

Winnie Madikizela-Mandela, South Africa

## Child Care Facilities By-law, 2019

Legislation as at 21 October 2019

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# Winnie Madikizela-Mandela South Africa

## Child Care Facilities By-law, 2019

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**Commenced on 21 October 2019**

*[This is the version of this document from 21 October 2019.]*

### PURPOSE

**To give effect to the Municipalities Child Care Facilities by law and the implementation thereof i.e. it is the process utilised by the municipality to ensure responsible services rendered in terms of the application of this bylaw.**

WHEREAS in terms of section 11 (3)(m) of the Local Government; Municipal Systems [Act 32 of 2000](#), read with section 162 of the [Constitution of the Republic of South Africa Act 108 of 1996](#), municipalities have the legislative power to promulgate by-laws regarding any matter which falls within its functional competence;

NOW THEREFORE the Council of the Mbizana Local Municipality, acting in terms of section 156 read with Schedule 5 (Part B) of the [Constitution of the Republic of South Africa Act 108 of 1996](#), and read with section 1 of the Local Government: Municipal Systems [Act 32 of 2000](#), hereby makes the following By-Law: CHILD CARE FACILITIES BY-LAW.

### 1. Definitions

In this by-law, unless the context otherwise indicates-

"**Act**" means Children's [Act No. 38 of 2005](#), including the regulations made under that Act;

"**Adequate**" means that which is adequate in the reasonable opinion of the Municipality after having regard to applicable law and guidelines;

"**Approved**" means that which has been approved by the Municipality, after having regard to the reasonable environmental health requirements that may apply in the circumstances;

"**Approved premises**" means any premises that have been approved for the operation of a child care facility and in respect of which a health compliance certificate has been issued;

"**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;

"**Certificate of acceptability**" means a certificate of acceptability issued by the Municipality in terms of the Regulations Governing General Hygiene Requirements For Food Premises and the Transport of Food made in terms of the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972) and published by Government Notice R962 of 23 November 2012;

"**Child**" means any person under the age of 18 years and "children" has a corresponding meaning;

"**Child care facility**" means any premises at which children are provided with temporary or partial care apart from their parents, whether for profit or otherwise, and excludes-

- (a) boarding schools;
- (b) school hostels; and
- (c) any establishments which operate mainly for the tuition or training of children and which are controlled by the State or registered or approved by the State;

"**Compulsory school-going age**" means the age at which it is compulsory for a child to enter grade 1 in terms of the applicable law;

"**Council**" or "municipal council" means the Mbizana municipal council, a municipal council referred to in section 157(1) of the [Constitution](#);

"**Health compliance certificate**" means:

- (a) in the event of a child care facility where a maximum of six children are to be accommodated, the certificate issued by the Municipality for the purposes of registration in terms of this by-law; or
- (b) in the event of a child care facility where seven or more children are to be accommodated, a certificate issued by the Municipality for the purposes of registration in terms of the Act, and which confirms that the premises, and the facilities and services available on those premises, comply with this By-Law;

"**Health compliance certificate holder**" means a person to whom a health compliance certificate has been issued in terms of this By-law, and includes-

- (a) a legal person;
- (b) a partnership;
- (c) an association;
- (d) a trust; and
- (e) a person acting on behalf of a health compliance certificate holder;

"**Municipality**" means the Mbizana Municipality;

"**Municipal manager**" means a person appointed in terms of section 54A of the Municipal Systems Act as the head of administration of the municipal council;

"**National Building Regulations**" means the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977) and any amendments thereto;

"**Person in charge**" includes-

- (a) the owner of a child care facility;
- (b) the principal of a child care facility; and
- (c) any person who is apparently in control of a child care facility;

"**Play area**" means a portion of premises set apart for children to play;

"**Premises**" means any land or building or part of any land or building in or on which a child care facility is operated; and

"**Suitable**" means that which is suitable in the reasonable opinion of the Municipality.

## 2. Scope and objectives of the by-law

- (1) This By-Law applies to the Municipality's area of jurisdiction, and is only applicable to the Child Care Facilities of Mbizana Municipal area.
- (2) The objectives of the Child Care Facilities By-Law are as follows: -
  - (a) Regulate the operation of child care facilities by requiring operators to apply for a health compliance certificate;
  - (b) Ensure that the premises on which child care facilities are operated are age appropriate and suitable for the health and well-being of children;
  - (c) Impose minimum safety standards; and
  - (d) Make provision for the medical care of children while attending child care facilities.

## 3. Application for a health compliance certificate

- (1) No person may operate a child care facility on any premises unless he or she has been-
  - (a) Issued with a health compliance certificate where the facility provides care for six or less children; or
  - (b) Registered in terms of the Act where the facility provides care for seven or more children.
- (2) Application for a health compliance certificate in terms of this by-law must be made to the Municipality in writing by completing and submitting an application form as determined.
- (3) The Municipality may, before considering such application, require that it be furnished with any information in connection with the application concerned which it may deem necessary.
- (4) Subject to subsection (5) the authorised official may issue a health compliance certificate if he or she is satisfied that the-
  - (a) Premises on which it is proposed to operate the child care facility; and
  - (b) Facilities and services available on those premises, comply with this By-law.
- (5) The health compliance certificate issued in terms of subsection (4) may be issued either unconditionally or on such conditions that the Municipality may deem necessary.
- (6) Every health compliance certificate must contain the following minimum information:
  - (a) the maximum number of children which may be cared for on the approved premises;
  - (b) The maximum number of children of different age groups which may be cared for on the approved premises;
  - (c) The minimum and the maximum ages of the children permitted to be cared for on the approved premises;
  - (d) The hours during which the child care facility may operate; and
  - (e) The date upon which the health compliance certificate expires.
- (7) A health compliance certificate must be displayed on every approved premises in such a way that it is clearly visible at all times to any person entering the premises.
- (8) A health compliance certificate is issued in respect of specific approved premises, which means that a health compliance certificate-
  - (a) becomes invalid if a health compliance certificate holder dies or ceases to operate a child care facility from the approved premises;

- (b) is not transferable to any other person;
  - (c) is not transferable to, or valid for, any other child care facility or premises which the health compliance certificate holder may own, have an interest in or subsequently own or acquire an interest in;
  - (d) is not transferred when the holder of the health compliance certificate disposes of the child care facility concerned or of the approved premises; and
  - (e) May not be bequeathed by the health compliance certificate holder to any heir or legatee.
- (9) If a health compliance certificate holder wishes to move his or her child care facility to premises other than the approved premises, he or she must apply for and obtain a new health compliance certificate in respect of those new premises.
- (10) If a health compliance certificate holder wishes to make alterations to premises to which a health compliance certificate relates, he or she must-
- (a) Bring his or her intention to the attention of the Municipality before commencing the alterations; and
  - (b) Apply for and obtain a new health compliance certificate before beginning to operate a child care facility from those altered premises.
- (11) A health compliance certificate issued in terms of this section may be cancelled by the Municipality after one month's written notice of its intention to cancel the health compliance certificate has been given to the health compliance certificate holder concerned, and after consideration by the Municipality of any representations which may be submitted in pursuance of such notice.
- (12) The cancellation of a health compliance certificate shall take effect on the date specified in the cancellation notice issued by the Municipality, which date shall not be less than 60 days after the date upon which the notice of cancellation was given.
- (13) Application for annual renewal of a health compliance certificate must be made to the Municipality in writing by completing and submitting an application form not later than one month before the health compliance certificate expires.

#### **4. Requirements for the premises of child care services for children under compulsory school-going age**

- (1) Compliance with National Building Standards and the National Building Regulations (Nr R432 of 8 March 1991) as amended from time to time, Health and Safety Act 1993, Electrical Installations regulations (Nr 242 and 243 of 2006) as amended from time to time and any other Act or Regulation that may be applicable.
- (2) All structures on the premises of any child care service for children under compulsory school-going age must comply with the requirements of the building regulations.

#### **5. Indoor play area**

- (1) An indoor play area must be set aside on every premises on which a child care service for children under compulsory school-going age is operated. Such indoor play area must meet the following requirements:
  - (a) The indoor play area must consist of 1,5 m of free floor area per child and may be used for playing, eating and sleeping purposes only.
  - (b) The indoor play area for children from the age of three years to compulsory school-going age must be separate from the indoor play area for children under the age of three years. Divisions or moveable partitions may be used to create such separation.

- (c) Any structure used as an indoor play area must have -
  - (i) Exterior walls and a roof so constructed as to prevent the permeation of wind and rain;
  - (ii) Windows which open to provide sufficient natural light and cross ventilation; and
  - (iii) A floor which has a smooth surface that is easy to wash and that prevents the permeation of dampness.

## 6. Outdoor play area

- (1) An outdoor play area must be provided on the premises of every child care service for children under compulsory school-going age. Such outdoor play area must meet the following requirements:
  - (a) The outdoor play area must consist of not less than 3m<sup>2</sup> of outdoor area per child, provided that if no outdoor play area is available on the premises, an approved additional indoor play area of 1,5 m additional space per child is substituted for the outdoor play area.
  - (b) The outdoor play area must be free of any excavations, steps, projections, levels or surfaces.

## 7. Toilet and wash facilities for children

- (1) On any premises on which a child care service for children under compulsory school-going age is operated, toilet and wash facilities must be provided for the children. Such facilities must meet the following requirements:
  - (a) Toilet and wash facilities for children from the age of three years to compulsory school-going age must be in an approved separate screened-off area of the premises and must include-
    - (i) Where no sewer system is available in respect of the premises -
      - (aa) an approved toilet on the premises or immediately adjacent to the premises;
      - (bb) one bucket for every eight children, which bucket must be of a size suitable for use as a toilet; and
      - (cc) a container with a tight-fitting lid for the disposal of the contents of the bucket or buckets, as the case may be, provided that the contents of the container are disposed of regularly during the day into the approved toilet and that the bucket or buckets and the container and any chamber pot, pot or "potty" is kept in a clean and sanitary condition at all times;
    - (ii) Where a sewer system is available in respect of the premises, one approved toilet for every children;
    - (iii) Where washbasins are available, one washbasin for every 20 children, which washbasin must -
      - (aa) be at such height as to be conveniently used by children; and
      - (bb) be supplied with running water, provided that if no running water is available, a minimum of 25 litres of potable water is supplied on a daily basis in a container capable of being closed, which container must be accessible to the washbasins; and
    - (iv) Where no washbasins are available, one suitable container for every 20 children, provided that -
      - (aa) such container is capable of being filled from a potable water container that can be closed;
      - (bb) such container is placed at a height convenient for children; and



- (cc) a minimum of 25 litres of potable water is supplied on a daily basis from the potable water container.
- (b) Toilet and wash facilities for children who are under three years of age or still in nappies must include an approved separate nappy changing area in which is provided -
  - (i) a nappy changing unit with a surface that can be cleaned easily, which unit must
    - (aa) have one bath or sink for every 20 children who are in nappies; and
    - (bb) be supplied with water, provided that if no running water is available on the premises, an approved source of potable water is available and accessible to the nappy changing area on a daily basis;
  - (ii) Disposable material for the cleaning of children who are in nappies;
  - (iii) Approved separate containers for the storage of clean nappies and soiled nappies; and
  - (iv) Approved facilities for the cleaning of cloth nappies.

## 8. General requirements for toilet and wash facilities for all children

- (1) The toilet and wash facilities contemplated in [section 7](#) must meet the following general requirements:
  - (a) In the toilet and wash facilities, an adequate supply of toilet paper, soap and tissues must be available and accessible to the children.
  - (b) In the toilet and wash facilities, an approved towel and/or facecloth must be provided for each child for his or her individual use, and each child must use the towel and /or facecloth allocated to him or her.
  - (c) Suitable pegs or hooks must be affixed in the toilet and wash facilities for the hanging of the children's towels and facecloths, and such pegs or hooks must be individually marked.
  - (d) An adequate number of bins with self-closing lids for the disposal of paper, paper towels, tissues and other waste materials must be provided in the toilet and wash facilities.

## 9. Laundry

- (1) If laundry is done on premises on which a child care service for children under compulsory school-going age is operated, the laundry must be done in an area of the premises that is separate from any area used by the children, and
- (2) The children may not have access to the area in which laundry is done.
- (3) No laundry may be done in a kitchen on the premises.

## 10. Sickbay

- (1) On any premises on which a child care service for children under compulsory school-going age is operated, an area must be set aside as a sickbay for the treatment and care of any child who becomes ill or is injured, which area may only be used as a sickbay. Such sickbay must be equipped with -
  - (a) An approved fully-lockable and fully-equipped first-aid unit, which unit must be kept out of the children's reach; and
  - (b) A bed or mattress.
- (2) An approved method for washing hands must be used in the sickbay referred to in subsection (1).

## 11. Kitchen

- (1) On any premises on which a child care service for children under compulsory school-going age is operated, an approved area must be set aside as a kitchen for the preparation of food and the washing up and rinsing of crockery, cutlery, pots, pans and other kitchen utensils. Such kitchen must meet the following requirements:
  - (a) The kitchen may not be less than 12m<sup>2</sup> in size.
  - (b) The floor covering of the kitchen must be of an approved impermeable material which can be cleaned easily.
  - (c) For the purposes of cross-ventilation, the kitchen must have an adequate number of windows that can be opened easily.
  - (d) The kitchen may not be used as a thoroughfare by children or adults and must not be accessible to the children.
  - (e) Approved hand-washing facilities must be provided in the kitchen, and soap, a nailbrush and towels must be available at all times for the purpose of washing hands.
  - (f) Washing-up and rinsing facilities must be provided in the kitchen for washing up and rinsing crockery, cutlery, pots, pans and other kitchen utensils, and such washing-up and rinsing facilities must be separate from the food preparation area of the kitchen.
  - (g) Running water must be supplied to the hand-washing facilities referred to in paragraph (e) and the washing-up and rinsing facilities referred to in paragraph (f). If no running water is available, a minimum of 25 litres of potable water must be made available and be accessible in the kitchen on a daily basis, provided that the container used for the water is capable of being closed.
  - (h) Suitable means for the supply of adequate hot water to the kitchen must be available.
  - (i) If any child who is bottle-fed is accommodated in the child care service, the child's bottles must be suitably rinsed and sterilised in the kitchen. Any filled bottles brought from home must be suitably stored in the kitchen in such manner as to prevent contamination and spoilage. Bottles must be clearly marked with the name of the child.
  - (j) Perishable foods must be kept in the kitchen at a temperature below 10° C.
  - (k) All food must be stored and kept in the kitchen in the best practical manner to prevent contamination and spoilage.
  - (l) An approved source of power must be provided for cooking purposes in the kitchen.
  - (m) All working areas in the kitchen must have an approved surface that can be cleaned easily.
  - (n) An adequate number of suitable refuse bins with lids must be provided in the kitchen.
  - (o) If cutlery and crockery are required for use by the children, an adequate supply of cutlery and crockery must be available in the kitchen for the use of each child.

## 12. Storage

- (1) Any premises on which a child care service for children under compulsory school-going age is operated must have adequate and suitable storage space and storage facilities for
  - (a) Food, crockery, cutlery and kitchen utensils;
  - (b) Indoor play materials and play equipment and outdoor play materials and play equipment;
  - (c) Stretchers, sleeping mats, bedding and linen;

- (d) The personal belongings of each child; and
  - (e) The personal belongings of the staff of the child care service.
- (2) The children may not have access to any storage space or storage facility contemplated in subsection (1).

### **13. Seating and resting and play equipment**

- (1) On any premises on which a child care service for children under compulsory school-going age is operated -
- (a) Suitable seating must be provided for each child;
  - (b) Suitable and safe tables of the correct size to ensure that each child sits comfortably must be provided;
  - (c) An approved resting or sleeping mat or mattress must be supplied for each child if full-day care is provided on the premises, provided that -
    - (i) Each mat is marked with the name or symbol of the child to whom the mat is allocated; and
    - (ii) Each mattress is covered with a removable washable cover which is marked with the name or symbol of the child to whom the mattress is allocated;
  - (d) A clean blanket must be provided for each child, which blanket must be marked with the name or symbol of the child to whom the blanket is allocated; and
  - (e) Suitable and safe indoor play equipment and outdoor play equipment must be provided for the children's use.

### **14. Enclosure**

- (1) Any premises on which a child care service for children under compulsory school-going age is operated must have an approved means of enclosure so as to -
- (a) Prevent a child from leaving the premises of his or her own accord;
  - (b) Prevent the entrance of domestic animals onto the premises; and
  - (c) Prevent unauthorised access or entry.

### **15. Separate facilities for after-school centre**

- (1) If a child care service cares for children of compulsory school-going age (in an after-school centre) and children under compulsory school-going age on the same premises, the facilities available for the children of compulsory school-going age must be separate from the facilities available for the children under compulsory school-going age.

### **16. Requirements for the premises of child care services for children of compulsory schoolgoing age**

- (1) Compliance with National Building Regulations:
- (a) All structures on the premises of any child care service for children of compulsory school-going age must comply with the requirements of the National Building Regulations made under the National Building Regulations and Building Standards Act, 1977, unless the premises are situated in an un-proclaimed area.

**17. Indoor study area**

- (1) An indoor study area consisting of 1.5 m<sup>2</sup> of free floor area per child must be provided on any premises on which a child care service for children of compulsory school-going age is operated.
- (2) Any structure used as an indoor study area must have-
  - (a) Exterior walls and a roof so constructed as to prevent the permeation of wind and rain;
  - (b) Windows which open to provide sufficient natural light and cross-ventilation; and
  - (c) A floor which has a smooth surface that is easy to wash and that prevents the permeation of dampness.

**18. Outdoor play area**

- (1) An outdoor play area must be provided on any premises on which a child care service for children of compulsory school-going age is operated.
- (2) Such outdoor play area must consist of not less than 3 m<sup>2</sup> of outdoor area per child and must be free of any excavations, steps, projections, levels or surfaces that, in the opinion of the Municipality, may be dangerous or may constitute a hazard.

**19. Toilet and wash facilities for children**

- (1) On any premises on which a child care service for children of compulsory school-going age is operated, toilet and wash facilities must be provided for the children. Such facilities must meet the following requirements:
  - (a) The toilet and wash facilities for the children must be in an approved separate screened-off area of the premises and must include -
    - (i) Where no sewer system is available in respect of the premises -
      - (aa) an approved toilet on the premises or immediately adjacent to the premises;
      - (bb) one bucket for every eight children, which bucket must be of a size suitable for use as a toilet; and
      - (cc) a container with a tight-fitting lid for the disposal of the contents of the bucket or buckets, as the case may be, provided that the contents of the container are disposed of regularly during the day into the approved toilet and that the bucket or buckets and the container are kept in a clean and sanitary condition at all times;
    - (ii) Where a sewer system is available in respect of the premises, one approved toilet for every children;
    - (iii) Where washbasins are available, one washbasin for every 20 children, which washbasin must-
      - (aa) be at such height as to be conveniently used by children; and
      - (bb) be supplied with running water, provided that If no running water is available, a minimum of 25 litres of potable water is supplied on a daily basis in a container capable of being closed, which container must be accessible to the washbasins; and

- (iv) Where no washbasins are available, one suitable container for every 20 children, provided that-
  - (aa) such container is capable of being filled from a potable water container that can be closed;
  - (bb) such container is placed at a height convenient for children; and
  - (cc) a minimum of 25 litres of potable water is supplied on a daily basis from the potable water container,
- (b) The toilet and wash facilities for the boys must be separate from those for the girls.

## 20. General requirements for toilet and wash facilities for children

- (1) The toilet and wash facilities contemplated in [section 20](#) must meet the following general requirements:
  - (a) In the toilet and wash facilities, an adequate supply of toilet paper, soap and tissues must be available and accessible to the children.
  - (b) An adequate number of bins with self-closing lids for the disposal of paper, paper towels, tissues and other waste materials must be provided in the toilet and wash facilities.

## 21. Sickbay

- (1) On any premises on which a child care service for children of compulsory school-going age is operated, an area must be set aside as a sickbay for the treatment and care of any child who becomes ill or is injured, which area may only be used as a sickbay. Such sickbay must be equipped with -
  - (a) An approved fully-lockable and fully-equipped first-aid unit, which unit must be kept out of the children's reach; and
  - (b) A bed or mattress.
- (2) An approved method for washing hands must be used in the sickbay referred to in subsection (1).

## 22. Kitchen

- (1) On any premises on which a child care service for children of compulsory school-going age is operated, an approved area must be set aside as a kitchen for the preparation of food and the washing up and rinsing of crockery, cutlery, pots, pans and other kitchen utensils. Such kitchen must meet the following requirements:
  - (a) The kitchen may not be less than 12 m<sup>2</sup> in size.
  - (b) The floor covering of the kitchen must be of an approved impermeable material which can be cleaned easily.
  - (c) For the purposes of cross-ventilation, the kitchen must have an adequate number of windows that can be opened easily.
  - (d) The kitchen may not be used as a thoroughfare by children or adults and must not be accessible to the children.
  - (e) Approved hand-washing facilities must be provided in the kitchen, and soap, a nailbrush and towels must be available at all times for the purposes of washing hands.
  - (f) Washing-up and rinsing facilities must be provided in the kitchen for washing up and rinsing crockery, cutlery, pots, pans and other kitchen utensils, and such washing-up and rinsing facilities must be separate from the food preparation area of the kitchen.

- (g) Running water must be supplied to the hand-washing facilities referred to in paragraph (e) and the washing-up and rinsing facilities referred to in paragraph (f). If no running water is available, a minimum of 25 litres of potable water must be made available and be accessible in the kitchen on a daily basis, provided that the container used for the water is capable of being closed.
- (h) Suitable means for the supply of adequate hot water to the kitchen must be available,
- (i) Perishable foods must be kept in the kitchen at a temperature below 10 degrees Celsius
- (j) All food must be stored and kept in the kitchen in the best practical manner to prevent contamination and spoilage.
- (k) An approved source of power must be provided for cooking purposes in the kitchen.
- (l) All working areas in the kitchen must have an approved surface that can be cleaned easily.
- (m) An adequate number of suitable refuse bins with lids must be provided in the kitchen.
- (n) If cutlery and crockery are required for use by the children, an adequate supply of cutlery and crockery must be available in the kitchen for the use of each child.

### **23. Storage**

- (1) Any premises on which a child care service for children of compulsory school-going age is operated must have adequate and suitable storage space and storage facilities for-
  - (a) Food, crockery, cutlery and kitchen utensils;
  - (b) The personal belongings of each child; and
  - (c) The personal belongings of the staff of the child care service.
- (2) The children may not have access to any storage space or storage facility contemplated in subsection (1).

### **24. Seating**

- (1) On any premises on which a child care service for children of compulsory school-going age is operated-
  - (a) Suitable seating must be provided for each child; and
  - (b) Suitable and safe tables of the correct size to ensure that each child sits comfortably must be provided.

### **25. Fencing**

- (1) Any premises on which a child care facility is operated must be enclosed with approved fencing so as to prevent-
  - (a) A child from leaving the premises on his or her own accord;
  - (b) The entrance of domestic animals onto the premises; and
  - (c) Unauthorised access or entry.
- (2) Fencing around a child care facility must meet the following requirements:
  - (a) The fencing must be not less than 2m high;
  - (b) Horizontal members must be placed at intervals which make it difficult for a child climb; and
  - (c) The fence must be constructed of material which cannot reasonably cause harm to children.

- (3) A fence referred to in subsection (2) must have a gate which is self-closing and will only be regarded as self-locking for the purposes of subsection (2) if it cannot be readily opened by an unauthorised person. In this regard, a gate which closes by means of a latch only, with no other means of securing the gate, will not be regarded as self-locking.
- (4) If a pool is permitted on any premises on which a child care facility is operated, the pool must be-
  - (a) Built in accordance with an approved plan, supported by an acceptable certificate from an engineer or other competent person;
  - (b) Provided with an approved net;
  - (c) Fenced in the manner contemplated in subsection (2); and provided with a suitable twin gate system with gates that are self-closing and self-locking, and which may close by means of a latch.
- (5) Portable pools are not permitted on any premises on which a child care facility is operated.

## **26. Facilities for staff toilet and hand washing facilities**

- (1) Any premises on which a child care service is operated must have toilet and hand-washing facilities for the staff of the child care service.
- (2) Such toilet and hand-washing facilities must meet the following requirements:
  - (a) The staffs toilet and hand-washing facilities must be easily accessible to the staff and be separate from the toilet and wash facilities used by the children.
  - (b) Soap and towels must be available in the staff's toilet and hand washing facilities at all times.

## **27. Bathroom facilities of staff resident on the premises**

- (1) If the staff of a child care service resides on the premises on which the child care service is operated, the toilet and bathroom facilities for the staff must be easily accessible from the living quarters of the staff.

## **28. Medical care of children**

- (1) Any person who operates a child care service must have in their possession a health certificate.
- (2) The person in charge of a child care service must-
  - (a) in respect of any child who becomes ill or has suffered an injury requiring medical attention-
    - (i) notify the child's parent or guardian immediately;
    - (ii) Summon medical assistance; and
  - (b) in respect of any child who becomes ill or has suffered any injury, but does not require medical assistance, provide the necessary care and treatment in the sickbay on the premises of the child care service;
  - (c) in the event of any child having a notifiable disease, notify the relevant authority immediately; and
  - (d) in respect of children under compulsory school-going age, ensure that all the children have completed the basic immunisation schedules as deemed necessary by the Municipality, provided that if the children are too young for the immunisation, the health certificate holder / person operating the child care service ensures that the immunisation schedule is completed as soon as the children are old enough.

- (3) A telephone must be available to notify a parent or guardian and summon medical assistance in accordance with subsection (1).

## 29. Safety measures

- (1) Any person who operates a child care service must take the following safety measures on the premises on which the child care service is operated:
- (a) The children must be adequately protected against fires, hot water installations, electrical fittings and appliances, heating appliances and any other object or thing which may be dangerous or cause injury to any child.
  - (b) Any slats or rails forming part of an enclosure, security gate, playpen, bed, cot or any other object or structure whatsoever for children under compulsory school-going age must meet the following requirements:
    - (i) The slats or rails may not be more than 75 mm apart.
    - (ii) The slats or rails must be suitably installed and be maintained in a good state of repair.
    - (iii) If the slats or rails are painted, only non-toxic paint may be used.
  - (c) All medicines, pesticides, detergents and other substances that may be harmful to children must be stored so as not to be accessible to any child.
  - (d) No noxious or poisonous plant or shrub is permitted on the premises, and no animal may be kept on the premises without the approval of the Environmental Health Practitioner.
  - (e) No person known or suspected to be suffering from an infectious or contagious disease and no person who has been in contact with a person so suffering is allowed on the premises while such person is in the opinion of the Environmental Health Practitioner capable of communicating the infectious or contagious disease.
  - (f) No paddling pool, swimming pool, sand pit or other structure is permitted on the premises of a child care service for children under compulsory school-going age unless the approval of the Environmental Health Practitioner has been obtained.
  - (g) The provisions of the regulations relating to the exclusion of children from school on account of an infectious disease, which regulations are made under the Health Act, 1977, must be complied with.
  - (h) Any reasonable measures that may in the opinion of the Environmental Health Practitioner be necessary to protect the children from any physical danger must be taken.

## 30. General obligations

- (1) The health certificate holder must, in respect of the child care service to which his or her health certificate relates -
- (a) Ensure that, while the children are in the care of the child care service, the children are at all times properly cared for and under the direct supervision of an adequate number of adults;
  - (b) Maintain every part of the premises on which the child care service is operated, including any outdoor area and all structures and equipment, in good repair and in a clean and tidy condition;
  - (c) Ensure that all persons on the premises on which the child care service is operated are physically clean and in a state of good health;
  - (d) Ensure that no person on the premises on which the child care service is operated uses tobacco or any tobacco product in the presence of any child;



- (e) Ensure that no person on the premises on which the child care service is operated is under the influence of alcohol, any drug or any other harmful substance; and
  - (f) Ensure that, if meals are provided for children -
    - (i) The meals meet the requirements of the relevant authority;
    - (ii) All menus for the meals are approved by the relevant authority and are adhered to; and
    - (iii) The menus for the meals are so displayed as to be visible to the parents of the children.
- (2) If any child care service for children under compulsory school-going age transports children to and/or from the premises of the child care service, must ensure that-
- (a) While being transported, the children are supervised by at least one adult apart from the driver of the vehicle until the children are handed over to their parents or guardians;
  - (b) The doors of the vehicle in which any child is transported are lockable such that they cannot be opened from inside the vehicle by a child;
  - (c) No child is transported in the front seat of a vehicle;
  - (d) A baby in a carry cot is not placed under a seat of a vehicle;
  - (e) The vehicle in which any child is transported is not overloaded in terms of any applicable law;
  - (f) The driver of the vehicle in which any child is transported is licensed to transport passengers in accordance with the applicable law; and
  - (g) The vehicle in which any child is transported is licensed and is roadworthy in accordance with the applicable laws.

### **31. Offences**

- (1) A person is guilty of an offence under this By-laws if he or she- unlawfully prevents an authorised official entry to his or her premises or causes or permits any other person to prevent entry;
- (2) Obstructs or hinders an authorised official in the performance of his or her duties or causes or permits any other person to so obstruct or hinder the authorised official;
- (3) Refuses or fails to provide to an authorised official such information as is required to allow an authorised official to perform a function in terms of this By-law;
- (4) Knowingly gives false or misleading information to an authorised official;
- (5) Impersonates an authorised official;
- (6) Contravenes or fails to comply with any provision of this By-law;
- (7) Contravenes any provision or condition in respect of his or her health compliance certificate; or
- (8) Contravenes or fails to comply with any order or notice lawfully issued under this By-law.

### **32. Penalties**

- (1) Any person who is convicted of an offence under this By-law is liable to a fine not exceeding an amount of R40 000 or to imprisonment for a period not exceeding 2 years, or to both such fine and imprisonment.

- (2) In the case of a continuing offence, an additional fine of an amount not exceeding R 200 per day or imprisonment for a period not exceeding 10 days, for each day on which such offence continues or both such a fine and imprisonment, will be imposed.

### 33. Withdrawal of health compliance certificates

- (1) The Municipality may, in its discretion, withdraw a health compliance certificate and a certificate of acceptability where applicable-
- (a) If the health compliance certificate holder is convicted of a breach of any of the provisions of this By-law; or
  - (b) Where a change in legislation necessitates a withdrawal.

### 34. Application bylaw

This by-law shall be binding on all persons who own or occupy premises within the jurisdiction of the municipality.

### 35. Repeal of bylaws

Any by-laws relating to street trading adopted by the municipality or any erstwhile municipal council now comprising an administrative unit of the municipality shall be repealed from the date of promulgation of this by-law.

*[It is likely that "street trading" above should be "child care facilities", in which case the [Childcare Services By-law, 2017](#) would be repealed.]*

### 36. Short title

This by-law is called the Child Care facilities By-law, 2016, and takes effect on a date determined by the municipality by proclamation in the Provincial Gazette