

BY-LAW RELATING TO CAR WASHES

WHEREAS the *Constitution* authorizes a municipality to pass By-laws;

AND WHEREAS the *Constitution* authorizes a municipality to pass By-laws for municipal purposes respecting the safety, health, nuisances, pollutions and welfare of people and the protection of people and property;

AND WHEREAS the *Constitution* authorizes a municipality to pass By-laws for municipal purposes respecting people, activities and things in, on or near a public place or place that is often open to the public;

AND WHEREAS the *Constitution* authorizes a municipality to pass By-laws for municipal purposes respecting systems of approvals and permits;

AND WHEREAS the *Constitution* authorizes a municipality to pass By-laws for municipal purposes respecting the implementation and enforcement of by-laws including providing for inspections to determine if by-laws are being complied with;

AND WHEREAS regulating car washes within the City of Mangaung is desirable;

AND WHEREAS it is deemed expedient to make the by-law which controls and regulates car washes in the City of Mangaung;

NOW THEREFORE THE COUNCIL OF MANGAUNG METROPLITAN MUNICIPALITY ENACTS AS FOLLOWS:

1. DEFINITIONS AND INTERPRETATION

1.1 In this By-law unless the context otherwise indicate:

“Adverse Effect” means impairment of or damage to, or the ability to cause impairment of or damage to:

- i. storm drainage system;
- ii. human health or safety; or
- iii. the environment.

“By-law Enforcement Officer” means a person appointed by the Municipality in order to implement and enforce the provisions of this By-law and other by-laws of the City.

“Car Wash” means a business of cleaning vehicles as a main service and

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includes washing, detailing, drying, polishing, valet, vacuuming, or other cosmetic care of vehicles, either at a fixed location or as part of a mobile, on- demand , or “pop-up” service.

“**City**” means the Mangaung Metropolitan Municipality and the geographical area within the boundaries of the Municipality where the context so requires;

“**City Manager**” means a person appointed by the Council as the head of municipal administration or that any person appointed to act in that capacity or powers delegated to him/her or the City Manager’s designate;

“**Council**” means the Council of Mangaung Metropolitan Municipality, and include any municipal councillor or employee to whom the Council has delegated the powers, functions and duties vesting in the Council in relation to this By-Law.

“**Hazardous Substance**” means a substance that is either a hazardous substance or a hazardous waste, or has the properties of hazardous waste, as described in the Municipal Environmental Health By-laws;

“**Municipality**” means Mangaung Metropolitan Municipality established by the Provincial Notice №. 155 of 2016 as published in the Provincial Gazette, Free State Province of 22 July 2016, issued in terms of section 12 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

“**Operator**” or “**Owner**” means a person who runs a car wash as his/her business.

“**Person**” means any of the following:

- (i) an individual;
- (ii) a legal entity or business entity, including a firm, association, partnership, society or corporation;
- (iii) a trustee, executor, administrator, agent or employee of either (i) or (ii);

“**Premises**” includes lands and buildings or both, or a part thereof;

“**Prohibited Material**” means any substance that may, directly or indirectly, obstruct the flow of water within the storm drainage system or may have an adverse effect and includes, but is not limited to:

- (i) soil, sediment, waste or other solid matter;
- (ii) gasoline, motor oil, greases, transmission fluid, and antifreeze;

- (iii) solvents;
- (iv) paint;
- (v) hazardous substances;
- (vi) soaps or detergents;
- (vii) any substance or combination of substances that emits an odour.

“Release” means to directly or indirectly conduct a substance to the storm drainage system by spilling, discharging, disposing of, abandoning, depositing, leaking, seeping, pouring, draining, emptying, or by any other means; or a spill, release, disposal, abandonment, deposit, leak, seep, pour, drain or emptying of a substance into the storm drainage system;

“Storm Drainage” means runoff that is the result of rainfall and other natural precipitation or from the melting of snow or ice;

“Spill” means when anything, whether big or small and of any size and whether chemical or biological, that is harmful is dumped into a storm sewer.

“Storm Drainage System” means the system for collecting, transmitting, storing, treating, and disposing of storm drainage and foundation drainage, and includes:

- i. the catch basins, sewers and pumping stations that make up the storm drainage collection system;
- ii. the storm drainage facilities, structures or things used for storage, management and treatment to buffer the effects of runoff or improve the quality of the storm water;
- iii. the sewers and pumping stations that transport storm drainage to the location where it is treated or disposed of,
- iv. the storm drainage outfall structures; and
- v. the surface drainage facilities, but does not include plumbing or service connections in buildings;

“Street” means any thoroughfare, highway, road, trail, avenue, parkway, driveway, viaduct, lane, alley, square, bridge, causeway, trestle-way, or other place, whether publicly or privately owned, any part of which the public is ordinarily entitled or permitted to use for the passage or parking of vehicles, and includes:

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- (i) a sidewalk (including the boulevard portion of the sidewalk);
- (ii) if a ditch lies adjacent to and parallel with the roadway, the ditch; and
- (iii) if a street is contained between fences or between a fence and one side of the roadway, all the land between the fences, or all the land between the fence and the edge of the roadway, as the case may be, but does not include a place declared by the Council not to be a street.

“Substance” means any one or more of the following:

- (i) any solid matter;
- (ii) any liquid matter;
- (iii) any gaseous matter;
- (iv) any sound, vibration, heat, radiation, or other form of energy;
- (v) any combination of (i), (ii), (iii) or (iv);

“Wastewater System” means the system owned and operated by the City for the collection, transmission, treatment and disposal of wastewater;

“Water” means all water in any form on or under the surface of the ground;

- 1.2 Each provision of this By-law is independent of all other provisions and if any provision is declared invalid for any reason by a Court of competent jurisdiction, all other provisions of this By-law remain valid and enforceable.
- 1.3 Any headings or sub-headings in this By-law are included for guidance purposes and convenience only, and shall not form part of the interpretation of this By-law.
- 1.4 Any Schedule attached to this By-law shall form a part of this By-law.
- 1.5 Where this By-law cites or refers to any other Act, by-law, regulation, agency, organization or publication, the citation or reference is to the Act, by-law, regulation, agency, organization or publication as amended, whether amended before or after the commencement of this By-law, and includes reference to any Act, by-law, regulation, agency, organization or publication that may be substituted in its place.

2. SCOPE AND APPLICATION OF BY-LAW

- 2.1 The By-law applies to all owners or operators of car washes, whether formal or informal, and their employees within the area of jurisdiction of the Municipality.
- 2.2 The By-law does not cover car washing at home and businesses where cars were brought in for service or repairs purposes and their main service is not cleaning vehicles.

3. LEGISLATIVE FRAMEWORK

- 3.1 The following are, inter alia, major relevant by-laws in relation to matters regulated by this By-law:
 - 3.1.1 Waters Services By-laws;
 - 3.1.2 Waste Management By-laws;
 - 3.1.3 Environmental Health By-laws;
 - 3.1.4 Storm-water Management;
 - 3.1.5 Public Nuisance; and
 - 3.1.6 Electricity Supply
- 3.2 Nothing in this By-law relieves a person from complying with any provision of any provincial or national law or regulation or other by-law or any requirement of any lawful permit, order or licence.
- 3.3# In case of conflict between this By-law and any other by-law of the Municipality, the provisions of this By-law shall prevail in as far as matters regulating car washes are concerned.

4. STORM-WATER DRAINAGE SYSTEM

- 4.1. No person may, except with the written consent of the Municipality and subject to any conditions that the Municipality may impose, discharge, permit to enter or place any harmful chemicals, oil, dirt and other pollutants that can pose serious threats to human health or safety into the storm-water system-
 - (a) damage, endanger, destroy or undertake any action likely to damage, endanger or destroy, the storm water system or the operation thereof;
 - (b) discharge from any place, or place onto any surface, any substance other than storm water, where that substance could

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reasonably be expected to find its way into the storm water system;

- (c) discharge, permit to enter or place anything likely to damage the storm water system or interfere with the operation thereof or contaminate or pollute the water therein;
- (d) construct or erect any structure or thing over or in such a position or in such a manner so as to interfere with or endanger the storm water system or the operation thereof;
- (e) make an opening into a storm water pipe, canal or culvert;
- (f) drain, abstract or divert any water directly from the storm water system, or
- (g) fill, excavate, shape, landscape, open up or remove the ground above, within, under or immediately next to any part of the storm water system.

4.2 The operator must also ensure compliance with any other provision of the Storm-water Management By-laws of the Municipality.

5. WATER POLLUTION, RESTRICTIONS AND UNAUTHORISED CONNECTIONS

5.1 An operator shall provide and maintain approved measures to prevent the entry of any substance, which may be a danger to health or adversely affect the portability of water or affect its fitness for use, into–

- (a) the water supply system; and
- (b) any part of the water installation on his or her premises.

5.2 The Municipality may by public notice to prevent the wasteful use of water or in the event of a water shortage, drought or flood prohibits or restricts the use of water for car wash purposes in the whole or part of its area of jurisdiction.

5.3 The Municipality may –

- (a) take, or by written notice require an operator at his or her own expense to take, such measures, including the installation of measurement device for restricting the flow of water, as may in its opinion be necessary to ensure compliance with a notice published in terms of subsection (5.2); or
- (b) discontinue or, for such period as it may deem fit, limit the

supply of water to the business area in the event of a contravention on such area or failure to comply with the terms of a notice published in terms of subsection (5.2) ; and

- (c) where the supply has been discontinued, it shall only be restored when the prescribed fee for discontinuation and reconnecting the supply has been paid.

5.4# No person other than the Municipality shall effect a connection to the water supply system. The use of water from unauthorised water connection is prohibited. Where it is practically possible, a car wash should be metered separately.

5.5 The operator must also ensure compliance with any other provision of the Water Services By-laws of the Municipality.

6. WASTE MANAGEMENT

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6.1 No operator is allowed to litter or dump any waste material on his or her business premise or will allow any person under his/her control to do any act of unlawful littering or dumping

6.2 If any litter has been discarded, dumped or left behind the operator must within a reasonable time after such act, remove such litter or cause it to be removed.

6.3 Any waste handled by the operator must not cause any nuisance to the public and at their own cost, clean any waste causing nuisance to the public.

6.4 No operator may dispose of any waste by burning it unless authorized to do so by the Municipality.

6.5 The operator must also ensure compliance with any other provision of the Waste Management By-laws of the Municipality.

7. ENVIRONMENTAL HEALTH

7.1 No person may dispose waste water from any car wash premises in a way or in a location that may -

- (a) cause dampness in or on any premises;

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(b) cause waste water to be discharged into the water drainage system and cause risk to public safety; or

- (c) create a public health nuisance and/or hazard.

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7.2 An operator creates a public health nuisance if he or she throws, dumps, stores, keeps or drops refuse, rubbish, glass, tins, paper,

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waste water or other litter or waste, whether liquid or solid, on or in a street, road, sidewalk, vacant stand, public place or erf, spruit or watercourse, or cause or permit it to be thrown, dumped or dropped there, or cause or permit any such liquid to flow into such a place.

- 7.3 The operator must also ensure compliance with any other provision of the Environmental Health By-laws of the Municipality.

8. MISCELLANEOUS PROVISIONS

8.1 Prohibited or Restricted Areas

8.1.1 The Council may, by resolution declare any place in its area of jurisdiction to be an area in which car washing business is restricted or prohibited, and must, to enable compliance therewith, prescribe or make signs, markings or other devices indicating the locations of boundaries of restricted or prohibited areas.

8.1.2 Any sign erected in terms of this By-law or any other law, must serve as sufficient notice to an operator of the prohibition or restriction of the area concerned.

8.2 Prohibited Conduct

8.2.1 No person must cause excessive noise in violation of the Noise Control By-laws of the Municipality.

8.2.2 No person must urinate in public in violation of the Public Nuisances By-laws of the Municipality.

8.2.3 No person must use defamatory language or cause any violent act or disrupt the activities of the business.

8.3 Car Wash Permit

8.3.1 If car washing is commercial, the operator must have a permit in order to run the car wash business.

8.3.2 The permit is not required if one:

- a) sells, leases, rents or repairs motor vehicles as his/her *main service* and only offer car washing as an additional service to the main service; (e.g. one's business is a repair shop and washes the cars that he/she repairs)
- b) washes cars on an intermittent basis to raise funds for a non-profit organization; and
- c) washes his/her car(s) at home.

8.3.3 Submission of application does not mean that the application is automatically approved.

8.3.4 The following documents must accompany the application:

- *Prescribed form*, from the Municipality;
- *Copy of South African Identity Document*;
- Identified *site or premises*; and
- *Prescribed fee*, to be determined by Council from time to time.

8.3.5 All car wash operators, whether commercial or informal, should have a copy of set of good practices developed by the Municipality and it should include, inter alia, water conservation and treating wastewater and discharging it into the sanitary sewer system where it will receive further treatment.

9. OFFENCES AND PENALTIES

9.1 Any Person who contravenes any provision of this By-law by:

- (a) doing any act or thing which the person is prohibited from doing; or
- (b) failing to do any act or thing which the person is required to do, is guilty of an offence; and
- (c) No person shall hinder, interrupt or cause to be hindered any employee of the City or its contractors, servants and agents or workers, in the exercise of the powers or duties as authorized or required in terms of this By-law.

9.2 Any person who is convicted of an offence pursuant to this By-law is liable to a fine not exceeding R5 000, 00 or imprisonment for not more than one (1) month, or both, and in default of payment of any fine imposed, to imprisonment for a term not exceeding one (1) month.

10. SHORT TITLE AND COMMENCEMENT

10.1 This By-law shall be known as **Mangaung, Car Washes By-law** and comes into force on the date of publication thereof in the Provincial Gazette.

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