By-law, upon consideration thereof in light of a contravention committed in respect of this By-law, or upon receipt of a directive in this respect from the Municipality.
- (2) The determination made in this respect must be communicated to such registered person or owner of said registered premises, in writing, in which the said person or must be duly notified of the immediate revocation of such registration title previously held.

CHAPTER 6

ENFORCEMENT

22. Offences and penalties

- (1) A person who –
- (a) contravenes, refuses or fails to comply with any provision of this By-law;
 - (b) refuses or fails to comply with any notice issued in terms of or for the purposes of this By-law;
 - (c) fails to comply with a lawful instruction given, in accordance with this By-law; or
 - (d) obstructs or hinders any authorised official of the Municipality in the execution of his or her duties under this By-law;
- commits an offence.
- (2) A person who is convicted of an offence under this section may be sentenced to a maximum fine of R40 000.00 or to imprisonment for a period not exceeding two years or to both such fine and imprisonment.
- (3) In the case of a continuing offence an additional fine of an amount not exceeding R500.00 or imprisonment for a period not exceeding ten days, for each day on which such offence continues or both such fine and imprisonment, will be imposed.

23. Notices

- (1) Save for a notice which is prominently displayed at the entrance to such premises of the scrap metal yard or place of business of such scrap metal

dealer, a notice, order or other document is regarded as having been properly served if:

- (a) It has been communicated verbally or delivered physically to the person concerned personally;
- (b) It has been sent by registered post to the person to whom it is addressed at his last known address;
- (c) It is served on a person apparently not less than 16 years of age and apparently in charge of the premises at the person's last known address.

CHAPTER 7

MISCELLANEOUS

24. Delegations

- (1) Subject to the Constitution and applicable national and provincial laws, any:-
 - (a) power, excluding a power referred to in section 160(2) of the Constitution;
 - (b) function; or
 - (c) duty,

conferred, in terms of this By-law, upon the Council, or on any of the Municipality's other political structures, political office bearers, councillors or staff members, may be delegated or sub-delegated by such political structure, political office bearer, councillor or staff member, to an entity within, or a staff member employed by, the Municipality.
- (2) A delegation in accordance with subsection (1) must be effected in accordance with the system of delegation adopted by the Council in accordance with section 59 (1) of the Systems Act, subject to the criteria set out in section 50 (2) of the said Act.
- (3) Any delegation contemplated in this section must be recorded in the Register of Delegations, which must contain information on the: -
 - (a) entity or person issuing the delegation or sub-delegation;
 - (b) recipient of the delegation or sub-delegation; and
 - (c) conditions attached to the delegation or sub-delegation.

25. Repeal

- (1) Any By-law relating to the regulation of the procurement, use or operation of scrap metal traders adopted by the Municipal Council prior to this By-law is hereby repealed from the date of publication of this By-law.
- (2) Any rights accrued or obligations incurred under any By-law repealed in terms of subsection (1), will remain in force as if that By-law has not been repealed.

26. Short title and commencement

This By-law shall be called the Emalahleni By-law for the regulation of the acquisition and use of scrap metal and takes effect from the date of publication thereof in the Provincial Gazette.