LOCAL AUTHORITY NOTICE 899

CITY OF TSHWANE METROPOLITAN MUNICIPALITY

PROMULGATION OF HEALTH BY-LAWS FOR THE OPERATION AND MANAGEMENT OF INITIATION SCHOOLS

The Municipal Manager of the City of Tshwane Metropolitan Municipality, 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, 1996 (Act 108 of 1996), the Health By-Laws for the Operation and Management of Initiation Schools which shall come into operation on date of publication hereof.

MR BLAKE MOSLEY-LEFATOLA
MUNICIPAL MANAGER

26 May 2004
(Notice No 446/2004)

CITY OF TSHWANE METROPOLITAN MUNICIPALITY

HEALTH BY-LAWS FOR THE OPERATION AND MANAGEMENT OF INITIATION SCHOOLS

1. Definitions

In these by-laws, unless the context otherwise indicates –

"abduction" or **"kidnap"** means the taking of a person by force without his or her consent and, in the case of a minor, without the consent or permission of his or her parent or guardian, and **"abduct"** and **"kidnap"** have a corresponding meaning;

"circumcision" means the surgical removal of the foreskin or clitoris, including any external genitalia, by a traditional surgeon in accordance with section 3 as part of a cultural initiation process, and **"circumcise"** has a corresponding meaning

"culture" means the traditional customs of a particular group and includes their habits, norms, mores, ethics and values, and **"cultural"** has a corresponding meaning;

"Environmental Health Practitioner" means the Environmental Health Practitioner appointed by the Municipality;

"Executive Mayor" means the Executive Mayor of the Municipality;

"health officer" means a person in the employ of the Municipality who holds qualifications that entitle him or her to be registered as a medical practitioner, an environmental health practitioner or a nurse and who is appointed to enforce the provisions of these by-laws in accordance with his or her professional practice;

"MEC" means the member of the Executive Council of the province of Gauteng who is responsible for health in the province;

"Municipality" means the City of Tshwane Metropolitan Municipality established by General Notice 6770 in *Provincial Gazette Extraordinary* 141 of 1 October 2000 in terms of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);

"police officer" means any person appointed as a police officer or peace officer by the South African Police Service or the Municipality;

"teacher" means a person who teaches initiates; and

"traditional authority" means any authority which in terms of indigenous law or any other law administers the affairs of any tribe or group of indigenous people or any other persons resident within an area under the control of a traditional leader;

"traditional leader" means any person who in terms of indigenous law or any other law is in charge of or exercises control over a traditional authority; and

"traditional surgeon" means a traditional healer or traditional health practitioner who performs circumcisions as part of a cultural initiation process and includes any person who has been trained to perform such circumcisions and meets with the requirements for performing circumcisions.

2. Application for operation and registration of initiation schools

(1) Any person who intends opening and operating an initiation school must submit a written application to the Municipality for the registration of the initiation school, provided that –

(a) any application received by a traditional authority, the South African Police Service or a civic association is referred to the Municipality; and

(b) any application received by the Municipality is referred to the traditional authority, the local police station of the South African Police Service and the civic association.

(2) The Municipality must, upon receipt of an application referred to in subsection (1), issue the applicant with the consent forms as set out in Schedules 1 and 2 to these by-laws.

(3) The consent forms referred to in subsection (2) must be completed and submitted to the Municipality at least 30 days prior to the commencement of the initiation school. No initiation school may commence until it has been approved by and registered with the Municipality.

(4) The Environmental Health Practitioner must issue an applicant referred to in subsection (2) with a list of the minimum requirements that are to be met before a registration certificate can be issued in respect of the initiation school, which minimum requirements are set out in Schedule 3 to these by-laws.

(5) The Environmental Health Practitioner may, after conducting an inspection of the proposed initiation school, issue a registration certificate conditionally or unconditionally in respect of the initiation school.

(6) Subject to the provisions of these by-laws, a registration certificate may be issued if the minimum requirements pertaining to water, shelter and sanitation have been met.

(7) No person may carry out any activity pertaining to the operation and management of an initiation school unless the initiation school is registered with the Municipality and police station in the area.

3. Permission to perform circumcisions

(1) A circumcision may be performed at or in an initiation school if the consent of the Municipality and the MEC has been obtained in writing.

(2) A traditional surgeon may perform a circumcision in or at an initiation school if he or she –

(a) was previously subjected to a cultural initiation process; and

(b) has been authorised in writing by the appropriate and recognised traditional leader to perform a circumcision as part of a cultural initiation process.

4. Admission to an initiation school

(1) Any person who is 15 years of age or older may be admitted to an initiation school.

(2) If an initiate is under the age of 21 years, his or her parent or guardian must give consent in writing for the initiate to be circumcised, which consent must be given in the prescribed consent form as set out in Schedule 1 to these by-laws.

(3) Any person under the age of 21 years who admits himself or herself to an initiation school without the consent of his or her parent or guardian must be detained temporarily and may not be circumcised until the local police officer in charge has been notified and has obtained the consent of the parent or guardian in writing.

(4) Any person who is 21 years of age or older may be admitted voluntarily to an initiation school.

(5) No person may abduct or kidnap any other person and take him or her to an initiation school and have him or her admitted to the initiation school.

(6) A person is guilty of a criminal offence and will be charged by a police officer if such person abducts or kidnaps another person and takes him or her to an initiation school and has him or her admitted to the initiation school.

5. Closure of initiation schools

(1) The Executive Mayor or the MEC may close any initiation school that is or has been operating without being registered with the Municipality, the local police station, the civic association or the traditional authority in the area, provided that the opinion of the traditional leader concerned is taken into consideration in respect of the closing of the initiation school.

(2) In the event of the closure of an initiation school in terms of section (1), the initiates must be temporarily relocated to ..... by ..... as a form of intervention to accommodate their wishes.

6. Establishment of initiation school advisory committee

(1) The Municipality must establish an initiation school advisory committee within its area of jurisdiction to deal with matters relating to the operation of initiation schools, including appeals and complaints in respect of the initiation schools.

(2) The initiation school advisory committee referred to in subsection (1) may advise the Executive Mayor and the MEC to close an initiation school if, in its opinion, the health of the initiates is at risk.

(3) The members of the initiation school advisory committee referred to in subsection (1) must previously have undergone a cultural initiation process. Such initiation school advisory committee must consist of at least –

(a) one representative of the medical, nursing, environmental health or emergency medical services profession;

(b) one representative of the South African Police Service or metropolitan police of the Municipality;

(c) one representative of the Traditional Healers' Association of South Africa;

(d) one representative of the national Department of Education;

(e) one member of a traditional authority or a representative of such member;

(f) one member of a civic association;

(g) one person representing an association for the initiation school fraternity; and

(h) one representative of a local hospital.

7. Circumcisions by traditional surgeons at initiation schools

(1) Prior to an initiate's circumcision, the traditional surgeon must obtain from the initiate a pre-medical examination certificate as set out in Schedule 4 to these by-laws, which certificate must state clearly that the initiate is fit to be circumcised and has no medical condition that may cause unnecessary complications during or after the circumcision.

(2) A traditional surgeon must take precautionary measures to ensure the speedy recovery of initiates after a circumcision.

(3) A traditional surgeon must ensure that health standards are maintained at all times in respect of any circumcision.

(4) A traditional surgeon must ensure that any instrument used for circumcising an initiate is not used on another initiate, provided that if an instrument is to be used on more than one initiate, the instrument is properly sterilised after each circumcision.

8. Duration of initiation schools

(1) An initiation school may be operated for a period not exceeding 90 days.

(2) An initiation school must be operated during the official school holidays in accordance with the school calendar of the national Department of Education, provided that an initiation school may be operated outside the school holiday period if –

(a) the initiates are not learners who attend formal education institutions; or

(b) the initiates have obtained permission from the applicable school authority to attend the initiation school.

9. Treatment of initiates

(1) No initiate may be subjected to any corporal punishment or unnecessary or undue physical suffering or punishment.

(2) A teacher or any other person may teach an initiate the language, idioms and poems of the initiation school, provided that no form of intimidation or interrogation is used to teach the initiate.

(3) No initiate may be refused any water or food to the extent that such refusal may result in the dehydration or starvation of the initiate.

(4) Adequate sanitary facilities must be provided for initiates.

(5) Initiates must be protected against extreme temperatures, especially cold temperatures during winter.

(6) Any initiate who appears to be developing septic wounds must be referred to a medical practitioner for further treatment.

(7) An initiation school must identify at least one medical practitioner and traditional health practitioner of its choice to assist it in referring emergency cases.

10. Cultural ethics and inspection of initiation schools

(1) The Municipality, the South African Police Service and, where necessary, the national Department of Education must identify one person or more people from the medical, nursing, environmental health or police profession to make regular visits to initiation schools. Such person or people must be familiar with the proceedings of initiation schools.

(2) All initiation schools must be visited by health officers. A health officer must, during his or her visit to an initiation school, assess –

(a) the general environmental hygiene and medical conditions in the initiation school; and

(b) the general health of the initiates.

(3) A health officer must be fully informed about and be aware of the proceedings of initiation schools to avoid any conflict which may arise.

(4) A health officer or person or persons referred to in subsection (1) must refer any serious matter or problem identified during a visit contemplated in subsection (2) to the relevant authority or body for further action.

11. Offences

(1) 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 initiation school –

(a) denies the official entry to the initiation school 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.

(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 of an initiation school.

(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 2.

(4) A person who is guilty of an offence under these by-laws is liable on conviction to a fine not exceeding **R20 000,00***, to community service or to imprisonment for a period not exceeding one year, or to both such fine and such community service or such imprisonment. In the case of a continuing offence, such person is guilty of a separate offence and liable on conviction to a fine not exceeding **R20 000,00***, to imprisonment for a period not exceeding one year, or to both such fine and such community service or such imprisonment in respect of every day or part of a day during which the offence continues.

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SCHEDULE 1

CONSENT BY PARENT OR GUARDIAN

I, _____, ID No _____, hereby give consent for and permit the applicant, _____ years of age, to attend initiation school for the prescribed duration of the initiation school and to be circumcised.

I declare that I am the *parent/guardian of the applicant and I reside at the following address:

_____

_____

_____

SIGNATURE _____ DATE _____

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SCHEDULE 2

CONSENT BY APPLICANT

I, _____, ID No _____, being _____ years of age, hereby consent to attend the initiation school for the prescribed duration of the initiation school and to be circumcised. My date of birth is _____.

I declare that I reside at the following address:

_____

_____

_____

SIGNATURE _____ DATE _____

_____

* To be determined.

* Delete whichever is not applicable.

SCHEDULE 3

MINIMUM REQUIREMENTS WHICH INITIATION SCHOOLS MUST MEET

1. A suitable shelter must be provided for initiates. The shelter must be constructed in such a manner that initiates are protected from extreme temperatures, especially during cold weather conditions.

2. A potable water supply must be provided for the initiates for drinking and cooking purposes.

3. Suitable sanitary facilities in the form of well-constructed pit latrines or portable chemical toilets must be provided for use by the initiates.

4. All body parts removed during circumcision must be disposed of in a hygienic manner.

5. Refuse removal, including the disposal of used surgical instruments, must be carried out as may be prescribed by the Environmental Health Practitioner.

6. Food must be prepared hygienically and be kept separate from any area used for sleeping purposes.

7. Initiates must be given sufficient food at least twice a day and be allowed to drink water when necessary.

8. Initiates must be allowed to wear warm clothing, especially in cold weather.

9. Instruments such as razor blades used in the circumcision procedure must be used once only, and any other instruments must be sterilised after the circumcision of each initiate.

10. The owner of an initiation school must identify at least one person from the medical profession to assist in the event of an emergency and for referral purposes.

11. Prescribed medication to stop bleeding and prevent unnecessary bleeding must be readily available at the initiation school.

12. A detention room must be available at the initiation school for persons who have come for a circumcision without the consent of their parents or guardians.

13. A register must be kept of all initiates in the initiation school.

14. A first-aid kit that includes antiseptics and medicines for treating minor ailments must be available at the initiation school.

SCHEDULE 4

STANDARD PRE-CIRCUMCISION MEDICAL EXAMINATION

PATIENT'S PARTICULARS:

NAME: _____

SURNAME: _____

DATE OF BIRTH/ID: _____

RESIDENTIAL ADDRESS: _____

EXAMINATION

GENERAL – ALLERGIES _____
BLEEDING TENDENCIES _____
ANAEMIA _____
JAUNDICE _____
LYMPHADENOPATHY _____
HEART _____
_____
_____
LUNGS _____
_____
_____
ABDOMEN _____
PSYCHIATRIC DISORDERS _____
UROGENITAL CONDITION _____
_____
OTHER _____
_____
_____
_____

I, _____, being a registered medical practitioner, certify that _____ is fit to be circumcised.

DATE: _____

SIGNATURE: _____

QUALIFICATIONS: _____

PRACTICE NUMBER: _____

TEL NO: _____