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KING SABATHA DALINDYEBO MUNICIPALITY

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HEALTH BY-LAWS FOR HOMES FOR THE ELDERLY

2021

The Municipal Manager of the KING SABATHA DALINDYEBOM Municipality)ft hereby publishes in terms section 13 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), read with section 162 of the Constitution of the Republic of South Africa, 1 996 (Act 1 08 of 1 996), the King Sabatha Dalindyebo Municipality: Health By-Laws for Homes for the Elderly.

The said By-laws reflected hereunder will come into operation on date of promulgation hereof.

NGAMELA PAKADE  
MUNICIPAL MANAGER

25 MARCH 2021

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KING SABATHA DALINDYEBO MUNICIPALITY  
HEALTH BY-LAWS FOR HOMES FOR THE ELDERLY

To provide for the regulation of Homes for the Elderly in the area of jurisdiction of the KING SABATHA DALINDYEBO by setting down structural and general requirements for compliance monitoring and certification of Homes for the Elderly and to provide for any matters incidental thereto,

PREAMBLE

WHEREAS section 24(a) of the Constitution provides that everyone has the right to an environment that is not harmful to their health and well-being; and

WHEREAS the need to improve the quality of life of all the residents of the City; and

WHEREAS the need to regulate matters relating to homes for the elderly in the Municipality in general as well ensuring a safe environment for our elderly to live in peace and with the dignity afforded to all as provided for in the Bid of Rights,

BE IT THEREFORE ENACTED by the KING SABATHA DALINDYEBO as follows

## ARRANGEMENT OF SECTIONS

SECTION	HEADING	PAGE
	CHAPTER 1	
1	Definitions	
2	Application of b -laws	
3	Health certificates	
4	Application of b -laws to existing homes for the a elderly	
5	Validity of health certificates	
6	Withdrawal of health certificates	
	CHAPTER 2	
	FACILITIES IN RESPECT OF CATEGORY A AND CATEGORY B RESIDENTS	
7	Accommodation facilities	
8	Kitchen	
9	Dining areas	
10	Lounges and sun porches	
11	Administrative office	
12	Storage facilities	
13	Bathroom and toilet facilities for residents	
14	Toilet facilities for _____	
15	visitors Laundry and ironing area	
16	Corridors	
17	Sickbays	
18	Heating	
19	Windows	
20	<u>Floor surfaces</u>	

	CHAPTER 3 ADDITIONAL FACILITIES IN RESPECT OF CATEGORY C RESIDENTS	
21	Additional Facilities	
	CHAPTER 4 ACCOMMODATION AND FACILITIES FOR RESIDENT AND NON-RESIDENT STAFF	
22	Accommodation and facilities for resident staff	
23	Facilities for non-resident staff	
	CHAPTER 5 GENERAL	
24	General provisions in respect of all premises	
25	<u>Suspension or termination</u> of operations	
26	Right of entry and inspection of premises and records	
27	Offences	
28	Presumptions	
29	<u>Short title and commencement</u>	

HEALTH BY-LAWS FOR HOMES FOR THE ELDERLY

CHAPTER 1

DEFINITIONS, APPLICATION OF BY-LAWS AND HEALTH CERTIFICATES

1. Definitions

For the purposes of these by-laws, unless the context indicates otherwise  
— "adequate" means adequate in the opinion of the Municipality;  
"approved" means approved by the relevant authority, regard being had to the reasonable environmental health requirements that may apply to each particular case;

"authorised officer" means any employee, official or metropolitan police officer of the Municipality who is duly authorised to exercise any power or perform any function in terms of these by-laws;

"category A resident" means a resident who is about 55 years of age or older and who is generally healthy and able to care for himself or herself;

"category B resident" means a resident who is about 55 years of age or older and who is generally healthy but unable to care for himself or herself;

"category C resident" means a resident who is about 55 years of age or older, who needs 24 hour care due to a physical or mental condition which renders him or her incapable of caring for himself or herself and is usually accommodated in the frail care centre of a home for the aged;

"certificate of acceptability" means a certificate of acceptability issued by the Municipality in terms of the regulations made under the Foodstuffs Cosmetic and Disinfectants Act, 1 972 (Act 54 of 1972) as amended, and published by Government Notice R.962 of 23 November 2012;

"Environmental Health Practitioner" means the environmental health practitioner appointed as such by the Municipality;

"health certificate" means a health certificate issued in terms of section 3;

"health certificate holder" means a person to whom a health certificate has been issued in terms of section 3, and includes a legal person or a partnership or association of persons to whom a health certificate has been issued or a person acting for such health certificate holder;

"home for the aged" means any undertaking or service involving the care of aged people, and includes a building or premises used for the purposes of operating such undertaking or service, which undertaking or service and which building or premises are subject to registration by the relevant department;

"metropolitan police officer" means an officer referred to in section 64G of the South African Police Service Act, 1 995 (Act 68 of 1 995);

"Municipality" means the KING SABATHA DALINDYEBO Municipality established by General Notice 1 866 in Provincial Gazette Extraordinary of 30 June 2010 in terms of the provisions of the Local Government: Municipal Structures Act, 1 998 (Act 1 17 of 1 998);

"premises" means any land or building or part of any land or building in or on which a home for the aged is operated;

"registration certificate" means a registration certificate issued by the relevant authority; and

"resident" means an aged person admitted to a home for the aged in terms of these by-laws.

2. Application of by-laws

These by-laws apply to all homes for the aged operated within the area of jurisdiction of the Municipality.

3. Health certificates

(1) No person may operate a home for the elderly unless he or she is in possession of a health certificate to the effect that the premises and the general health facilities and services to which the health certificate relates comply with these by-laws. Such health certificate must state the number of residents permitted to be accommodated on the premises.

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- (2) A health certificate must be displayed —
  - (a) on the premises to which it relates; and
  - (b) in such manner as to be clearly visible at all times to any member of the public entering the premises.
- (3) The Environmental Health Practitioner may issue a health certificate if he or she is satisfied that the provisions of these by-laws are being complied with in respect of the home for the elderly and the premises in question, provided that if the Environmental Health Practitioner is of the opinion that such compliance is not reasonably practicable owing the physical features and facilities of the premises, he or she may issue a health certificate subject to compliance with such other reasonable requirements as he or she may deem necessary,
- (4) If a health certificate holder dies or ceases to operate the home for the elderly to which his or her health certificate relatest the health certificate becomes invalid and is not transferable to any other person or to any heir of or successor in title to the health certificate holder.
- (5) If a health certificate holder proposes transferring a home for the elderly operated on certain premises to other premises, he or she must obtain a health certificate in respect of such other premises before the home for the elderly may be operated on those premises.
- (6) No person may operate a home for the elderly unless he or she is in possession of a certificate of acceptability in respect of the home for the elderly.

#### 4. Application of by-laws to existing homes for the aged

- (1) Notwithstanding the provisions of section 3, the Environmental Health Practitioner may grant an extension to a person who was operating a home for the elderly before the date of commencement of these by-laws so that such person may comply with the provisions of these by-laws

within 12 months or such shorter period as may be determined by the Environmental Health Practitioner.

- (2) The Municipality may, in any case where reasons to its satisfaction are given, extend the period stated in subsection (1) by not more than 12 months.

5. Validity of health certificates

A health certificate issued for a home for the elderly shall be valid for a period of three years from the date of issue and shall be renewed by way of an application to the city; a calendar month prior to the expiry of such certificate.

6. Withdrawal of health certificates

The Municipality may at its discretion withdraw a health certificate and/or certificate of acceptability issued in terms of these by-laws if the health certificate holder is convicted of a breach of any of the provisions of these by-laws.

## CHAPTER 2

### FACILITIES IN RESPECT OF CATEGORY A AND CATEGORY B RESIDENTS

7. Accommodation facilities

The accommodation provided for category A residents and category B residents in a home for the elderly must meet the following requirements:

- (a) Any room used as a single room must have a floor area of at least 9m<sup>2</sup> or 12m<sup>2</sup> of usable floor space for single rooms accommodating wheel chair users.

- (b) Any room used as a double room must have a floor area of at least 16m<sup>2</sup>.

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- (c) If ward-type accommodation is provided in a home for the aged, each ward must have a floor area of at least 7,5 m<sup>2</sup> for every resident accommodated in the ward. Except for the head of the bed, all beds in the ward must be placed m from walls, and an unobstructed space of at least 12 m must be



maintained between beds, provided that the minimum width between beds is not included in the floor area contemplated in this section.

#### 8. Kitchen

A home for the elderly that accommodates category A residents and category B residents must have a kitchen that meets the following requirements:

- (a) The kitchen must have a minimum floor area of 16 m<sup>2</sup>, provided that the number of residents accommodated in the home for the aged is more than 32, the floor area of the kitchen must be calculated at m<sup>2</sup> per resident, with a maximum floor area of 90 m<sup>2</sup>.
- (b) The following must be provided in the kitchen:
  - (i) An area for washing up and rinsing crockery, cutlery, pots, pans and other kitchen utensils, which area must be separate from the food preparation area of the kitchen; ii) a washbasin;
  - iii) an adequate and constant supply of hot and cold water to all washing-up and rinsing facilities;
  - iv) an approved surface for all working areas, which surface must be easy to clean;
  - (v) a safe source of power for cooking purposes; vi) suitable means for the effective extraction of heat, fumes and gases; vii) smooth and even wall surfaces; viii) a facility to maintain perishable foods at a temperature below 10 C; and
  - ix) sufficient and suitable storage space for crockery, cutlery and kitchen utensils.

#### 9. Dining areas

A home for the elderly that accommodates category A residents and category B residents must have a dining area having a minimum floor area of 1 m<sup>2</sup> per resident accommodated in the home for the elderly. Adequate provision must be made for passages and aisles in the dining area.

#### 10. Lounges and sun porches

Any home for the elderly that accommodates category A residents and category B residents must have one or more than one lounge or sun porch, which lounge or sun porch must have a floor area of 1,5m<sup>2</sup> per resident and be so designed and so situated that the lounge or sun porch can also be used for physiotherapy and occupational therapy.

11. Administrative office

Any home for the elderly that accommodates category A residents and category B residents must have a suitable administrative office on the premises.

12. Storage facilities

Any home for the aged that accommodates category A residents and category B residents must, on the premises of the home for the aged, provide adequate approved storage facilities for linen, furniture, suitcases, household cleaning agents, tools, medicines, and corrosive and other harmful substances.

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13. Bathroom and toilet facilities for residents

(1) On the premises of a home for the elderly, bathroom facilities must be provided for category A residents and category B residents. Such facilities must meet the following requirements:

- (a) The bathroom facilities must be provided in the ratio of one bath or shower to at least every eight residents. Separate bathroom facilities must be provided for male and female residents in the case of open-plan bathroom facilities that are designed to be used by more than one person.
- (b) A constant supply of hot and cold water must be provided for all baths and showers. All baths must be positioned in such a way as to ensure that residents have adequate access and effective hand grips.
- (c) At least one washbasin with a constant supply of hot and cold water must be provided in each bathroom complex. The walls and ceiling of the bathroom complex must be painted with light-coloured durable paint.

- (2) A washbasin and a towel rail adjacent to the washbasin must be provided in every room or ward contemplated in section 4. The rims of the washbasins must be 830 mm above floor level. A constant supply of hot and cold water must be provided to the washbasins,
- (3) A home for the elderly accommodating category A residents and category B residents must have on the premises one water closet for at least every eight residents of each sex.
- (b) Of the water closets referred to in paragraph (a), at least one water closet for at least every 24 residents must have — (i) a floor area of not less than 2,9 m<sup>2</sup>;
- (ii) a minimum width of      m; and
- iii a door of a width of not less than 800 mm.
- (c) The height of the toilet pans in the water closets referred to in paragraph (a) may not be less than 460 mm and more than 480 mm from the floor, and effective support rails must be provided in the water closets.
- (4) In a home for the elderly accommodating category A residents and category B residents, a urinal must be provided in each toilet complex for male residents.
- (5) In every home for the elderly accommodating category A residents and category B residents, sluice rooms meeting the following requirements must be provided:
- (a) A sluice room must — (i) have a minimum floor area of      m<sup>2</sup> and a minimum width of      m;
- (ii) be well ventilated; (iii) be equipped with impervious shelves;
- (iv) be provided with a constant supply of hot and cold water;
- (v) be equipped with a combination slop hopper and a sink with a washer for bedpans and urine bottles; and
- (vi) be equipped with an impervious receptacle of adequate capacity, which receptacle must have a close-fitting lid for soiled dressings.
- (b) A sluice room must be adjacent to every toilet complex and must be reasonably accessible from bedrooms and sickbays.

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### 14. Toilet facilities for visitors

A home for the elderly must provide, for visitors to the home for the elderly, separate toilet facilities for male and female visitors, which facilities must be equipped with a water closet suite and a washbasin supplied with cold water.

### 15 Laundry and ironing area

(1) If laundry and ironing are done on the premises of a home for the elderly accommodating category A residents and category B residents, an approved area that is well ventilated, adequate as to size and equipment and conveniently situated must be provided on the premises for laundry and ironing purposes. Adequate and approved arrangements must be made for disinfecting and receiving soiled linen and clothing in the laundry and ironing area. The internal walls and ceiling of the laundry and ironing area must be painted with durable, washable and light-coloured paint.

(2) An adequate supply of hot and cold water must be provided for the laundry area referred to in subsection (1).

(3) Laundry that is to be washed outside a home for the elderly must be done in an approved laundry.

### 16. Corridors

In a home for the elderly accommodating category A residents and category B residents —

(a) the corridors must be at least 1,8m wide and must be provided with a hand railing along the length of at least one wall; and

(b) all corridors, staircases, flights of steps and ramps must be adequately lit and fitted with effective handrails.

17. Sickbays

On the premises of every home for the elderly accommodating category A residents and category B residents, sickbay facilities must be provided in the ratio of one sickbay to at least every 20 residents. If ward-type sickbays are used, separate rooms for each gender must be provided and the beds must be provided in the ratio of one bed to every 20 residents. Sickbays must comply with the minimum standards for single rooms or ward-type accommodation.

18. Heating

An approved, suitable and safe artificial heating system must be provided in the sickbays referred to in section 14, the rooms and wards referred to in section 4 and the dining areas referred to in section 6.

19. Windows

All windows in rooms used by category A residents and category B residents must be adequately protected or guarded to ensure the safety of the residents.

20. Floor surfaces

In a home for the elderly accommodating category A residents and category B residents, all floors must have a non-slip surface, and all carpets, mats and other loose coverings must be suitably and safely secured to the floors.

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## CHAPTER 3

### ADDITIONAL FACILITIES IN RESPECT OF CATEGORY B RESIDENTS

21. Where the provisions of these by-laws apply to homes for the elderly that accommodate category A residents and category B residents, such provisions also apply to homes for the elderly that accommodate category C residents, provided that, in addition to the other provisions of these by-laws, the following provisions apply to homes for the elderly that accommodate category C residents:

- (1) Ward or sickbay accommodation with a maximum of four beds per room must be provided for category C residents in a home for the elderly, and the floor area per bed may not be less than m .
- (2) The following additional ancillary facilities must be provided in a home for the elderly if it accommodates category C residents:
- (a) A duty room with lock-up facilities for drugs;
  - (b) an examination room with screened-off cubicles;
  - (c) adequate approved storage facilities;
  - (d) a small kitchen for preparing beverages only; and
  - (e) a treatment room for attending to dressings, administering injections and applying medicaments.
- (3) Adequate accommodation for physical therapy treatment for category C residents must be provided in a home for the elderly if the home for the aged accommodates category C residents.

#### CHAPTER 4

#### ACCOMMODATION AND FACILITIES FOR RESIDENT AND NON-RESIDENT STAFF

#### 22. Accommodation and facilities for resident staff

On the premises of a home for the elderly, the following accommodation and facilities must be provided for resident staff of the home for the elderly:

- (a) Suitable approved living accommodation for resident staff consisting of single rooms with a minimum floor area of 6 m or double rooms with a minimum floor area of 10  
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m
- (b) a suitable dining or recreation room;
- (c) a separate bathroom and toilet facility for resident male and female staff in a ratio of one facility to at least every seven resident staff members; and
- (d) a washbasin with a constant supply of hot and cold water in every staff bedroom.

23. Facilities for non-resident staff

- (1) The dining or recreation room and the bathroom and toilet facilities that are provided for the resident staff in accordance with section 19 may be used by the non-resident staff, provided that the required ratio is maintained and that all such rooms and facilities are conveniently situated.
- (2) If the facilities contemplated in subsection (1) cannot meet the requirements, separate or additional toilet facilities and washbasins must be provided for the nonresident staff in the ratio of one toilet facility and washbasin to at least every seven staff members.
- (3) On the premises of a home for the elderly, a suitable change room with steel locker facilities must be provided for the non-resident staff of the home for the aged.

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CHAPTER 5

GENERAL

24. General provisions in respect of all premises

- 1) All steps on the premises of a home for the elderly must not be higher than 130 mm or narrower than 355 mm.
- (2) The premises of homes for the elderly that have three storeys or more must be equipped with an approved number of lifts of an approved design.
- (3) In any home for the elderly, rooms approved for a specific purpose must be used for that purpose only.
- (4) An approved number of suitable refuse bins with lids must be provided on the premises of every home for the elderly.
- (5) In respect of the premises of every home for the elderly, a proper plan of the building(s), drawn to scale, indicating the proposed use of every room, the size of rooms and the correct position of doors and windows must be submitted to the Municipality for record-keeping purposes.

- (6) No residents may be accommodated in a building to which alterations or additions are being affected if such alterations or additions may cause a nuisance or inconvenience to the residents.
- (7) No premises may be occupied and used as a home for the elderly unless all requirements have been met and approval to use the premises as a home for the aged has been granted by the Environmental, Health Practitioner.
- (8) The premises must be under the control and supervision of a responsible, designated adult person for 24 hours every day.

25. Suspension or termination of operations

A health certificate holder must notify the Municipality of the suspension or termination of the operation of a home for the elderly to which his or her health certificate relates.

26. Right of entry and inspection of premises and records

A duly authorised officer of the Municipality may, for any purpose connected with the enforcement of the provisions of these by-laws, at all reasonable times and without prior notice — ) enter any premises on which a home for the elderly is operated; or

- (b) enter any premises if he or she has reasonable grounds for suspecting that a home for the aged is operated on the premises,

in order to carry out such examination, inquiry or inspection on the premises as he or she may deem necessary.

27. Offences

) A person is guilty of an offence under these by-laws if he or she, in respect of an official of the Municipality duly authorised under these by-laws or by the Municipality to enter and inspect any premises —

- (a) denies the official entry to the premises or causes or permits any other person to deny the official entry;
- (b) obstructs or hinders the official in the performance of the official's duties or causes or permits any other person to so obstruct or hinder the official;



- (c) fails or refuses to give the official information that he or she is lawfully required to give or causes or permits any other person to refuse to give the official such information; or
- (d) knowingly gives the official false or misleading information or causes or permits any other person to give the official such information.

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- (2) A person is guilty of an offence under these by-laws if he or she unlawfully prevents any other person from entering the premises on which a home for the aged is operated.
  - (3) A person is guilty of an offence under these by-laws if he or she fails or refuses to comply with any provision of these by-laws or any requirement imposed by the Environmental Health Practitioner in terms of section 3.
  - (4) A person who is guilty of an offence under these by-laws is liable on conviction to a fine as provided for in the Adjustment of Fines Act, 1991 , (Act 101 of 1 991), community service or to imprisonment for a period not exceeding one year, or to both such fine and such community service or such imprisonment as the court may order. In the case of a continuing offence, such person is guilty of a separate offence and liable on conviction to a fine, to community service or to imprisonment for a period not exceeding one year, or to any combination of such fine, such community service and such imprisonment in respect of every day or part of a day during which the offence continues.

## 28. Presumptions

If in any prosecution in terms of these by-laws it is alleged that the owner, lessee or occupier of premises operates a home for the aged on the premises, he or she will be deemed to have operated a home for the elderly on such premises unless the contrary is proved.

## 29 Repeal

The KING SABATHA DALINDYEBO Health By-Laws for Homes for the Aged promulgated under Notice No 445/2004 on 26 May 2004 is herewith repealed

## 30. Short title and commencement

These by-laws are called the KSD Municipality: Health Bylaws for Homes for the Elderly and shall come into operation on the date of publication in the Provincial Gazette.

