

## PROPOSED BY-LAW RELATING TO TRAFFIC

### 1. PURPOSE

To provide for the regulation of public transport and traffic within the area of jurisdiction of the City of Mangaung, and to provide for matters incidental thereto.

### 2. DEFINITIONS

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

**“Act”** means the National Road Traffic Act, 1996 (Act No. 93 of 1996);

**“authorised officer”** includes—

(a) a person in the service of the City whose duty is to inspect licences, examine vehicles, examine driving licences, or who is a traffic officer or a road traffic law enforcement officer, and also any other person declared by the Minister of Transport by regulation made in terms of the National Road Traffic Act to be an authorised officer; and

(b) a person appointed as an inspector by the City as contemplated in section 86 of the National Land Transport Act, 2009 (Act No. 5 of 2009);

**“authorised official”** means an employee of the City responsible for carrying out any duty or function, or delegated to carry out any duty or function, in terms of this By-law;

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

**“Council”** means the Council of the Mangaung Metropolitan Municipality or any political structure, political office bearer, councillor or any staff member acting under Council’s delegated or sub-delegated power;

**“driver”** means any person who drives or attempts to drive any vehicle or who rides or attempts to ride any 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;

**“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 3(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;

**“motor vehicle”** means any self-propelled vehicle 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, 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;

**“Municipality/City”** means Mangaung Metropolitan Municipality established by the Provincial Notice No. 261 of 28 March 2011, issued in terms of section 12 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

**“Municipal Manager/City Manager”** means the person appointed by the Council of the City as Municipal Manager in terms of section 54A of the Local Government Municipal Systems Act, 2000, as amended by Local Government: Municipal Systems Amendment Act, 2011 (Act No. 7 of 2011) and shall include any person acting in that position or to whom authority is delegated.

**“non-motorised vehicle”** means a vehicle or device utilised for land road based transport for the conveyance of goods or passengers, which is propelled either solely by animal power or by human power or a combination of human power, assisted by an alternative source of power or provided by any form of fossil fuel;

**“operating licence”** means an **“operating licence”** as defined in section 1 of the National Land Transport Act, 2009 (Act No. 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 titleholder 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 the regulations under 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;

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

“**permit**” means a “**permit**” as defined in section 1 of the National Land Transportation Act, 2009 (Act No. 5 of 2009);

“**public transport conductor**” means a person who, in a public 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 vehicle**” means a public motor vehicle used for the conveyance of passengers or of passengers and goods for hire or reward, including buses and taxis;

“**public transport service**” means a scheduled or unscheduled service for the carriage of passengers by road whether subject to a contract or not, and where the service is provided for a fare or any other consideration or reward, including cabotage in respect of passenger transport as defined in the Cross-Border Road Transport Act, 1998 (Act No. 4 of 1998) 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 or 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 3;

“**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;

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

“**stopping place**” in relation to—

- (a) a taxi, means a place designated by the City 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 City 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;

**“touting”** means soliciting passengers for a public transport vehicle by shouting, hooting, whistling or any other conduct, and **“tout”** has a corresponding meaning;

**“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; and

**“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.

### **3. PARKING AND PLYING FOR HIRE**

3.1 Subject to subsection (3.2), a driver of a public transport vehicle who plies for hire, or picks up or drops off passengers may park such public transport vehicle at a rank or any parking place demarcated for such public transport vehicles.

3.2 Despite subsection (3.1), the City may, in emergencies or at recreational and other similar functions, set aside temporary public transport facilities identified by the authorised officer as suitable for the parking and stopping of public transport vehicles.

3.3 No driver of a public transport vehicle may park such vehicle at a stopping place or any other place not demarcated for such public transport vehicles.

3.4 No driver of a public transport vehicle may, except with the written authorisation of the relevant operating licensing authority, may deviate from the allocated route and take short cuts through community roads for the purpose of plying for hire or driving to pick up or drop off passengers.

### **4. RANK TOKENS**

4.1 No person shall rank with a public transport vehicle at a rank unless a rank token in respect of such vehicle has been issued to him or her in terms of subsection (4.5).

4.2 No person must be issued with a rank token, unless he or she provides—

- (a) a certified copy of the operating licence or public permit;

- (b) a certified copy of certificate of roadworthiness;
- (c) an identification document or driving licence;
- (d) registration papers of the vehicle; and
- (e) letter of support from the relevant association.

4.3 No person may be issued with a rank token if he or she has outstanding warrants for the non-payment of traffic fines.

4.4 The rank token referred to in subsection (4.1) is valid for a period of 12 months from the date it was issued.

4.5 The authorised official shall, subject to subsections (4.2) and (4.3), issue in respect of a ranking public transport vehicle, a rank token specifying—

- (a) the rank at which the rank token applies;
- (b) the period for which such rank token is granted;
- (d) the registration number allotted to the vehicle concerned;
- (c) the make of such vehicle;
- (e) in respect of metered taxis, the number of the taxi-meter approved for use in such vehicle;
- (d) the operating license number of the vehicle; and
- (g) the routes for which such vehicle has authority to ply for hire.

4.6 An application for approval for a rank token must be submitted to the authorised official—

- (a) by the owner; and
- (b) in a form to prescribed by the City.

4.7 The authorised official may issue one rank token for each public transport vehicle.

4.8 Subject to section 77 of the National Land Transport Act, 2009 (Act No. 5 of 2009), the owner in respect of which a rank token has been issued shall, in writing, advise the authorised official of—

- (a) any change in his or her address during the operating period in which such rank token was issued;

- (b) his disposing of or otherwise ceasing to be the owner of such vehicle during such period;
- (c) the name and address of the person to whom it was disposed of; and
- (d) the cause of his or her ceasing to be the owner, within 7 days of such event.

4.9 The owner shall pay to the City a charge which shall be fixed by the Council from time to time for the use of each rank token issued in terms of this section.

4.10 No person may forge, imitate, deface, mutilate, alter or make a mark upon, a rank token.

## **5. PLACE OF VALIDITY OF RANK TOKEN**

5.1 No person shall, except with the written consent of an authorised officer, ply for hire with a public transport vehicle from any place other than the route, rank or other place specified on the rank token issued in terms of section (4.5) in respect of such vehicle.

5.2 No person shall—

- (a) affix a rank token to any vehicle other than the vehicle in respect of which it was issued; or
- (b) ply for hire with a public transport vehicle—
  - (i) unless the rank token issued in respect of such public transport vehicle for the current year is affixed to the left hand side of the windscreen thereof so that its face is clearly visible from outside;
  - (ii) whilst any rank token other than the rank token issued in respect of such public transport vehicle for the current year is affixed thereto; or
  - (iii) whilst any rank token which has ceased to be valid is affixed to such public transport vehicle.

## **6. PRODUCTION OF RANK TOKEN**

6.1 The holder of a rank token issued in terms of this By-law must—

- (a) maintain such rank token in a good and legible condition; and
- (b) keep and display it in the motor vehicle to which it relates at all relevant

times when such vehicle is being operated as a public transport vehicle.

6.2 Any authorised officer of the City may call upon the driver of any public transport vehicle to stop and may demand from him or her—

- (a) to produce the rank token required under the provisions of this By-law; and
- (b) to supply his or her full name and address and also the name and address of the owner or operator of such public transport service.

6.3 No driver referred to in subsection (6.2) may, when called upon to do so by any authorised officer—

- (a) refuse to stop;
- (b) refuse to supply his or her full name and address;
- (c) refuse to supply the correct name and address of the owner or operator of the vehicle in his or her charge;
- (d) refuse to produce a rank token; or
- (e) give a false name or address.

## **7. SUSPENSION OR WITHDRAWAL OF RANK TOKEN**

7.1 Where the holder of a rank token has been found guilty of contravening this By-law, and irrespective of whether any other penalty by a court of law has been imposed, the City may, subject to section 8, after all the circumstances of the case have been taken into consideration, act in terms of subsection (7.2).

7.2 The City may, after taking all the circumstances of the case into consideration, suspend a rank token for a period determined by the authorised officer or withdraw the rank token if—

- (a) the owner of the public transport vehicle—
  - (i) does not comply with an instruction issued in terms of this By-law; or
  - (ii) does not maintain the public transport vehicle at all times in a sanitary state and in a roadworthy condition; and
  - (iii) has outstanding arrest warrants for the payment of traffic fines;
- (b) an authorised officer inspects the public transport vehicle and finds that such vehicle—
  - (i) is constructed in such a way or is in such a condition that the public



transport vehicle is unsafe for the number of passengers that it is authorised to carry; or

(ii) does not comply with the conditions specified in this By-law or the Act.

7.3 No person may use or allow a vehicle to be used as a public transport vehicle at a public transport facility if the rank token of such public transport vehicle has been suspended or withdrawn, or has expired.

7.4 If an operating licence has been suspended, cancelled or withdrawn by the relevant licencing authority, the rank token issued by the City is automatically suspended, cancelled or withdrawn, as the case may be.

7.5 Where on appeal by the holder of an operating licence to the relevant authority the suspension, cancellation or withdrawal of an operating licence is reversed, the City may re-issue a rank token subject to certain specified conditions.

## **8. PROCEDURE FOR SUSPENSION OR WITHDRAWAL OF RANK TOKEN**

8.1 A rank token may not be suspended or withdrawn unless—

(a) the authorised official has given the holder of a rank token and any public transport association or council of which the holder is a member, at least 14 days written notice by certified mail of his or her intention to suspend or withdraw the rank token, and such a notice must give—

(i) the reasons for the proposed action and an adequate statement setting out the nature of the action;

(ii) an invitation to the holder of the rank token to make representations on the matter;

(iii) an address for the submission of representations as contemplated in sub-paragraph (ii); and

(iv) the date, time and place of a hearing, which may not be less than 28 days from the date of the notice, to consider the suspension or withdrawal, and an indication that the holder may submit representations and appear at the hearing.

(b) the holder of a suspended or withdrawn rank token is given an opportunity, to either personally or through his or her duly authorised representative, appear at a hearing and to make representations to the City.

8.2 If a holder of a rank token who has received a notice referred to in subsection (8.1) wishes to appear and to oppose the proposed action, he or she must, within 14 days of receiving the notice or within a further period that the City



may allow, submit representations in writing by hand or by certified mail to the address indicated in the notice.

8.3 After the hearing referred to in subsection (8.1), the City must give a ruling on whether or not to suspend or withdraw the rank token and the authorised official must give the holder of such rank token his or her reasons for the ruling in writing not later than 14 days after the date of the conclusion of the hearing.

8.4 A record of the proceedings at the hearing referred to in subsection (8.1) must include—

- (a) the evidence given, if any;
- (b) any objection made to any evidence received or submitted; and
- (c) the ruling given at the hearing.

## **9. CHANGE OF ADDRESS**

The holder of a rank token must give notice to the City in writing of any change of address within 14 working days thereof by pre-paid registered post, telefax or hand delivery.

## **10. CORRECTION OR REPLACEMENT OF RANK TOKEN**

10.1 Subject to section 3, if the particulars reflected on a rank token are incorrect by virtue of a change in such particulars or for any other reason, the holder of such rank token must submit such rank token to the City for the amendment thereof.

10.2 If a rank token is damaged in a manner that the particulars thereon cannot reasonably be ascertained, the holder of a damaged rank token must submit it to the City and the authorised official may replace such damaged rank token at the cost of the holder of the rank token.

## **11. USE OF RANKS**

11.1 The driver of public transport vehicle must, when plying for hire at a rank, do so in a queue and must —

- (a) position his or her public transport vehicle in the first vacant place available in the queue immediately behind any other public transport vehicle already in front in the lane for which he or she has the route authority; and
- (b) move his or her vehicle forward as the queue moves forward.

11.2 When plying for hire at a rank, a driver—

- (a) of any public transport vehicle which occupies the first, second or third position from the front of any queue at a rank must be in close and constant attendance of his or her vehicle so long as it remains in such a position;
- (b) may not position his or her public transport vehicle ahead of any public transport vehicle that arrived and took up a position in the queue before he or she did; and
- (c) may, if his or her vehicle is the first public transport vehicle in the queue, and any person calls for a public transport service, respond to the call, unless the person clearly indicates his or her preference for another public transport service not in front of the queue.

11.3 No person may park or stop a vehicle which is not in good working order as required by the Act, in a rank, or cause or permit the vehicle to remain in a rank.

11.4 No person may park or stop any vehicle in a rank except a public transport vehicle for which a rank token, specifying the rank, has been issued for the period in question, in terms of section (11.3).

11.5 No person may wash any motor vehicle at a rank, except at a wash bay at the facility that has been specially constructed for this purpose.

## **12. RIGHT OF ENTRY**

12.1 An authorised officer may, in enforcing the provisions of this By-law, at any reasonable time and without prior notice—

- (a) enter a public transport service facility to inspect the facility; and
- (b) make enquiries from a person connected with such facility.

## **13. DRIVER'S LICENCE**

13.1 No person shall drive a motor vehicle on a public road—

- (a) except under the authority and in accordance with the conditions of a licence issued to him or her in terms of the Act or of any document deemed to be a licence for the purposes of the Act; and
- (b) unless he or she keeps such licence or document or any other prescribed authorisation with him or her in the motor vehicle.

## **14. MOTOR VEHICLE LICENCE**

Subject to the provisions of the Act, every motor vehicle in the City shall,

whether or not it is operated on a public road, be licenced by the owner of such motor vehicle, in accordance with the provisions of the Act, with the relevant licensing authority.

## **15. OPERATING LICENCE OR PERMIT**

15.1 Subject to the provisions of section 32 of the Act, no person shall drive a motor vehicle of a class prescribed in terms of the Act on a public road except—

- (a) in accordance with the conditions of a permit issued to him or her in accordance with the provisions of the Act; and
- (b) if he or she keeps such permit with him or her in the motor vehicle, provided that this subsection shall not apply to the holder of a learner's licence who drives such motor vehicle whilst he or she is accompanied by a person registered as a driver in respect of that class of vehicle.

## **16. PRODUCTION OF OPERATING LICENCE OR PERMIT**

16.1 The holder of an operating licence must—

- (a) maintain the operating licence in a good and legible condition; and
- (b) keep the operating licence in the motor vehicle to which it relates at all relevant times when the vehicle is being operated as a taxi or bus.

16.2 A traffic officer may call on the driver of a taxi or bus to stop and may demand that he or she—

- (a) produce the operating licence; and
- (b) give his or her full name and address and also the name and address of the owner of the taxi or bus.

16.3 A driver referred to in subsection (16.2) may not—

- (a) operate a public transport service without a valid operating licence; or
- (b) allow the operating licence to be used for a vehicle other than that specified in such operating licence.

## **17. UNAUTHORISED HANDING OVER OR ABANDONMENT OF TAXI OR BUS**

17.1 No driver of a taxi or bus may—

- (a) abandon his or her vehicle; or
- (b) allow any other person to drive the taxi or bus under his or her control

without the consent of the holder of the operating licence or public permit concerned.

## **18. PREVENTING ENGAGEMENT OF PUBLIC TRANSPORT VEHICLE**

18.1 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.

## **19. CONVEYING DANGEROUS OR OFFENSIVE ARTICLES IN PUBLIC TRANSPORT VEHICLE**

19.1 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.

## **20. BOARDING AND DISEMBARKING OF PUBLIC TRANSPORT VEHICLE**

20.1 No person may board a public transport vehicle until all persons desiring to disembark from such vehicle have done so.

20.2 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.

20.3 No person may board or alight or attempt to board or disembark from any public transport vehicle whilst such vehicle is in motion.

## **21. QUEUES AT PUBLIC TRANSPORT FACILITIES**

21.1 At any established ranking facility, the City 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.

21.2 All passengers intending to enter any public transport vehicle at an established ranking facility or stopping place must queue from the point at which it is indicated that such public transport vehicle will leave.

21.3 Where no queue sign has been erected, passengers waiting to enter a public transport vehicle must form themselves into a queue not exceeding two abreast or in a single file when required to so by an approved public transport conductor or authorised official of the City.

21.4 A passenger may only enter a public transport vehicle when he or she gets to the front of the queue.

21.5 Every passenger queuing must comply with all the instructions given by a public transport conductor, authorised officer or authorised official when on duty.

## **22. GARMENTS AND IDENTIFICATION OF PUBLIC TRANSPORT SERVICE CONDUCTOR**

22.1 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.

22.2 No public transport service conductor or any other person may engage in touting.

## **23. 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.

## **24. PAYMENT OF FARES**

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

## **25. RIGHTS AND DUTIES OF PASSENGERS WHEN PUBLIC TRANSPORT BECOMES DEFECTIVE**

25.1 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 should the passengers have already paid their fares, they are entitled to a refund to the amount of their fares so paid.

25.2 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.

25.3 A driver who refuses to refund a passenger, as contemplated in subsection

(25.1), or who refuses to allow a passenger to travel in the manner as contemplated in subsection (25.2) commits an offence.

## **26. ANIMALS**

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

## **27. ACTIONS PROHIBITED ON A PUBLIC TRANSPORT VEHICLE**

27.1 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) committing an offensive act;
- (e) interfering with the comfort of any passenger;
- (f) damaging anything and interfering with the equipment of the public transport vehicle in any way;
- (h) forcibly causing the driver to deviate from his route;
- (i) endangering the life of another person; and
- (j) interfering with the actions of the driver.

## **28. BEHAVIOUR PROHIBITED AT 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 a queue or the vicinity of a public transport facility by any authorised officer of the City.

## **29. PROPERTY LEFT IN PUBLIC TRANSPORT VEHICLES**

29.1 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.

### **30. OVERLOADING**

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

### **31. OBSTRUCTION AND DISTRUCTION OF TRAFFIC**

31.1 No person may park or allow a public transport vehicle to park in a stopping place designated for specific public transport vehicles.

31.2 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.

31.3 No public transport vehicle may traverse a pedestrian crossing when stopping to enable passengers to be picked up or dropped off.

31.4 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.

### **32. DUTIES OF PEDESTRIANS**

32.1 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.

32.2 Where a marked pedestrian crossing exists at an intersection, a pedestrian may only cross the intersection within the marked pedestrian crossing.

32.3 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.

32.4 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.

32.5 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.

- 32.6 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.

### **33. 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.

### **34. DUTY TO INDICATE WHEN CHANGING LANES**

- 34.1 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.

- 34.2 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.

### **35. DRIVING ON SHOULDERS**

- 35.1 Subject to subsection (35.2), no person shall drive a motor vehicle on the shoulder of a public road.

- 35.2 Notwithstanding subsection (35.1), 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;
- (b) if he or she can do so without endangering himself or herself, other traffic, pedestrians or property on such public road; and
- (c) if persons and vehicles upon a public road are clearly discernible at a distance of at least 150 metres.

### **36. PROHIBITION ON USE OF COMMUNICATION DEVICE WHILE DRIVING**

- 36.1 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.

36.2 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.

36.3 Subject to subsections (36.1) and (36.4), an authorised officer may, in the public interest and safety of the public, confiscate and impound a hand held communication device.

36.4 The authorised officer must, when confiscating any hand held communication device—

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

### **37. CONFLICTING LAWS**

If there is any conflict between a provision in this By-law and a provision of any other by-law of the Municipality, the provisions of this By-law shall prevail to the extent of the inconsistency.

### **38. OFFENCES AND PENALTIES**

38.1 A person who contravenes a provision of this By-law commits an offence.

38.2 A person who commits an offence referred to in subsection (38.1) is, on conviction, liable for a fine not exceeding R10 000, 00 or a term of imprisonment not exceeding three years, or both such fine and such imprisonment.

### **39. REPEAL OF LAWS**

The Bloemfontein Traffic Regulations No. 116 of May 22, 1981, as amended is hereby repealed, and any by-laws relating to traffic control adopted by Council or any municipality now comprising part of the City is repealed from the date of promulgation of this By-law.

### **40. SHORT TITLE AND COMMENCEMENT**

This By-law is called **Mangaung, Traffic By-law** and comes into operation on the date of promulgation thereof in the Provincial Gazette.