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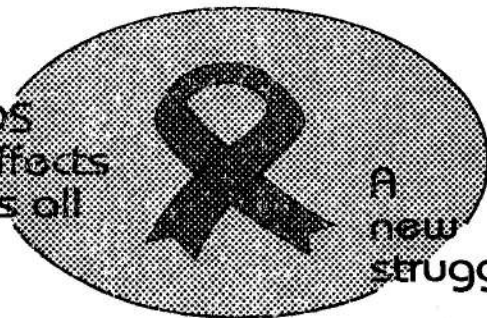
Vol. 13

BISHO/
KING WILLIAM'S TOWN, 4 DECEMBER 2006

No. 1630
(Extraordinary)

We all have the power to prevent AIDS

AIDS
affects
us all



A
new
struggle

Prevention is the cure

**AIDS
HELPUNE**

0800 012 322

DEPARTMENT OF HEALTH



CONTENTS

No.		Page No.	Gazette No.
LOCAL AUTHORITY NOTICES			
218	Constitution of the Republic of South Africa, 1996: Cacadu District Municipality: Aerodrome By-law	3	1630
219	do.: do.: Commonage By-law	9	1630
220	do.: do.: Fences and Fencing By-law	15	1630
221	do.: do.: Funeral Parlours, Cemeteries and Crematoria By-law	24	1630
222	do.: do.: Impoundment of Animals By-law	48	1630
223	do.: do.: Outdoor Advertising and Signage By-law	54	1630
224	do.: do.: Prevention of Public Nuisance and Keeping of Animals By-law	89	1630
225	do.: do.: Public Amenities By-law	100	1630
226	do.: do.: Roads and Traffic By-law	113	1630
227	do.: do.: Solid Waste Disposal By-law	126	1630
228	do.: do.: Sporting Facilities By-law	135	1630
229	do.: do.: Stormwater Management By-law	145	1630
230	do.: do.: Street Trading By-law	151	1630
231	Water Services Act (108/1997): Water Supply and Sanitation Services By-law	159	1630

LOCAL AUTHORITY NOTICES

No. 218

CACADU DISTRICT MUNICIPALITY
AERODROME BY-LAW

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996, the Cacadu District Municipality, enacts as follows for application within the District Management Area established in terms of section 6 of the Local Government: Municipal Structures Act, Act 117 of 1998 :-

Table of contents

1. Interpretation
2. Purpose of by-laws
3. Regulations of Aviation Act, Act 74 of 1962 and agreements applicable
4. Agreements
5. Aerodrome hours
6. Arrivals and departure of aircraft
7. Tariffs
8. Access to landing field
9. Regulation or prohibition of vehicular traffic and pedestrians
10. General Conduct of Persons
11. Removal of damaged or disabled aircraft
12. Supply of fuel to Aircraft
13. Boarding or tampering
14. Use of buildings and hangars
15. Trading
16. Prohibited conduct
17. Appeal
18. Penalties
19. Revocation of by-laws
20. Short title and commencement

1. Interpretation

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

Act means the Aviation Act, Act 74 of 1962;

"Air Navigation Regulations" means the Civil Aviation Regulations, 1997, published under Government Notice R. 1219, dated 26th September, 1997, as amended from time to time, or any regulations by which the same have been duly replaced;

"aerodrome" has the meaning assigned to it in the Aviation Act, 1962 (Act 74 of 1962), and in this by-law refers to the Cacadu District Municipal Aerodrome;

"Council" means the Cacadu District Council;

"landing field" means the area comprising the runways and other prepared ways for the passage of aircraft on the ground, aprons and all the land surrounding that area enclosed by a fence;

"manager" means the person for the time being in charge of the aerodrome and includes any other person who is authorised to act on his or her behalf;

"municipality" means the Cacadu District Municipality, and includes any political structure, political office bearer, duly authorised agent thereof or any employee acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, agent or employee;

"public enclosures" means demarcated areas within the aerodrome set aside by the Council from time to time for use by members of the public other than persons flying in aircraft, and for the parking of vehicles;

"runway" means a defined rectangular area prepared or constructed for the landing and take-off run of aircraft along its length;

"taxiway" means a defined path on the aerodrome for the use of taxi-ing aircraft whether such path is constructed or not.

2. Purpose of by-laws

The purpose of this by-law is to provide for the control of all aerodromes

3. Regulations of Aviation Act, Act 74 of 1962 and agreements applicable

This by-law must be read with, and the application thereof is subject to the Aviation Act, 1962 (Act 74 of 1962), as amended, any regulations made there-under, and any agreement entered into between the municipality and any holder of an operator's licence and nothing in this by-law must be taken as purporting to contradict or derogate from the control of the aerodrome in accordance with the Aviation Act, Act 74 of 1962, the regulations or any such agreement.

4. Agreements

The municipality may enter into a written agreement with any party regarding the use of any aerodrome of which it is the licence holder.

5. Aerodrome hours

The municipality may determine the hours during which the aerodrome may be used, taking the possibility of emergencies into consideration.

6. Arrivals and departure of aircraft

Every person in charge or control of an aircraft must ensure that adequate precautions have been taken to keep unauthorized persons at a safe distance from all aircraft before any of its engines is started and while any engine is running.

7. Tariffs

Subject to any agreement referred to in section 3 the municipality may levy tariffs for the use of any aerodrome.

8. Access to landing field

- (1) No person may enter or be on the landing field except the following:
 - (a) Pilots and crew of aircraft based at or using the aerodrome in the course of their duties connected with the aircraft;
 - (b) technical, mechanical and servicing personnel going to or from aircraft in pursuance of their official duties connected therewith;
 - (c) pupil pilots going to or from aircraft for purposes of instruction or practice;
 - (d) members of the aerodrome's ground staff on duty, and other aerodrome officials authorized by the Manager;
 - (e) aircraft passengers, as long as they are passing directly between their aircraft and the public enclosures, or otherwise moving under the directions of the Manager or his staff; and
 - (f) any person not previously specified in this section having express authority from the Manager to enter the landing field.
- (2) A person who enters or is on the landing field in contravention of subsection (1) commits an offence.

9. Regulation or prohibition of vehicular traffic and pedestrians

- (1) Vehicles may only be parked in areas designated for that purpose by notices or as directed by the Manager, however this subsection does not apply to any officer of the municipality employed at the aerodrome.
- (2) The Manager may regulate the admission of persons or vehicles to the aerodrome or any part thereof.
- (3) The Manager may direct a person in lawful charge of a vehicle which is parked on the aerodrome to move the vehicle –
 - (a) to another place on the aerodrome ;or
 - (b) from the aerodrome;and if such person refuses, fails to comply or is not present to comply the Manager or a member of the police may have that vehicle removed.
- (4) Motor vehicles may not be driven on the taxiways and runways without permission from the Manager.
- (5) All persons at the aerodrome must obey any directions issued by the Manager.

(6) No person under the age of fourteen years, not being an authorized passenger in an aircraft, may enter the aerodrome unless accompanied by and under the supervision of an adult person.

(7) The Manager has the right to remove from the aerodrome any unaccompanied person under the age of fourteen years, not being an authorized passenger in an aircraft, and to require the removal therefrom by the adult in charge of him or her of any person under the age of fourteen years whose conduct is prejudicial to the amenities and proper management of the aerodrome.

(8) A person who contravenes any of the provisions of this section or who fails to comply with a direction given by the manager commits an offence.

10. General Conduct of Persons

(1) No person may without the written prior consent of the Manager, on or around the aerodrome premises, buildings, structures, trees, fences or any other part thereof –

- (a) place or affix any placard or notice;
- (b) climb any tree, building or other structure;
- (c) uproot or injure any tree or plant or pick any flower;
- (d) light or in any other manner cause a fire, or smoke or bring an open flame into –
 - (i) any place where such act is prohibited by a notice displayed on the direction or with the permission of the Manager; or
 - (ii) any place within 16 m of an aircraft or of any vehicle used for the supply of fuel to an aircraft or a store or dump of liquid fuel or explosives;
- (e) tamper or interfere with any fire hose reel, hydrant or any other item or equipment provided solely for fire-fighting purposes, or in the event of a fire, to interfere with or take part in any rescue or fire-fighting operation, unless he or she has been asked to do so by the official in charge of such operation;
- (f) discharge any firearm or airgun or set off any firework, or use a catapult or to throw any stone or other object;
- (g) affix or distribute any pamphlet, book, handbill or other printed matter or other article;
- (h) enter any public convenience marked as being reserved for persons of the opposite sex;
- (i) enter any building or place in disregard of a notice prohibiting such entry;
- (j) enter or leave the aerodrome or any part thereof except by means of the entrances or exits marked as being provided for that purpose.

- (2) No object capable of causing an obstruction may be left on the landing field except when its presence there is necessary.
- (3) A person who contravenes a provision of this section commits an offence.

11. Removal of damaged or disabled aircraft

- (1) The operator of any damaged or disabled aircraft must, if directed to do so by the Manager, move such aircraft or any part thereof or any cargo or thing carried therein to another place on the aerodrome indicated by the Manager, or from the aerodrome.
- (2) If the operator of a damaged or disabled aircraft does not or cannot comply with any direction given in terms of subsection (1), the Manager may take steps to ensure compliance and may recover from the operator of that aircraft the cost incurred in ensuring compliance and any action by the Manager does not exempt such operator from prosecution .

12. Supply of fuel to Aircraft.

- (1) No person may supply fuel to any aircraft except at a place and in a manner approved by the Manager, subject to any conditions that may be imposed.
- (2) A person who contravenes subsection (1) commits an offence.

13. Boarding or tampering with aircraft

- (1) Except with the permission of the person in lawful charge of all aircraft no person may on the aerodrome –
 - (a) board such aircraft; or
 - (b) tamper or interfere in any way whatsoever with such aircraft or anything used in connection therewith.
- (2) A person who contravenes subsection (1) commits an offence.

14. Use of buildings and hangars

- (1) Subject to any agreement entered into in terms of section 4, the buildings, hangars and other facilities on the aerodrome are under the control of the municipality and the use thereof is subject to any conditions imposed by it.
- (2) A person who uses the buildings, hangars or other facilities in contravention of a condition imposed in terms of subsection (1) commits an offence.

15. Trading

- (1) Subject to any agreement entered into in terms of section (4) no person may engage in any form of business within the boundary of the aerodrome without the written permission of the municipality.
- (2) A person who contravenes subsection (1) commits an offence.

16. Prohibited conduct

No person may -

- (a) play any musical instrument, operate any sound reproducing device, sing or make any speech in a manner that causes a nuisance or disturb staff in the execution of their duties;
- (b) cause any obstruction, disturbance or nuisance or commit any act causing annoyance to other persons using or present at the aerodrome;

17. Appeal

A person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision.

18. Penalties

A person who has committed an offence in terms of this by-law is, on conviction, liable to a fine, or in default of payment, to imprisonment, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment, and in the case of a successive or continuing offence, to a fine for every day such offence continues, or in default of payment thereof, to imprisonment.

19. Revocation of by-laws

The following by-laws are hereby repealed:

- (a) Any by-law previously promulgated by the municipality or any of the disestablished municipalities now incorporated into the municipality, in so far as it relates to any matter provided for in this by-law; and
- (b) Any by-law previously promulgated by the Cacadu District Municipality or any of its predecessors, in so far as it has been made applicable to the municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Municipal Structures Act, 117 of 1998.

20. Short title and commencement

This by-law is known as the Aerodrome By-law, and commences on the date of publication thereof in the Provincial Gazette.

No. 219

CACADU DISTRICT MUNICIPALITY COMMONAGE BY-LAW

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996, the Cacadu District Municipality, enacts as follows for application within the District Management Area established in terms of section 6 of the Local Government: Municipal Structures Act, Act 117 of 1998:-

Table of contents

1. Definitions
2. Purpose of by-law
3. Establishment of camps for grazing
4. Closing of camps
5. Approval to graze animals
6. Confinement of stock to camps
7. Numbers and condition of animals
8. Branding of stock
9. Grazing fees
11. Carcasses of animals
12. Prohibited conduct
13. Exemptions
14. Liaison forums in community
15. Agreements
16. Authentication and service of notices and other documents
17. Appeal
18. Penalties
19. Revocation of by-laws
20. Short title and commencement

1. Definitions

“Act” means the Animal Identification Act, 2002 (Act 6 of 2002);

“brand” has the meaning assigned to it in the Animal Identification Act, 2002 (Act 6 of 2002);

“commonage” means that part of property owned by or under control of the municipality, which the municipality may set aside for grazing;

“large stock” has the meaning assigned to it in the Animal Identification Act, 2002 (Act 6 of 2002) and the Regulations made in terms thereof;

“municipality” means the Cacadu District Municipality established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, councillor, duly authorised agent or any employee acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

“prescribed” means prescribed by the municipality;

“small stock” has the meaning assigned to it in the Animal Identification Act, 2002 (Act 6 of 2002) and the Regulations made in terms thereof.

2. Purpose of by-law

The purpose of this by-law is to provide for the control and administration of animals on a commonage established by the municipality.

3. Establishment of camps for grazing

- (1) The municipality may reserve and fence off a portion of the commonage and establish camps for the grazing of the stock of the residents.
- (2) The municipality may set apart portions of the commonage for the grazing of small stock and large stock.
- (3) The municipality may erect paddocks or enclosures for animals of residents.

4. Closing of camps

- (1) The municipality may, whenever it deems it necessary for a purpose such as, but not limited to, maintenance or allowing a meadow to regenerate grass growth, close and prohibit the grazing of a camp on the commonage, during certain periods of the year.
- (2) No person may allow his or her animal to graze in a camp which has been closed by the municipality for whatever purpose or reason.
- (3) The municipality may impound an animal found in a camp which has been closed in terms of subsection (1).
- (4) A person who contravenes subsection (2) commits an offence.

5. Approval to graze animals

- (1) No person may keep or depasture any animal in a camp on a commonage without first having obtained written approval from the municipality.
- (2) A person who wishes to obtain approval must submit the prescribed form to the municipality which may, after considering the following factors, grant approval:
 - (a) The total number of animals already accommodated in the camps;
 - (b) the number of animals, and the kind of animal, which he or she wishes to have accommodated in a camp;
 - (d) the condition of the meadows (pastures), and if any further animals can be accommodated; and
 - (e) any other factor which the municipality deems necessary.
- (3) The right of depasturing is personal only and no person is entitled to transfer or cede his or her right to another.
- (4) A person who contravenes subsection (1) commits an offence.

6. Confinement of stock to camps

- (1) A person depasturing on commonage must confine it to the camp set apart by the municipality.
- (2) A person who contravenes subsection (1) commits an offence.

7. Numbers and condition of animals

- (1) The municipality may determine the numbers and kinds of animals that may be accommodated on the commonage by a person.

(2) A person keeping an animal on the commonage must ensure that the animal is in a healthy condition.

(3) The municipality may require from a person keeping or applying to keep an animal on the commonage to file with the municipality a sworn declaration as to the ownership and condition of the animal.

(4) A person who –

- (a) keeps more than the determined number of animals as contemplated in subsection (1) on a commonage;
- (b) who fails to keep an animal in a healthy condition as contemplated in subsection (2);
- (c) fails to file a declaration as contemplated in subsection (3); or
- (c) provides false information to the municipality, commits an offence.

8. Branding of stock

(1) A person who depastures any stock on the commonage must ensure that all his or her animals are branded in terms of section 7 of the Act.

(2) Stock found on the commonage without such brand, may be impounded by the municipality.

9. Grazing fees

(1) The municipality may determine grazing fees that must be paid to the municipality.

(2) Should a person fail to pay a grazing fee, the municipality may take such measures as provided for in its Customer Care and Revenue Management By-law.

10. Infected or contagious animals

(1) No person may graze, bring or leave any stock suffering from or suspected of being infected with any contagious or infectious disease, on the commonage.

(2) Any stock found on the commonage suspected of being infected with any contagious or infectious disease must, at the cost of the owner, be inspected by a veterinary surgeon and if he or she finds that the disease is contagious or infectious, he or she may cause such stock to be isolated or destroyed.

(3) A person who contravenes subsection (1) commits an offence.

11. Carcasses of animals

(1) The owner of an animal which has died on the commonage must immediately cause the carcass to be buried, and should he or she fail to do so, the municipality will bury the carcass and claim the expenses from the owner.

(2) A person who fails to dispose of a carcass as contemplated in subsection (1) commits an offence.

12. Prohibited conduct

(1) No person may without the prior written consent of the municipality –

- (a) erect any hut, shelter, kraal, habitation or structure of any kind nor occupy, camp or squat on any portion of the commonage;

- (b) accumulate, dump or deposit or cause to be accumulated, dumped or deposited on any portion of the commonage any derelict motor cars or other vehicles or machinery or any derelict parts thereof;
 - (c) dig or remove soil, clay, sand, gravel or boulders on or from the commonage;
 - (d) make bricks, or erect brick-, lime- or charcoal kilns, on the commonage;
 - (e) cut, damage, burn, destroy, gather or remove any plants, shrubs, trees, timber, firewood, brushwood, manure or any grass growing or being upon any portion of the commonage;
 - (f) interfere with or cause damage to any fence, gate, drinking trough, water tap or other appliance or thing, or set fire to the pasture or any bush, tree, shrub on the commonage;
 - (g) make use of any road over the commonage other than roads allowed to be used by the municipality from time to time, and roads that the public have a legal right to use;
 - (h) deposit or in any way leave any poison for whatever purpose on the commonage;
 - (i) kill, catch, capture or hunt or attempt to kill, any game or birds of whatsoever description on the commonage;
 - (j) set traps of whatsoever description on the commonage;
 - (k) destroy the nest, or remove the eggs or young therefrom, of any birds or water-fowl on the commonage; or
 - (l) fish.
- (2) The municipality may take or cause to be taken any steps necessary to rectify any contravention of subsection (1) and may claim the costs incurred by the municipality from the person responsible for the contravention.
- (3) A person who contravenes subsection (1) commits an offence.

13. Exemptions

- (1) Any person may by means of a written application, in which the reasons are given in full, apply to the municipality for exemption from any provision of this by-law.
- (2) The municipality may –
- (a) grant an exemption in writing and the conditions in terms of which, if any, and the period for which such exemption is granted must be stipulated therein;
 - (b) alter or cancel any exemption or condition in an exemption; or
 - (c) refuse to grant an exemption.
- (3) An exemption does not take effect before the applicant has undertaken in writing to comply with all conditions imposed by the municipality under subsection (2), however, if an activity is commenced before such undertaking has been submitted to the municipality, the exemption lapses.
- (4) If any condition of an exemption is not complied with, the exemption lapses immediately.

14. Liaison forums in community

(1) The municipality may establish one or more liaison forums in a community for the purposes of –

- (a) creating conditions for a local community to participate in the affairs of the municipality;
- (b) encouraging a local community to participate in the affairs of the municipality; and
- (c) promoting the achievement of a properly controlled and administered commonage.

(2) A liaison forum may consist of –

- (a) a member or members of an interest group, or an affected person;
- (b) a member or members of a community in whose immediate area a commonage has been established;
- (c) a designated official or officials of the municipality; and
- (d) a councillor.

(3) (a) The municipality may, when considering an application for an approval, or exemption certificate in terms of this by-law, request the input of a liaison forum.

- (b) A liaison forum or any person or persons contemplated in subsection (2) may, on own initiative an input to the municipality for consideration.

15. Agreements

The municipality may enter into a written agreement with any party regarding the use of the commonage or any part thereof.

16. Authentication and service of notices and other documents

(1) A notice issued by the municipality in terms of this by-law is deemed to be duly issued if an official of the municipality signed it.

(2) Any notice or other document that is served on a person in terms of this by-law is regarded as having been duly served –

- (a) when it has been delivered to that person personally;
- (b) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of 16 years;
- (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic, and an acknowledgment of the posting thereof from the postal service is obtained;
- (d) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided by paragraphs (a), (b) or (c);
- (e) if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the land or business premises to which it relates;
- (f) in the event of a body corporate, when it has been delivered at the registered office of the business premises of the body corporate; or
- (g) when it has been delivered, at the request of that person, to his or her e-mail address.

- (3) Service of a copy is deemed to be service of the original.
- (4) When any notice or other document is served on the owner, occupier, or holder of any property, or right in any property, it is sufficient if that person is described in the notice or other document as the owner, occupier, or holder of the property or right in question, and it is not necessary to name that person.

17. Appeal

A person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision.

18. Penalties

A person who has committed an offence in terms of this by-law is, on conviction, and subject to penalties prescribed in any other law, liable to a fine or in default of payment, to imprisonment, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment, and in the case of a successive or continuing offence, to a fine for every day such offence continues, or in default of payment thereof, to imprisonment.

19. Revocation of by-laws

The following by-laws are hereby repealed:

- (a) Any by-law previously promulgated by the municipality or any of the disestablished municipalities now incorporated into the municipality, in so far as it relates to any matter provided for in this by-law; and
- (b) Any by-law previously promulgated by the Cacadu District Municipality or any of its predecessors, in so far as it has been made applicable to the municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Municipal Structures Act, 117 of 1998.

20. Short title and commencement

This by-law shall be known as the Commonage By-law and shall come into operation on the date of publication thereof in the Provincial Gazette.

No. 220

**CACADU DISTRICT MUNICIPALITY
FENCES AND FENCING BY-LAW**

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996, the Cacadu District Municipality, enacts as follows for application within the District Management Area established in terms of section 6 of the Local Government: Municipal Structures Act, Act 117 of 1998 :-

TABLE OF CONTENTS

1. Interpretation
 2. Principles and objectives
 3. Application
 4. Fences
 5. Penalties
 6. Notice of compliance and representations
 7. Costs
 8. Demolition order
 9. Authentication and service of notices and other documents
 10. Appeal
 11. Implementation and enforcement
 12. Saving and transitional provision
 13. Exemptions
 14. Liaison forums in community
 15. Revocation of by-laws
 16. Short title and commencement
- Schedule

1. Interpretation

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

“alter” includes to cause, allow or permit to be altered;

“boundary” means the real or notional line marking the limits of premises;

“agent”, in relation to the owner of a property, means a person appointed by the owner of the property-

- (a) to receive rental or other payments in respect of the property on behalf of the owner; or
- (b) to make payments in respect of the property on behalf of the owner;

“erect” includes to cause, allow or permit to be erected;

“fence” means any fence, together with any gate or any contrivance forming part or serving the purpose of such a gate, erected as a boundary between any erven, lots or stands within the municipal area, and includes a fence which is not erected on a boundary, such as a garden fence or a free-standing wall on an erf, lot or stand;

"ground level" means the natural level of the ground, except where such level has been disturbed, in which case the street level is to be regarded as the ground level;

"municipality" means the Cacadu District Municipality established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, councillor, duly authorised agent or any employee acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

"public land" means land the ownership of which is vested in an organ of state;

"repair" has the meaning assigned to it in the Fencing Act, 1963 (Act 31 of 1963).

2. Principles and objectives

The Municipality, aware of its duty to provide a safe and healthy environment, in this by-law regulate fencing with the aim of safeguarding its residents and visitors to the area.

3. Application

Subject to the provisions of the Fencing Act, 1963 (Act 31 of 1963), the provisions in this by-law relating to an electrical fence, barbed wire and razor wire do not apply to land zoned for agricultural purposes, except where such electrical fence, barbed wire or razor wire is erected on the boundary between the land and public land.

4. Fences

(1) No person may, without the consent of the municipality, on a boundary of premises –

- (a) erect a fence which is more than 2 metres in height from ground level;
- (b) alter or make an addition to an existing fence which is more than 2 metres in height from ground level;
- (c) erect or may have on a boundary, an electrified fence, electrified railing or other electrified barrier, unless it–
 - (i) is erected on top of a wall which may not be less than 2 metres high and built of brick, cement, concrete or similar material; and
 - (ii) it complies with the Electrical Machinery Regulations, as published in Government Notice R1593, dated 12 August, 1988; and
- (d) subject to subsection (8), erect a barbed-wire fence, railing, paling, wall or other barrier with spikes or other sharp or pointed protrusions.

- (2) A person who wishes to obtain the consent of the municipality must submit an application form similar to the form contained in the Schedule A to the municipality, and the municipality may refuse or grant consent.
- (3) Should the municipality refuse permission, it must, on request, supply the applicant in writing with the reasons for the refusal.
- (4) Should the municipality grant consent, it may impose conditions, requirements or specifications according to each individual case, and subject to the provisions of SANS Code No. 1372 relating to Prefabricated Concrete Components for Fences, and the consent must be entered in Item C of the form referred to in subsection (2), and a person who has obtained consent, must at the request of an authorised official, immediately produce the form.
- (5) A person who has obtained consent in terms of subsection (4) must ensure that the fence is maintained in a good condition.
- (6) No person may –
- (a) without the prior written consent of the municipality demolish, interfere with or damage a fence for which consent has been granted in terms of subsection (4);
 - (b) having opened a gate in a fence, leave such gate open or unfastened;
 - (c) climb over or crawl through a fence without the permission of the owner or occupier of the land;
 - (d) erect fence covered with –
 - (i) canvas, reeds, grass or any combustible material, except poles or split poles, or approved wood, which may not be erected within 4,5 m of any street and which may not exceed 1,8 m in height; or
 - (ii) sheet iron, corrugated galvanised iron or any other sheeting along or within 4,5 m of any street;
 - (e) allow a fence to fall into disrepair; and
 - (f) affix to or allow to be affixed to a fence any posters, placards or similar notices, or draw or apply anything on a fence unless it is done so in terms of the Outdoor Advertising By-law.
- (7) The municipality may, whenever it appears that, in the interests of safety –
- (a) a fence needs to be erected or repaired, instruct the owner or occupier on whose premises such fence needs to be erected or repaired, to undertake such steps as stipulated in the instruction; or
 - (b) the height of a wall, hedge or fence at a street corner needs to be reduced, by order in writing instruct the owner or occupier property to reduce the height of such wall, hedge or fence to a height specified in such order.
- (8) In the instance where a barbed-wire fence, railing, paling, wall or

other barrier with spikes or other sharp or pointed protrusions does not exceed 1,8 meters in height from ground level, the consent of the municipality is not required.

(9) A person commits an offence if he or she contravenes a provision of subsection (6) or fails to produce a form at the request of an authorised official as contemplated in subsection (4).

(10) Should a person fail to comply with a provision of subsection (1), with a condition, requirement or specification contemplated in subsection (4), or subsection (5) or an instruction issued in terms of subsection (7), the municipality may serve a notice of compliance or a demolition order on the person.

5. Penalties

A person who has committed an offence in terms of this by-law is, on conviction liable to a fine or in default of payment, to imprisonment, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment, and in the case of a successive or continuing offence, to a fine for every day such offence continues, or in default of payment thereof, to imprisonment.

6. Notice of compliance and representations

(1) The notice of compliance must state –

- (a) the name and residential or postal address of the affected person;
- (b) the requirement which has not been complied with;
- (c) detailed measures required to remedy the situation;
- (d) that the person must within a specified period take the measures to comply with the notice and to complete the measures before a specified date; and
- (e) the right to appeal as contained in section 10.

(2) Where a person does appeal and fails to take the measures before the date contemplated in subsection (1)(d), he or she commits an offence, and the municipality may, irrespective of any penalty which may be imposed under section 5, act in terms of subsection (3).

(3) The municipality may take such measures as it deems necessary to remedy the situation, including the demolition of the fence, and the cost thereof must be paid to the municipality in accordance with section 7.

7. Costs

(1) Should a person fail to take the measures required of him or her by a notice of compliance, the municipality may, subject to subsection (3) recover, as a debt, all costs incurred as a result of it remedying the situation from that person and any or all of the following persons:

- (a) the owner of the land, building or premises; or

- (b) the person or occupier in control of the land, building or premises or any person who has or had a right to use the land at the time when the situation came about.
- (2) The costs recovered must be reasonable and may include, without being limited to, costs relating to labour, water, equipment, administrative and overhead costs incurred by the municipality under section 6(3).
- (3) If more than one person is liable for costs incurred, the liability must be apportioned as agreed among the persons concerned according to the degree to which each was responsible for the emergency resulting from their respective failures to take the required measures.

8. Demolition order

- (1) A person on whom a demolition order has been served must demolish the fence and remove the materials.
- (2) Should the municipality demolish a fence, it may dispose of the whole or any part of the materials from any fence by public auction or public tender.
- (3) The municipality may deduct from the proceeds of any materials disposed of the costs of any pulling down, removal or demolition and the costs incurred of disposal and will thereafter pay any balance to the owner of the fence removed or demolished.

9. Authentication and service of notices and other documents

- (1) A notice issued by the municipality in terms of this by-law is deemed to be duly issued if it is signed by an officer authorised by the municipality.
- (2) Any notice or other document that is served on a person in terms of this by-law is regarded as having been duly served –
 - (a) when it has been delivered to that person personally;
 - (b) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of 16 years;
 - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic, and an acknowledgment of the posting thereof from the postal service is obtained;
 - (d) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided by paragraphs (a), (b) or (c);
 - (e) if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the land or business premises to which it relates;

- (f) in the event of a body corporate, when it has been delivered at the registered office of the business premises of such body corporate; or
 - (g) when it has been delivered, at the request of that person, to his or her e-mail address.
- (3) Service of a copy is deemed to be service of the original.
- (4) When any notice or other document is served on the owner, occupier, or holder of any property, or right in any property, it is sufficient if that person is described in the notice or other document as the owner, occupier, or holder of the property or right in question, and it is not necessary to name that person.

10. Appeal

A person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision.

11. Implementation and enforcement

- (1) The municipality may appoint an official to administer the implementation and enforcement of this by-law.
- (2) A person commits an offence if he or she –
- (a) hinders or interferes with an official in the execution of his or her official duties;
 - (b) falsely professes to be an official;
 - (c) furnishes false or misleading information when complying with a request of an official; or
 - (d) fails to comply with a request of an official.

12. Saving and transitional provision

An owner or occupier whose premises, at the date of commencement of this by-law, do not comply with the provisions of this by-law must, within a period of 6 months, ensure that his or her premises comply with the provisions of this by-law.

13. Exemptions

- (1) Any person may in writing apply to the municipality for exemption from any provision of this by-law.
- (2) The municipality may –
- (a) grant an exemption in writing and set and determine the period for which such exemption is granted;
 - (b) alter or cancel any exemption or condition in an exemption; or
 - (c) refuse to grant an exemption.

- (3) An exemption does not take effect before the applicant has undertaken in writing to comply with the conditions imposed by the municipality, however, if an activity is commenced before such undertaking has been submitted to the municipality, the exemption lapses.
- (4) If any condition of an exemption is not complied with, the exemption lapses immediately.

14. Liaison forums in community

- (1) The municipality may establish one or more liaison forums in a community for the purposes of obtaining community participation with regard to the matters dealt with in this by-law.
- (2) A liaison forum may consist of –
 - (a) a member of members of an interest group, or an affected person;
 - (b) a designated official or officials of the municipality; and
 - (c) a councillor.
- (3)
 - (a) The municipality may, when considering an application for consent, permit or exemption in terms of this By-law, request the input of a liaison forum.
 - (b) A liaison forum or any may on own initiative submit an input to the municipality for consideration.

15. Revocation of by-laws

The following by-laws are hereby repealed:

- (a) Any by-law previously promulgated by the municipality or any of the disestablished municipalities now incorporated into the municipality, in so far as it relates to any matter provided for in this by-law; and
- (b) Any by-law previously promulgated by the Cacadu District Municipality or any of its predecessors, in so far as it has been made applicable to the municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Municipal Structures Act, 117 of 1998.

16. Short title and commencement

This by-law is called the Fences and Fencing By-law, and commences on the date of publication thereof in the Provincial Gazette.

SCHEDULE A
(Section 4(2))

APPLICATION TO ERECT FENCE

A. OWNER OR OCCUPIER

Surname and first names of person

.....

I.D. Number

Address: Postal address:

.....

.....

Residential address:

.....

.....

.....

.....

Telephone number: Business

Residential

B. PARTICULARS OF PREMISES AND FENCE

Erf Number

Address where the premises can be inspected

.....

.....

NATURE OF FENCE TO BE ERECTED/ALTERED

.....

C. ISSUING LOCAL AUTHORITY

Consent is hereby granted in terms of section 4(4) of the Cacadu District Fences and Fencing By-laws that the above-mentioned fence may be erected on above-mentioned premises

Conditions, requirements or specifications in terms of section 4(4):

.....

SIGNATURE OF INSPECTOR

DATE

.....

Name of inspector:

.....

Official designation:

.....

No. 221**CACADU DISTRICT MUNICIPALITY: FUNERAL PARLOURS,
CEMETERIES AND CREMATORIA BY-LAW**

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996, the Cacadu District Municipality, enacts as follows:-

Table of contents

1. Interpretation
2. Principles and objectives

CHAPTER 1: FUNERAL UNDERTAKERS' PREMISES

3. Applicable legislation

**CHAPTER 2: GENERAL PROVISIONS RELATING TO
CEMETERIES AND CREMATORIA**

4. Appointment of caretaker
5. Hours of admission for public
6. Children
7. Keeping to path
8. Prohibited conduct within cemetery and crematorium
9. Right of interest in ground

**CHAPTER 3: GENERAL PROVISIONS RELATING TO
INTERMENT AND CREMATION**

10. Consent required for interment and cremation
11. Interment and cremation times
12. Register
13. Indigent and destitute persons
14. Number of corpses in one coffin

CHAPTER 4: INTERMENT

15. Dimensions of graves and apertures
16. Depth of grate
17. Reservation of grave
18. Child's coffin too large
19. Construction material of coffin
20. Number of bodies in one grave
21. Coffin to be covered with earth
22. Religious ceremony
23. Hearse and vehicle at cemetery
24. Instruction of caretaker
25. Music inside cemetery
26. Interment attended by more than fifty people
27. Occupation of chapel or shelter

28. Number on grave

CHAPTER 5: EXHUMATION OF CORPSE AND RE-OPENING OF GRAVE

29. Disturbance of mortal remains
30. Time of exhumation
31. Re-opening of grave

CHAPTER 6: CARE OF GRAVES

32. Shrubs and flowers
33. Care of grave

CHAPTER 7: CREMATION

34. Receptacles and ashes
35. Burial and exhumation of ashes
36. Cremation certificate

CHAPTER 8: ERECTION AND MAINTENANCE OF MEMORIAL WORK

37. Consent of Municipality
38. Requirements for erection of memorial work
39. Position, movement and removal of memorial work
40. Repairs to memorial work
41. Supervision of work
42. Damaging of memorial work
43. Conveying of memorial work
44. Vehicle and tools
45. Complying with Municipality's directions
46. Times for bringing in material and doing work
47. Inclement weather
48. Production of written permission
49. Memorial work in crematorium

CHAPTER 9: SECTIONS IN CEMETERY

50. Municipality may establish sections
51. Monumental section
52. Garden of Remembrance
53. Heroes Acre
54. Aesthetic section
55. Panoramic section

CHAPTER 10: PRIVATE CEMETERIES

56. By-laws apply
57. Establishment and continued use of cemeteries

58. Duties of Proprietors

CHAPTER 11: MISCELLANEOUS

- 59. Authentication and service of order, notice or other document
- 60. Complaint
- 61. Notice of compliance and representations
- 62. Costs
- 63. Appeal
- 64. Charges
- 65. Penalties
- 66. Limitation of liability
- 67. Exemptions
- 68. Liaison forums in community
- 69. Revocation of by-laws
- 70. Short title and commencement

Schedules

1. Interpretation

(1) In this by-law, unless the context otherwise indicates –

“adult” means a deceased person over the age of 12 years and where the word is used to define a corpse, a deceased person whose coffin will fit into the grave opening prescribed for adults in section 15;

“aesthetic section” means a cemetery or section of a cemetery which has been set aside by the Municipality wherein only headstones may be erected;

“approved” means approved by the Municipality;

“ashes” means the cremated remains of a corpse;

“berm” means a concrete base laid at the head of a grave and on which a memorial is erected;

“burial” means interment in earth, a sepulchre or tomb;

“burial order” means an order issued in terms of the Births and Deaths Registration Act, 1992 (Act 51 of 1992);

“caretaker” means the official whom the Municipality appoints from time to time in a supervisory capacity with regard to a cemetery or crematorium;

“cemetery” means a land or part of a land within the municipal area set aside by the Municipality as a cemetery;

“child” means a person who is not an adult, and where the word is used to define a corpse, means a deceased person whose coffin will fit into the grave opening prescribed for children in section 18, and includes the corpse of a stillborn child and a foetus;

“columbarium” means a the place set aside in the basement of a crematorium or chapel containing rows of niches for the purpose of placing receptacles containing the ashes of cremated corpses therein;

“corpse” means the remains of a deceased person and includes a still-born child and foetus;

- “cremation”** means the process whereby a corpse is disposed of by fire;
- “crematorium”** means a crematorium as defined in section 1 of the Ordinance and includes the buildings in which a ceremony is conducted and the cremation carried out;
- “cremated remains”** means all recoverable ashes after the cremation;
- “exhumation”** means the removal of a corpse from its grave;
- “funeral undertaker’s premises”** has the meaning assigned to it in regulation 1 of the Regulations;
- “garden of remembrance”** means a section of a cemetery or crematorium set aside for the erection of memorial work or a wall of remembrance;
- “grave”** means a piece of land, within a cemetery or heritage site, excavated for the burial of a corpse and includes the headstone, number or marker of and a structure on or associated with the grave;
- “heroes acre”** means an area of land set aside for the burial of a hero;
- “medical officer of health”** means the officer appointed by Municipality or any other person acting in the capacity of the medical officer of health;
- “memorial section”** means a section of a cemetery set aside for the erection of memorials;
- “memorial work”** means any headstone, monument, plaque, other work or object, erected or intended to be erected in a cemetery or crematorium to commemorate a deceased person, and includes a kerb demarcating a grave, and a slab covering a grave;
- “municipality”** means the Municipality of Cacadu District established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, councillor, duly authorised agent or any employee acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;
- “niche”** means a compartment in a columbarium or wall of remembrance for the placing of ashes;
- “ordinance”** means the Crematorium Ordinance, 1965 (Ordinance No. 18 of 1965);
- “panoramic section”** means a section in a cemetery set aside by the Municipality where memorial work is restricted to a plaque or memorial slab;
- “prescribed”** means prescribed by the Municipality;
- “prescribed fee”** means a fee determined by the Municipality in its Customer Care and Revenue Management By-law;
- “private cemetery”** means a cemetery of which is used as a cemetery but which has not been set aside as such by the Municipality;
- “Regulations”** means the Funeral Undertakers’ Premises, made under sections 33 and 39 of the Health Act, 1977 (Act 63 of 1977), and published as Government Notice No. 237 of 8 February 1985;

"tomb" means an above ground burial vault;

"wall of remembrance" means a structure (in a cemetery) which contains niches in which urns containing ashes can be stored.

2. Principles and objectives

The purpose of this By-law is to control funeral undertaker's premises, to make provision for the allocation of land for the purposes of the burial of human remains, to develop and maintain existing cemeteries, to permit its residents to dispose of a corpse by cremation and to provide space allowing the preservation of the remains of a cremation in a dignified manner.

CHAPTER 1: FUNERAL UNDERTAKERS' PREMISES

3. Applicable legislation

The National Building Regulations and Building Standards Act, 1977 apply in respect of funeral undertaker's premises.

CHAPTER 2: GENERAL PROVISIONS RELATING TO CEMETERIES AND CREMATORIA

4. Appointment of caretaker

(1) The Municipality may appoint a caretaker for each cemetery or crematorium to control and administer the cemetery or crematorium.

(2) The caretaker must take into account the customs of the deceased person and the people responsible for the burial or cremation and must accommodate these within the framework of this by-law.

5. Hours of admission for public

(1) Every cemetery is open to the public during the following hours: 8:00 and 17:00, however, if it is in the interest of the public, the Municipality may close to the public a cemetery or crematorium or part thereof for such periods as the Municipality deems necessary.

(2) No person, excluding workers or persons with permission, may be in or remain in a cemetery or crematorium or part thereof before or after the hours mentioned in sub-section (1) or during a period when it is closed to the public.

(3) A person who contravenes subsection (2) commits an offence.

6. Children

(1) No child under 12 years of age may enter a cemetery or crematorium unless he or she is under the care of a responsible person.

(2) A person who allows a child to enter a cemetery or crematorium in contravention of subsection (1), commits an offence.

7. Keeping to path

Except for purposes permitted by this by-law, a person may only use a path provided in the cemetery, and failure to do so constitutes an offence.

8. Prohibited conduct within cemetery and crematorium

- (1) No person may in a cemetery or crematorium -
- (a) cause a nuisance;
 - (b) ride an animal or cycle without permission of the caretaker
 - (c) allow an animal to wander;
 - (d) plant, cut, pick or remove a tree, plant, shrub or flower without the permission of the caretaker;
 - (e) hold or take part in a demonstration;
 - (f) interrupt during the performance of his or her duties an official, workman or labourer employed by the Municipality;
 - (g) obstruct, resist or oppose the caretaker in the course of his or her duty or refuse to comply with an order or request which the caretaker is entitled under this by-law to make;
 - (h) mark, draw, scribble, erect an advertisement or object on a wall, building, fence, gate, memorial work or other structure;
 - (i) use water for any form of gardening without the permission of the caretaker;
 - (j) plant trees, flowers or shrubs on or between graves;
 - (k) leave any rubbish, soil, stone, debris or litter;
 - (l) in any way damage or deface any part of a cemetery, crematorium, grave or memorial work.
 - (m) enter or leave except by an entrance provided for the purpose;
 - (n) solicit any business, order or exhibit, or distribute or leave a tract, business card or advertisement;
 - (o) treat a grave or memorial work with disrespect, such as climbing or sitting on a grave or memorial work;
 - (p) enter an office, building or fenced place, except in connection with lawful business;
 - (q) with the exception of a blind person, bring an animal; and
 - (r) expose a corpse or a part thereof
- (2) A person who contravenes a provision of subsection (1) commits an offence.

9. Right of interest in ground

- (1) No person will acquire any right to or interest in any ground or grave in a cemetery, other than those that may be obtainable under this By-law.
- (2) The Municipality may, on payment of the prescribed fee, sell to a person the use of a grave in a section of a cemetery for a period not exceeding 20 years.

- (3) (a) The Municipality may set aside different areas in a cemetery for exclusive use by different religious or cultural groups.
- (b) The Municipality may promote the environmental advantages of cremation as an alternative to burial
- (c) The Municipality may, if compelled to do so by environmental considerations, such as shortage of land for burial, and subject to the provisions of any other law regarding the rights of a person, request that a corpse be cremated instead of interred.

CHAPTER 3: GENERAL PROVISIONS RELATING TO INTERMENT AND CREMATION

10. Consent required for interment and cremation

(1) No person may inter a corpse in a cemetery or have it cremated in a crematorium without the prior written consent of the caretaker.

(2) A person who wishes to obtain the consent as contemplated in subsection (1) must submit to the caretaker an application in writing together with –

- (a) the prescribed fee;
- (b) a death certificate;
- (c) a burial order issued in terms of the Births and Deaths Registration Act, 1992,

and the caretaker may not approve the application unless all of the above requirements are met.

(3) An application must be submitted to the caretaker, in respect of –

- (a) an interment where the Municipality is responsible for the digging of the grave, not later than 15:00 on the day before the intended interment or, where the grave exceeds the standard size, not later than 15:00 two days before the intended interment; and
- (b) a cremation, not later than 15:00 on the day before the intended cremation.

(4) Should any alteration be made in the day or hour previously fixed for an interment or cremation, or an interment or cremation be cancelled, in the instance where the Municipality is responsible for the digging of a grave, notice of the alteration must be given to the caretaker at least six hours before the time fixed for the interment or cremation, and no refund will be made on monies paid in respect of the opening of an existing grave.

(5) The application contemplated in subsection (2) must be signed by the nearest surviving relative of the deceased person, however, if the caretaker is satisfied that the signature of the nearest surviving relative cannot be obtained timeously, or for any other valid reason, he or she may grant an application signed by any other interested person.

(6) A person who disposes of a corpse in contravention of subsection (1) or who contravenes subsection (5) commits an offence.

11. Interment and cremation times

- (1) An interment and cremation may take place between 08:00 and 17:00.
- (2) Despite the provisions of subsection (1), the caretaker may permit interment or cremation outside the times contemplated in subsection (1) in which case the Municipality may levy an additional fee.
- (3) A person who inters or cremates a corpse in contravention of the provisions of subsection (1) commits an offence.

12. Register

The caretaker must keep a record of all interments, and the record must contain:

- (a) The particulars of the person who requested the interment or cremation;
- (b) the particulars of the deceased person such as the name, address, and identification number;
- (c) the date of the interment or cremation; and
- (d) in the instance of an interment, the number of the grave.

13. Indigent and destitute persons

- (1) A person may apply to the Municipality for the burial or cremation of the corpse of an indigent person and must provide proof that the deceased was granted the status as indigent person by the Municipality and the Municipality may decide if the corpse is to be buried or cremated.
- (2) Subject to the provisions of section 48 of the Health Act, 1977, and section 10 of the Human Tissue Act, 1983, the corpse of a destitute person or an unclaimed corpse may be buried or cremated according to conditions determined by the Municipality.
- (3) Where a corpse of an indigent person is cremated, the caretaker of the crematorium must retain the ashes, and should the ashes not be claimed, bury the ashes in a grave.

14. Number of corpses in one coffin

- (1) Subject to the provisions of subsection (2), only one corpse may be contained in a coffin.
- (2) More than one corpse may be contained in one coffin if the consent of the caretaker has been obtained and the prescribed fee has been paid, in the case of –
 - (a) a mother and child who died during childbirth; or
 - (b) family members who –
 - (i) died together; or

- (ii) died a short while after each other, and the burial or cremation of the first dying member has not yet taken place.
- (3) A person who contravenes a provision of subsection (1) or who fails to obtain the consent as contemplated in subsection (2) commits an offence.

CHAPTER 4: INTERMENT

15. Dimensions of graves and apertures

- (1) The standard dimensions of a grave are as follows:
 - (a) Adult:
 - (i) Single grave: Length: 2200 mm; Width: 900 mm.
 - (ii) Double grave: Length: 2200 mm; Width: 2700 mm.
 - (b) Child:
 - Single grave: Length: 1500 mm; Width: 700 mm.
- (2) Any person requiring a larger grave than the dimensions set in subsection (1) must, when submitting an application in terms of section 10, specify the measurements of the coffin, and pay the fee prescribed by the Municipality for enlarging the hole.
- (3) A person, other than an employee of the Municipality, who digs a grave in contravention of the dimensions stipulated in subsection (1), commits an offence.

16. Depth of grave

- (1) An adult's grave is 1900 mm in depth and that of a child 1500 mm in depth.
- (2) A person, other than an employee of the Municipality, who digs a grave in contravention of the dimensions stipulated in subsection (1) commits an offence.

17. Reservation of grave

- (1) A person desiring to reserve the use of a grave must submit an application to the caretaker and pay the prescribed fee
- (2) A restriction may be placed on the reservation of graves, and reservations will only be accepted for adult graves in the monumental section as stated in subsection (3).
- (3) In the event of an interment of a husband or wife in the monumental section, only one additional adjoining grave may be reserved for the survivor.
- (4) In the event of an interment of a husband or wife in the aesthetic section, an additional adjoining grave may not be reserved for the survivor, however, subject to the provisions of section 14(2), the interment of the survivor may be permitted in the same grave.

(5) Where another person, other than the applicant, has mistakenly used a grave, the caretaker must allocate another grave in the cemetery to the applicant.

18. Child's coffin too large

Should a child's coffin be too large for the dimensions of a child's grave, it must be placed in an adult grave and the prescribed fee for an adult's interment must be paid.

19. Construction material of coffin

(1) A coffin interred in a grave must be constructed of wood or biodegradable material.

(2) A person who interrs a coffin in contravention of subsection (1) commits an offence.

20. Number of bodies in one grave

Subject to the provisions of section 14(2), more than one corpse may be interred in a single grave.

21. Coffin to be covered with earth

The person responsible for an interment must ensure that a coffin, upon being placed in a grave, is covered without delay with at least 300 mm of earth, and failure to do so constitutes an offence.

22. Religious ceremony

The members of a religious denomination may conduct, during the interment and at the grave, a religious ceremony in connection with an interment or memorial service.

23. Hearse and vehicle at cemetery

(1) No hearse or other vehicle may enter a cemetery without the prior permission of the caretaker having been obtained.

(2) No hearse or other vehicle may enter a cemetery other than by the routes set aside for that purpose.

(3) A person who contravenes subsections (1) or (2) commits an offence.

24. Instruction of caretaker

A person taking part in a funeral procession or ceremony in a cemetery must follow instructions by the caretaker, and failure to do so constitutes an offence.

25. Music inside cemetery

- (1) Singing and music is allowed in a cemetery, in which case the prior permission of the caretaker must be obtained.
- (2) A person who contravenes subsection (1) commits an offence.

26. Interment attended by more than fifty people

Where it is probable that more than 50 people will be present at an interment, the municipality may require that the caretaker be notified.

27. Occupation of chapel or shelter

- (1) No person may for the purpose of a funeral occupy a chapel or shelter in a cemetery for more than 45 minutes.
- (2) A person who contravenes subsection (1) commits an offence.

28. Number on grave

- (1) No person may enter a grave on which the number of the grave has not been appropriately marked.
- (2) A person who contravenes subsection (1) commits an offence.

CHAPTER 5: EXHUMATION OF CORPSE AND RE-OPENING OF GRAVE**29. Disturbance of mortal remains**

- (1) Subject to the provisions of an exhumation order given in terms of section 3(4) of the Inquests Act, 1959 and the provisions of any other Act relating to the exhumation of corpses –

- (a) no corpse or mortal remains or ground surrounding it in a cemetery may be disturbed;
- (b) no grave may be re-opened; and
- (c) no corpse may be removed from a grave,

without the written consent of the Municipality.

- (2) The prescribed fee for exhumation must be paid to the municipality at least two days before the date fixed for the exhumation or removal of the corpse.

- (3) A person who contravenes subsections (1) commits an offence.

30. Time of exhumation

- (1) No person may exhume or cause a corpse to be exhumed during such time as the cemetery is open to the public.
- (2) A person who contravenes subsection (1) commits an offence.

31. Re-opening of grave

(1) No person may re-open a grave for the purpose of interring a second corpse in the same grave unless –

- (a) the grave was initially made deeper for this purpose;
- (b) if not made deeper, then only after 10 years have passed since the interment of the first corpse;
- (c) for purposes of burial of a receptacle containing ashes, the depth does not exceed 300 mm;
- (d) the consent contemplated in section 29(1) has been obtained; and
- (e) the fee prescribed by the Municipality has been paid.

(2) A person who contravenes a provision of subsection (1)(a) to (d) commits an offence.

(3) The Municipality has the right to re-open a grave for the purpose of establishing, by reading the inscription on the coffin, the identity of the corpse.

CHAPTER 6: CARE OF GRAVES**32. Shrubs and flowers**

The Municipality may at any time prune, cut down, dig up or remove any shrub, plant, flower, foliage, wreath or adornment if it becomes unsightly, is damaged or wilted.

33. Care of grave

(1) The maintenance of a grave is the responsibility of the person contemplated in section 9(2).

(2) The Municipality may, on application by a person contemplated in subsection 9(2) and upon payment of the fee and subject to conditions prescribed by the Municipality, maintain any grave.

(3) The Municipality may at its discretion undertake to keep, at its own expense, any grave in order for any period.

CHAPTER 7: CREMATION**34. Receptacles and ashes**

(1) Unless the ashes are to be buried by the Municipality, the person contemplated in section 10(2) must provide a receptacle, on which the full name of the deceased person is indicated.

(2) The ashes must, after the cremation, be collected by the person contemplated in section 10(2), and should he or she fail to collect the ashes, the ashes will be dealt with in terms of section 35(1)..

(3) Where a receptacle is intended to be placed in a niche in the columbarium –

- (a) it must –
 - (i) be made of wood or stone; and
 - (ii) be of a size and design as to fit into the niche; and
- (b) if the niche is not meant to be sealed, have affixed to it a plate on which the full name of the deceased person is inscribed.

35. Burial and exhumation of ashes

- (1) In the absence of an arrangement between the caretaker and the person contemplated in section 34 regarding the ashes, the caretaker may bury or scatter the ashes in a garden of remembrance, where such facility is available.
- (2) A person may deposit ashes in a –
 - (a) grave; or
 - (b) niche in a –
 - (i) columbarium;
 - (ii) wall of remembrance; or
 - (ii) memorial work.
- (3) A person must obtain the consent of the caretaker if he or she wishes to –
 - (a) bury ashes in a grave;
 - (b) exhume ashes from a grave; or
 - (c) scatter ashes,and the caretaker must, on receiving payment of the prescribed fee –
 - (i) give written consent to the applicant to bury, exhume or scatter the ashes; and
 - (ii) in the instance of burial or exhumation, prepare the grave for burial or exhumation.
- (4) A grave for the burial of ashes or a niche in a columbarium must measure 610 mm in length, 610 mm in width, and 610 mm in depth.

36. Cremation certificate

- (1) On completion of a cremation, the caretaker must supply a cremation certificate to the person contemplated in section 34(1).
- (2) The caretaker must, on application and after receipt of the prescribed fee, issue a duplicate cremation certificate to a person.

CHAPTER 8: ERECTION AND MAINTENANCE OF MEMORIAL WORK

37. Consent of Municipality

- (1) No person may bring into a cemetery, erect, alter, paint, clean, renovate, decorate, remove or otherwise interfere with any memorial work or cut any inscription thereon in a cemetery without the written consent of the Municipality.

- (2) When erecting a memorial work, the municipality may require the submission of the following:
 - (a) A plan which gives an indication of the measurements and the position;
 - (b) specification of the material of which the memorial work is to be constructed; and
 - (c) the wording of the epitaph.
- (3) The plan must be submitted 30 days before the erection commences, and must be accompanied by the prescribed fee, and the Municipality may impose conditions.
- (4) No person may bring any material for the construction of memorial work into a cemetery unless the provisions of subsection (1) to (3) have been complied with and unless all charges due in respect such grave have been paid.
- (5) The Municipality's consent of the proposed work is valid for six months only, and in the event of the memorial work not being erected within the prescribed time a new application must be submitted.
- (6) The grave number must be indicated, in clearly legible figures of 30 mm in size.
- (7) A person who contravenes a provision of subsection (1) or (4) commits an offence.

38. Requirements for erection of memorial work

- (1) A person erecting a memorial work must comply with the following:
 - (a) he or she must be in possession of a plan approved by the Municipality;
 - (b) conditions imposed in terms of section 37(3) must be complied with;
 - (c) no damage may be caused to any structure and no offence may be given;
 - (d) where a memorial has a pedestal on ground level or on the berm, the pedestal may not be more than 900 mm in length, 250 mm in width and 250 mm in height for a single grave, and not more than 2700 mm in length, 250 mm in width, and 250 mm in height for a double grave;
 - (e) with the permission of the next of kin, the name of the maker can be displayed on a memorial work, but no address or any other particulars may be added thereto, and the space utilized for it may not be larger than 40 x 100 mm; and
 - (f) tiles in the Garden of Remembrance must be 240 mm x 300 mm large and must be manufactured out of non-corrosive metal.
- (2) A person who does not comply with a provision in subsection (1) commits an offence.

39. Position, movement and removal of memorial work

- (1) No person may erect a memorial work on a grave before the position has been indicated by the Municipality.
- (2) Should the provisions of subsection (1) not be complied with the Municipality has the right to alter the position of the memorial work and to recover the costs from the person who erected the memorial work.
- (3) Where a memorial work has originally been placed in a certain position with the express consent of the Municipality or its employee, any alteration of the position in terms of the provisions of this section is executed at the expense of the Municipality.
- (4) Memorial work in conflict with the provisions of this By-law may be removed, after due notice, by the Municipality at the cost of the person who erected the memorial work, and without payment of any compensation.

40. Repairs to memorial work

If the person who erected a memorial work allows it to fall into such a state of disrepair that it may cause danger or deface the cemetery, the Municipality may serve a Notice of Compliance, as contemplated in section 61, on such person.

41. Supervision of work

A person engaged in work in a cemetery is under the supervision of the caretaker, and failure to follow his or her instructions constitutes an offence.

42. Damaging of memorial work

Unless due to the negligence of its employees, the Municipality is not responsible for any damage to a memorial work.

43. Conveying of memorial work

- (1) No person may convey any stone, brick or memorial work in a cemetery upon a vehicle or truck which may cause damage to the paths or grounds or structures of the cemetery.
- (2) A person who contravenes subsection (1) commits an offence.

44. Vehicle and tools

Every person engaged with work upon a grave or plot must ensure that the vehicles, tools or appliances do not block any road, and failure to do so constitutes an offence.

45. Complying with Municipality's directions

A person carrying on work within a cemetery must in all respects comply with the directions of the Municipality, and failure to do so constitutes an offence.

46. Times for bringing in material and doing work

- (1) No person may bring material into or do any work, other than the dismantling of memorial work for burial purposes, within a cemetery except during the following hours: Mondays to Fridays between the hours of 7:00 and 18:00.
- (2) No person may engage in work which may be disturbing or disruptive while a funeral is in progress.
- (3) A person who contravenes subsections (1) or (2) commits an offence.

47. Inclement weather

- (1) No person may fix or place any memorial work while the soil is in an unsuitable condition.
- (2) A person who contravenes subsection (1) commits an offence.

48. Production of written permission

A person engaged in work or on his or her way to or from work within the cemetery must, upon demand from the Municipality or its authorized official, produce the written consent issued in terms of section 37, and failure to do so constitutes an offence.

49. Memorial work in crematorium

- (1) Unless a corpse was cremated in the crematorium, or a cremation certificate issued by another crematorium is submitted, no person may, without the consent of the caretaker first having been obtained, erect a memorial work in a crematorium.
- (2) A memorial work –
 - (a) if erected in a garden of remembrance –
 - (i) must be made of marble or granite; and
 - (ii) may not exceed a size of 250 mm in width, 305 mm in length, and 25 mm in thickness;
 - (b) if intended to seal a niche, must conform in size and material to the memorial work next to it and may have a photograph of the deceased person affixed to it; or
 - (c) erected on a grave, may not exceed 1,2 m in height, 610 mm in length, and 610 mm in width.
- (3) A person who erects a memorial work in contravention of subsection (1) or who contravenes a provision of subsection (2) commits an offence.

CHAPTER 9: SECTIONS IN CEMETERY**50. Municipality may establish sections**

- (1) The Municipality may establish one or more of the following sections in a cemetery:

- (a) Monumental section;
- (b) garden of remembrance;
- (c) heroes acre;
- (d) aesthetic section; or
- (e) panoramic section.

51. Monumental section

(1) Memorial work may be erected upon the whole surface of the grave subject thereto that the provisions of section 38 must be complied with and that the following measurements may not be exceeded:

- (a) Height: 2000 mm.
 - (b) Width: 900 mm in case of a single grave, and 700 mm in case of a double grave.
 - (c) Thickness: 250 mm.
- (2) A person commits an offence if he or she exceeds the measurements stipulated in subsection (1);

52. Garden of Remembrance

- (1) This section contains the wall of remembrance with niches, and a garden area in which plaques can be erected.
- (2) A container intended to be placed in a niche may not exceed 300 mm x 150 mm x 150 mm in size.
- (3) Flowers and wreaths may only be placed on the places provided therefore.
- (4) A person who contravenes a provision of subsection (2) or (3) commits an offence.

53. Heroes Acre

- (1) A heroes' acre consists of a structure erected for the purpose and contains no corpse but is a memorial only.
- (2) No person may erect such structure without the written approval of the Municipality.
- (3) The size of the structure must be 500 mm x 350 mm and must be manufactured from a non-corrodible metal or masonry.
- (4) A person who inter a corpse in contravention of subsection (1) or contravenes subsection (2) or who fails to comply with the requirements of subsection (3) commits an offence.

54. Aesthetic section

- (1) Only a headstone may be erected, and a slab may not be erected on, and a kerb may not be erected around a grave.
- (2) The dimensions of a headstone are as follows:
- (a) Adult's grave:
 - (i) Single grave: 900 mm in length by 260 mm in width.

- (ii) Double grave: 2200 mm in length by 260 mm in width.
- (b) Child's grave:
 - (i) Single grave: 610 mm in length by 260 mm in width.
 - (ii) Double grave: 1200 mm in length by 260 mm in width.
- (3) No headstone may exceed a height of 1500 mm above the berm.
- (4) A person who contravenes a provision of this section commits an offence.

55. Panoramic section

- (1) Only a plaque may be embedded, and it must be –
 - (a) made of marble, granite or stainless steel or other non-corrosive metal materials;
 - (b) 500 mm in length, 500 in width, and 30 mm thick.
 - (c) embedded –
 - (i) 30 mm below the level of the grass;
 - (ii) horizontally on ground level; and
 - (iii) on a concrete foundation.
- (2) A person who contravenes a provision of subsection (1) commits an offence.

CHAPTER 10: PRIVATE CEMETERIES

56. By-laws apply

The provisions of this by-law apply mutatis mutandis to private cemeteries.

57. Establishment and continued use of cemeteries

- (1) No person may, without the prior consent of the Municipality establish a private cemetery, and no proprietor of a private cemetery already in existence may, if the use of the cemetery was not previously authorised by the Municipality, continue to use the existing cemetery for burial purposes.
- (2) A person who wishes to apply for the Municipality's consent to establish a cemetery or use as cemetery as contemplated in subsection (1), must submit a written application to the Municipal Manager together with –
 - (a) a locality plan to a scale of not less than 1: 10 000 which shows –
 - (i) the position of the proposed cemetery or existing cemetery in relation to the boundaries of the land on which it is proposed to establish it or upon which it is situated;
 - (ii) the registered description of the site;
 - (iii) all streets, public places and privately-owned property within a distance of 100 metres of the site;
 - (b) a "block" plan to a scale of not less than 1: 500 showing the position of external boundaries, internal roads and paths, sub-

- divisions, grave sites, drainage and any buildings existing or proposed to be erected;
- (c) a plan and sections to a scale of not less than 1: 100 of any building existing or proposed to be erected, and which must in this case conform with the National Building Regulations and the Water Services and Sanitation By-laws of the Municipality;
 - (d) a list of registers or records kept or proposed to be kept with reference to –
 - (i) identification of graves;
 - (ii) sale or transfer of grave sites; and
 - (iii) interments;
 - (e) the full name and address of the proprietor;
 - (f) particulars regarding the nature of the title under which the proprietor will hold or holds the land on which the cemetery is to be established or which is being used as a cemetery and whether such land is subject to any mortgage or trust; and
 - (g) a schedule of the burial fees proposed to be charged or actually in force.
- (3) On receipt of an application the Municipal Manager must publish a notice in one or more newspapers circulating in its area stating the nature of the application and specifying a date, being not less than 30 days after the date of publication of the notice, by which objections to the granting of an application may be lodged with the Municipality.
- (4) The Municipality may, upon receipt of the payment by the applicant of the prescribed fee and if satisfied after consideration of the application and any objections which may have been lodged that no interference with any public amenity, or nuisance or danger to the public health is likely to take place or arise, in writing grant consent for the establishment of the private cemetery or the continued use of the private cemetery.
- (5) No departure from the plans as approved are permitted without the written prior approval of the Municipality.
- (6) A person who contravenes a provision of subsection (1) or (5) commits an offence.

58. Duties of Proprietors

- (1) The proprietor of a private cemetery, approved by the municipality, must –
- (a) comply with any conditions imposed by the Municipality;
 - (b) keep a record which shows –
 - (i) the number of each grave site and the ownership of the site; and
 - (ii) the number of interments in each grave site and the name, age, gender, last known address, date and cause of death of the deceased;

- (c) maintain the grounds, fences, gates, roads, paths and drains in good condition and clear of weeds and overgrowth;
 - (d) provide for the identification of grave sites by subdividing the cemetery into blocks and –
 - (i) each block must be demarcated by means of signs showing the number and situation of each block;
 - (ii) the graves or grave sites in each block must be separately numbered by means of durable number plates; and
 - (iii) all signs and number plates must be maintained in a neat and legible condition;
 - (e) allow an official to enter or inspect the cemetery and all records kept in connection therewith;
 - (f) render a monthly return to the municipal manager on or before the 7th day in each month of all burials, which sets out the –
 - (i) name, last known address, age, sex, date and cause of death of each deceased person interred in the cemetery;
 - (ii) name of the medical practitioner who issued the death certificate;
 - (iii) authority who issued the burial order;
 - (iv) block and grave site number;
 - (v) date of burial; and
 - (vi) particulars of a change in the identity of the caretaker or of a person newly appointment;
- (2) A person who contravenes a provision of subsection (1) commits an offence.

CHAPTER 11: MISCELLANEOUS

59. Authentication and service of order, notice or other document

- (1) An order, notice or other document requiring authentication by the Municipality is considered duly authenticated when signed by an official duly authorized to do so.
- (2) Any notice or other document that is served on a person in terms of this by-law, is regarded as having been served –
 - (a) when it has been delivered to that person personally;
 - (b) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of sixteen years;
 - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic and an acknowledgment of the posting thereof from the postal service is obtained;
 - (d) if that person's address in the Republic is unknown, when it

- has been served on that person's agent or representative in the Republic in the manner provided by paragraphs (a), (b) or (c);
- (e) if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the property or premises, if any, to which it relates; or
 - (f) in the event of a body corporate, when it has been delivered at the registered office of the business premises of such body corporate.
- (4) Service of a copy shall be deemed to be service of the original.
- (5) Any legal process is effectively and sufficiently served on the municipality when it is delivered to the municipal manager or a person in attendance at the municipal manager's office.

60. Complaint

A person wishing to lodge a complaint must lodge it in writing with the Municipal Manager.

61. Notice of compliance and representations

- (1) A notice of compliance served in terms of section 40 must state -
- (a) the name and residential and postal address, if either or both of these be known, of the person;
 - (b) the nature of the state of disrepair;
 - (c) in sufficient detail to enable compliance with the notice, the measures required to remedy the memorial work;
 - (d) that the person must within a specified time period take the measures to comply with the notice, to diligently continue with the measures, and to complete the measures before a specific date;
 - (e) that failure to comply with the requirements of the notice within the period contemplated in paragraph (d) is an offence;
 - (f) that written representations, as contemplated in subsection (3) may, within the time period stipulated under paragraph (d) above, be made to Municipality at a specified place.
- (2) The Municipality, when considering any measure or time period envisaged in subsections (1)(d) and (e), must have regard to -
- (a) the principles and objectives of this by-law;
 - (b) the state of disrepair;
 - (c) any measures proposed by the person on whom measures are to be imposed; and
 - (d) any other relevant factors.

(3) A person may within the time period contemplated in paragraph (1)(f) make representations, in the form of a sworn statement or affirmation to Municipality at the place specified in the notice.

(4) Representations not lodged within the time period will not be considered, except where the person has shown good cause and the Municipality condones the late lodging of the representations.

(5) The Municipality may, on its own volition, conduct any further investigations to verify the facts if necessary, and the results of the investigation must be made available to the person, who must be given an opportunity of making a further response if he or she so wishes, and the Municipality must also consider the further response.

(6) The Municipality must, after consideration of the representations and any responses received, make an order in writing and serve a copy of it on the person.

(7) The order must -

- (a) set out the findings of Municipality;
- (b) confirm, alter or set aside in whole or in part, the notice of compliance; and
- (c) specify a period within which the person must comply with the order made by Municipality.

(8) If the notice of compliance is confirmed, in whole or in part, or is altered but not set aside, Municipality will inform the person that he or she -

- (a) must discharge the obligations set out in the notice; or
- (b) may elect to be tried in court.

(9) If the person elects to be tried in court he or she must, within seven calendar days, notify the Municipality in writing of his or her intention to be so tried.

(10) If the person does not elect to be tried in court, he or she must, within the prescribed manner and time discharge his or her obligations under the order.

(11) Where there has been no compliance with the requirements of a notice, the Municipality may take any steps necessary to repair the monumental work and recover the costs in accordance with section 62.

62. Costs

Should a person fail to take the measures required of him or her by notice, the Municipality may recover all costs incurred as a result of it acting in terms of paragraph 61(11) from the person.

63. Appeal

A person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision.

64. Charges

Should a person fail to pay a prescribed fee, the Municipality may act in accordance with the provisions of its Customer Care and Revenue Management By-law.

65. Penalties

A person who has committed an offence in terms of this by-law is, on conviction, liable to a fine or in default of payment, to imprisonment for a period not exceeding six months, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment.

66. Limitation of liability

The Municipality is not liable for any damage or loss caused by the exercise or failure to exercise any power or the performance of any duty in good faith under this By-law.

67. Exemptions

- (1) Any person may by means of a written application, in which the reasons are given in full, apply to the municipality for exemption from any provision of this by-law.
- (2) The municipality may grant or refuse an application for exemption or impose conditions and it may alter or cancel any exemption or condition in an exemption.
- (3) An exemption does not take effect before the applicant has undertaken in writing to comply with all conditions imposed under subsection (2), however, if an activity is commenced before such undertaking has been submitted to the municipality, the exemption lapses.
- (4) If any condition of an exemption is not complied with, the exemption lapses immediately.

68. Liaison forums in community

- (1) The municipality may establish one or more liaison forums in a community for the purposes of –
 - (a) creating conditions for a local community to participate in the affairs of the municipality;
 - (b) encouraging a local community to participate in the affairs of the municipality; and

- (c) promoting the burial or cremation of the dead in a dignified manner.
- (2) A liaison forum may consist of –
 - (a) a member of members of an interest group, or an affected person;
 - (b) a member or members of a community in whose immediate area a cemetery or crematorium exists;
 - (c) a designated official or officials of the municipality; and
 - (d) the councillor responsible for cemeteries.
- (3) (a) The municipality may, when considering an application for consent, permit or exemption certificate in terms of these By-laws, where applicable, request the input of a liaison forum.
- (b) A liaison forum or any person or persons contemplated in subsection (2) may, on own initiative, submit an input to the municipality for consideration.

69. Revocation of by-laws

The following by-laws are hereby repealed:

- (a) Any by-law previously promulgated by the municipality or any of the disestablished municipalities now incorporated into the municipality, in so far as it relates to any matter provided for in this by-law; and
- (b) Any by-law previously promulgated by the Cacadu District Municipality or any of its predecessors, in so far as it has been made applicable to the municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Municipal Structures Act, 117 of 1998.

70. Short title and commencement

This By-law may be cited as the Funeral Parlours, Cemeteries and Crematoria By-law, and commences on the date of publication thereof in the Provincial Gazette.

No. 222

**CACADU DISTRICT MUNICIPALITY
IMPOUNDMENT OF ANIMALS BY-LAW**

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996, the Cacadu District Municipality, enacts as follows for application within the District Management Area established in terms of section 6 of the Local Government: Municipal Structures Act, Act 117 of 1998 :-

Table of contents

1. Definitions
2. Purpose of by-law
3. Impoundment
4. Pound to which animals are to be sent
5. Receiving of animals by pound master
6. Receipt for impounded animals
7. Number of enclosures
8. Destruction of dangerous or contagious animals
9. Notice of impounded animals
10. Keeping of pound register
11. Inspection of and extracts from pound register
12. Submission of pound register entries after pound sales
13. Inspection of pound register at place of sale
14. Pound master's fees
15. Fees payable
16. Notice of sale
17. Auctioneer
18. Sale of animals
19. Illegal impounding and penalties
20. Recovery of loss in respect of impoundment of animals from area of another municipality
21. Use, detention and ill-treatment of animals
22. Appeal
23. Offences and penalties
24. Revocation of by-laws
25. Short title and commencement

1. Definitions

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

"animal" means any equine, bovine, sheep, goat, pig, fowl, ostrich, dog, cat or other domestic animal or bird, or any wild animal, wild bird or reptile which is in captivity or under the control of any person;

"cattle" means bulls, cows, oxen, heifers, steers and calves;

"goat" means an adult male or female goat, a wether and a kid;

"horse" means a stallion, mare, gelding, colt, filly, donkey and mule;

"municipality" means the Cacadu District Municipality, and includes any political structure, political office bearer, councilor or duly authorised agent thereof or any employee thereof acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councilor or agent or employee;

"**occupier**" means any person in actual occupation of land or entitled as owner to occupy land;

"**owner**", in relation to an animal, includes any person having possession, charge, custody of control of such animal;

"**pound**" means a fenced-off area consisting of one or more camps, established by the municipality and placed under the control of a pound master, for the housing and care of animals which are astray, lost or at large;

"**pound master**" means a person who may be –

(a) a part-time or full-time employee of a municipality, or

(b) appointed under a service delivery agreement to keep and operate a pound;

"**proprietor**" means any owner, lessee, or occupier of land;

"**sheep**" means a ram, an ewe, a wether and a lamb;

"**stallion**" means a male horse, donkey or mule not castrated or partially castrated;

"**veterinary surgeon**" means a person who is qualified as such in accordance with the provisions of the Veterinary and Para-Veterinary Professions Act, 1982 (Act 19 of 1982).

2. Purpose of by-law

The purpose of this by-law is to provide facilities for the housing and care of animals which are astray, lost or at large and for procedures, methods and practices to manage the impoundment of such animals.

3. Impoundment

Any person may impound an animal found abandoned upon his property or any street, road, road reserve or other public place.

4. Pound to which animals are to be sent

Any person upon whose land an abandoned, lost or stray animal is found, may deliver such animal to the nearest pound or such other pound designated by the municipality.

5. Receiving of animals by pound master

(1) It is the duty of every pound master to receive into his or her charge, for impoundment, all animals brought to his or her pound, during such hours as the municipality may determine.

(2) Any pound master who unreasonably refuses or fails to receive animals brought to his or her pound as aforesaid commits an offence and is, in addition, liable for any damage caused to the owner of the said animals, or to any other person, by reason of such refusal or failure.

6. Receipt for impounded animals

A pound master must give the person delivering an animal into his or her charge a written receipt, indicating the number and description of animals so delivered.

7. Number of enclosures

The municipality must maintain in good repair and, as far as possible, free from all infection, separate enclosures for-

- (a) ostriches and horses;
- (b) cattle;
- (c) sheep, goats and pigs;
- (d) dogs; and
- (e) cats,

provided that the municipality may in regard to any pound in its area give permission to the pound master to maintain a smaller number of enclosures thereon.

8. Destruction of dangerous or contagious animals

- (1) A pound master may cause to be destroyed any impounded animal suffering from a contagious disease, or which may prove dangerous to human life or other animals impounded, provided that no such animal may be destroyed unless a veterinary surgeon has examined it and has agreed with the pound master as to the necessity for its destruction.
- (2) If any animal suffering from a contagious disease is brought to the pound, or becomes infected while impounded, such animal must be kept separate from other impounded animals.

9. Notice of impounded animals

- (1) A pound master who knows the name of the owner of an animal impounded in his or her pound must forthwith give written notice to such owner that the said animal has been impounded.
- (2) Where the owner of an impounded animal is not known to the pound master, he or she must upon receipt of such animal report the impoundment to the nearest South African Police Services office.

10. Keeping of pound register

- (1) A pound master must keep a pound register with the following particulars:
 - (a) the date when, and the cause for which, all animals received by him are impounded;
 - (b) the number and description of such animals;
 - (c) the name and residence of the person impounding such animals, and the name and residence of the owner or supposed owner;
 - (d) the date and particulars of the release or sale of the animals, as the case may be; and
 - (e) any other matters which he may be directed by the municipality to ascertain and record.
- (2) The entries under subsection (1)(a), (b) and (c) must be made at the time the animals are impounded and the entries under subsection (1)(d) and (e) must be made as soon as the pound master obtains the necessary information, provided that no entry may be made after the particulars in (a) to (e) has been placed in dispute by any person.
- (3) In case of the death or injury of any impounded animal, the pound master shall enter in his pound register a description of such animal and the cause of its death or injury.

11. Inspection of and extracts from pound register

A pound register must be kept at the pound or any other approved place and must at all reasonable times be open for inspection, free of charge, to any authorised officer of the municipality, veterinary surgeon, any member of the police service or the public.

12. Submission of pound register entries after pound sales

A pound master must, within 14 days after the date of each pound sale, submit to the municipality a copy of all entries in his or her pound register made since the date of the preceding submission, and the municipality must preserve all such copies for inspection by any person desirous of seeing them.

13. Inspection of pound register at place of sale

Whenever a sale of impounded animals is to take place, the pound master or a person authorised to conduct the sale, must keep the pound register at the place of sale, and such register must be open for inspection, free of charge, to all persons desirous of inspecting it.

14. Pound master's fees

- (1) The municipality may fix fees for the keeping of animals in a pound and may distinguish between different kinds of animals.
- (2) Every pound master is entitled to claim the fees determined by the municipality in terms of subsection (1) for every animal impounded by him or her in terms of this by-law.

15. Fees payable

- (1) The fees determined in terms of section 14 must be paid to the pound master by the owner of the animals impounded.
- (2) The impounded animals may be detained by the pound master in security of payment of the fees and any costs which the pound master may have incurred, provided that if the value of the animals impounded is in excess of the total amount due thereon, and if the owner is unable to pay the said amount, the pound master may detain only so many of the said animals as may be sufficient to secure the total amount due for all the animals, and must deliver the remainder of the animals to the said owner.
- (3) A pound master who retains any greater number of such animals than is reasonably necessary to secure such amount is liable to the owner for any damages sustained by him or her on account of such retention.
- (4) If the pound master is an official of the municipality, he must pay the fees received by him or her in terms of this by-law into the revenue of the municipality, the frequency of which will be determined by the department responsible for finance.
- (5) No pound master may release any impounded animal until the prescribed fees have been paid to him or her.

16. Notice of sale

- (1) Every pound master must –
 - (a) whenever any impounded animal has not been released within six days from the date of its impoundment, notify the municipality that such animal will be sold by public auction and the date, time and place of such auction;
 - (b) provide the municipality with detail regarding the species, colour, marks and distinguishing features of such animal;
 - (c) post a copy of the notice at a noticable place at the pound, there to remain until the day of the sale; and
 - (d) cause to be published in a newspaper circulating in the area of jurisdiction of the municipality where the pound is situated, a notice of the sale.
- (2) The cost of a notice in terms of subsection (1)(a) is recoverable from the owner of the impounded animal and is deemed to be part of the amount to be deducted from the proceeds of the sale of an animal.
- (3) If the said proceeds are less than the amount due, and the owner of the animal sold is unknown, the municipality shall make good the deficiency.

17. Auctioneer

- (1) Every sale of impounded stock must -
- (a) be conducted by the pound master or some other person duly authorised thereto by the municipality; and
 - (b) commence at the time and date mentioned in the notice in terms of section 16(a).
- (2) No person conducting a pound sale may have any direct or indirect interest in any purchase at any sale so held by him or her.

18. Sale of animals

At every such sale-

- (a) no animal may be put up for sale unless impounded for at least two weeks;
- (b) all animals, except sheep and goats must be sold individually;
- (c) sheep and goats must be sold in lots of not more than ten, and sheep and goats, or sheep or goats with different marks or brands may not be sold together in the same lot;
- (d) animals must be sold for cash, and the proceeds, less the amount of the pound fees and other costs incurred must be handed by the pound master to the municipality, to be paid to the owners of the animals sold; provided that -
 - (i) if in any particular case the sale does not realise sufficient to cover the pound fees due, the proceeds must be first utilised for payment of the compensation due to the pound master, and if the said proceeds are insufficient to cover such compensation, the balance of compensation must be paid to the pound master by the municipality;
 - (ii) any money, being the proceeds of the sale of any impounded animal, not being claimed by the owner of such animal within twelve months from the date of sale, accrues to the municipality;
- (e) the municipality may fix a reserve price for any animal offered for sale; and
- (f) the auctioneer may withdraw any animal from the sale if the highest bid received is not satisfactory, irrespective of whether a reserve price has been fixed by the municipality.

19. Illegal impounding and penalties

Any person who illegally impounds any animal commits an offence.

20. Recovery of loss in respect of impoundment of animals from area of another municipality

Any loss suffered by the municipality as a result of the impounding in a pound under its management and control of animals found trespassing within the area of jurisdiction of another municipality, may be recovered from such other municipality.

21. Use, detention and ill-treatment of animals

No person may furiously drive or ill-treat any animal found trespassing.

22. Appeal

A person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision.

23. Offences and penalties

Any person who -

- (a) contravenes or fails to comply with a provision of this by-law;
- (b) deliberately obstructs or interferes with any person in the exercise of any power or the performance of any duty or function in terms of this by-law; or
- (c) furnishes false, incorrect or misleading information, commits an offence and is liable upon conviction to -
 - (i) a fine or imprisonment, or either such fine or imprisonment, or to both such fine and such imprisonment; and
 - (ii) in the case of a continuing offence, to an additional fine or an additional period of imprisonment, or to such additional imprisonment without the option of a fine, or to both such additional fine and imprisonment for each day on which such offence is continued; and
 - (iii) a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as result of such contravention or failure.

24. Revocation of by-laws

The following by-laws are hereby repealed:

- (a) Any by-law previously promulgated by the municipality or any of the disestablished municipalities now incorporated into the municipality, in so far as it relates to any matter provided for in this by-law; and
- (b) Any by-law previously promulgated by the Cacadu District Municipality or any of its predecessors, in so far as it has been made applicable to the municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Municipal Structures Act, 117 of 1998.

25. Short title and commencement

This by-law shall be known as the Impoundment of Animals By-law and shall come into operation on the date of publication thereof in the Provincial Gazette.

No. 223**CACADU DISTRICT MUNICIPALITY
OUTDOOR ADVERTISING AND SIGNAGE BY-LAW**

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996, the Cacadu District Municipality, enacts as follows for application within the District Management Area established in terms of section 6 of the Local Government: Municipal Structures Act, Act 117 of 1998 :-

Table of contents

1. Definitions
2. Principles and objectives

CHAPTER 1: SUBMISSION OF APPLICATIONS, CHARGES AND GENERAL FACTORS IN CONSIDERING APPROVAL, AMENDMENTS AND CONDITIONS TO APPROVAL, FACTORS RELATING TO SPECIFIC SIGNS, AREAS OF CONTROL AND COMMERCIAL SPONSORED SIGNS

3. Submission of applications
4. Charges and general factors in considering approval, amendments, conditions to approval
5. Factors relating to specific signs, areas of control, and commercial sponsored signs

CHAPTER 2: STANDARD CONDITIONS FOR APPROVAL, REQUIREMENTS, AND APPROVAL

6. Standard conditions for approval
7. Electrical requirements
8. Illumination requirements
9. Road traffic safety requirements
10. Legal requirements
11. Approval

CHAPTER 3: GENERAL PROVISIONS

12. Appeal
13. Signs for which Municipality's approval not required
14. Disfigurement
15. Damage to municipal property
16. Entry and inspections
17. Offences
18. Presumptions
19. Enforcement and removal of signs
20. Service of notices
21. Liaison forums in community
22. Magistrate's court jurisdiction
23. Transitional arrangements
24. Repeal of by-laws
25. Short title and commencement

SCHEDULES

Schedule 1: Areas of control

Schedule 2: Billboards

Schedule 3: Locality bound freestanding and composite signs

Schedule 4: Signs attached to walls of buildings (Flat and Projecting Signs)

Schedule 5: Sky signs

Schedule 6: Roof signs

Schedule 7: Signs on a verandah, balcony, canopy, supporting columns, pillars and posts

Schedule 8: Signs on boundary walls, fences and construction sites

Schedule 9: Newspaper Headline posters

Schedule 10: Banners, flags and balloons

Schedule 11: Posters

Schedule 12: Estate Agent signs

Schedule 13: Loose portable signs

Schedule 14: Aerial signs

Schedule 15: Transit Advertising

Schedule 16: Signs on Municipal Land/Buildings

Schedule 17: Signs by/for Non-Profit Bodies

1. Definitions

In this By-Law, unless the context otherwise indicates –

“**advertising structure**” means any physical structure which displays a sign;

“**advertisement**” means any representation of a word, name, letter, figure or object or an abbreviation of a word or name, or any symbol, or any light which is not intended solely for illumination or as a warning against any dangers and “**advertising**” has a similar meaning;

“**aerial sign**” means a sign that is displayed or performed in the air, including but not limited to balloons and blimps that can be viewed from within the Municipality’s area of jurisdiction;

“**approval**” means approval by the Municipality and “**approve**” has a corresponding meaning;

“**areas of control**” means those areas set out in Schedule 1 of the By-Law; and which may be modified or amended from time to time, which amendments and modifications will be graphically depicted by way of maps as prepared by the Municipality.

“**banner**” means any material upon which a sign is displayed in such a manner as to be fully legible in windless conditions, attached to one or more ropes, poles or flagstuffs projecting vertically, horizontally or at an angle, or attached to buildings or special structures, but excludes banners carried as part of a procession. A flag which is not displayed on an approved flag pole shall for the purposes of this By-Law be deemed to be a banner;

“**billboard**” means any screen or board which stands free and is larger than 4,5 m² in total area; which is supported by, or consists of, a structure used, for the purpose of posting, displaying or exhibiting a sign;

“**class 2 roads**” means the roads which form the primary network for the urban areas as a whole and which are characterised by high volumes, restricted access and fairly high speeds;

“**class 3 roads**” means roads that distribute traffic between the principal residential, industrial and business districts of the town and which form the link between the primary network (class 2 roads) and the roads within residential areas;

“**clear height**”, in relation to a sign, means the vertical distance between the lowest edge of the sign and the natural level of the surrounding ground, footway or roadway immediately below the sign;

“**commercial advertising**” means any words, letters, logos, figures, symbols, pictures relating

to the name of a business, trade, partnership, individual, or any information, recommendation or exhortation in respect of any particular goods manufactured or sold, or any particular services rendered or offered, or any event for commerce or entertainment, including sporting events;

"commercially sponsored sign" means a sign which advertises goods or services, but the erection of which has a secondary purpose, which is to promote or contribute to some recognised public or community goal or function;

"common boundary façade" means any façade of a building which is built abutting a rear or side boundary of an erf and which façade is blank, that is, having no architectural features, which includes windows;

"composite sign" means a single freestanding advertising structure for the display of more than one advertising sign;

"consultant" means a suitably qualified independent person or company that acts on behalf of, or as an agent of, an applicant for approval of a sign in terms of this By-Law;

"continuing offence" means an offence in terms of this By-Law, which offence continues to exist after the expiry of the notice period referred to in a notice served in terms of this By-Law;

"custom made design" means the design of any sign, which features special effects such as specialist character cut outs or shapes or three dimensional presentations or moving parts or a combination thereof, and which is uniquely designed or constructed for erection in a particular location;

"development board" means a sign displayed at premises upon which building operations are currently in progress and relating to any services being provided, work being done or goods being supplied in connection with such building operations, but excludes contract boards for building and civil engineering projects as required in terms of the National Building Regulations and Control Act, 1977 (Act 103 of 1977), as amended from time to time and defined in terms of the General Conditions of Contract and/or Specifications of the appropriate institutions;

"display" means the display of a sign and includes the erection of any billboard, sign or structure intended solely or primarily for the support of a sign or billboard, and includes the display of a sign of a business, trade partnership or individual connected with the contents of the sign or sign, and **"displayed"** has a corresponding meaning;

"electronic sign" means a sign which has an electronically controlled, illuminated display surface which allows all, or a portion, of the sign to be changed or illuminated in different ways;

"Environmental Impact Assessment" (EIA) means an assessment carried out in accordance with the Municipality's guidelines for outdoor advertising;

"estate agency" means a person who markets or sells properties with or without buildings erected thereon and **"estate agent"** has a corresponding meaning;

"existing sign" means any sign previously approved by the Municipality;

"flat sign" means a sign which is affixed to, or painted directly onto a wall of a building but not onto or over windows or doors or architectural articulations and which at no point projects more than 250 mm in front of the surface of such wall;

"freestanding sign" means any sign or group of signs contained or displayed on one freestanding structure which is not attached to a building or to any structure or object not intended to be used for the primary purpose of advertising;

"gateway route" means a prominent route with an entrance to or exit from a specific part of the Municipality's jurisdiction, consisting of man-made or natural features and creating a strong sense of arrival or departure and which is consistent with city planning or development framework plans or policy, and which may be geographically depicted by way of maps or listed by the Municipality.

“graphic” includes but is not limited to any component which contributes to the visual appearance or aesthetics of a sign, including its background;

“headline poster” means a temporary poster advertising the contents of a daily or weekly newspaper;

“height of a sign” is calculated by measuring the vertical distance between the uppermost and lowest parts of the structure;

“Heritage Impact Assessment” (HIA) means a visual assessment of the impact that any proposed sign may have on the cultural heritage, whether built or recognised, at the locality where the proposed sign will be displayed;

“internally illuminated sign” means an advertisement or structure used to display an advertisement which has been installed with electrical or other power and an artificial light source which is fully or partially enclosed within the structure or sign and which light is intended to illuminate the advertisement or a portion thereof;

“law” means any law, proclamation, ordinance, Act of Parliament or Provincial Legislature, or any other enactment having the force of law;

“locality bound advertising” means any sign displayed on a specific erf, premises or building and may include (subject to a prescribed encroachment fee) such a sign on municipal owned land, adjacent to, abutting on or within 5 metres of the aforementioned erf, premises or building, which sign refers to an activity, product, service or attraction, located, rendered or provided on or from that erf or those premises;

“loose portable sign” means a freestanding locality bound notice or advertising board placed or erected in the Road Reserve or in a public open space;

“movable sign” means a sign not permanently fixed and not intended to remain fixed in one position, but does not include any moving part on a fixed permanent sign;

“municipality” means the Cacadu District Municipality established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

“new sign” means any sign first displayed after the promulgation of this By-Law;

“non-profit body” means a body established primarily to promote a community goal or benefit without direct or personal financial gain, and may include educational, sporting, medical, municipal departments, bodies as well as charities or community organizations, and the Municipality may call for documentary proof, which may include the production of bank statements, of the non profit status or community benefit objective of the body;

“organ of state” means:

(a) any department of state or administration in the national, provincial or local sphere of government;

(b) any other functionary or institution –

(i) exercising a power or performing a function in terms of the Constitution or a provincial constitution; or

(ii) exercising a public power or performing a public function in terms of any other legislation;

“overall height”, in relation to a sign, means the vertical distance between the uppermost edge of the sign and the finished level of the ground, footway or roadway immediately below the centre point of the sign;

“perimeter of an intersection” means the perimeter of the area embraced within the prolongation of the road reserve lines of two or more public roads that join one another at any angle, whether or not one such public road crosses the other;

“person” includes:

- (a) any organ of state;
- (b) any company incorporated or registered as such under any law; and
- (c) any body of persons, whether incorporated or not, functioning as a single entity for whatever purpose;

“poster” means temporary signs capable of being attached to the Municipal electrical light standards or pasted to fixed structures to advertise events or campaigns, including elections or referenda of limited duration and excluding signs advertising markets, exhibitions or events which are held on a regular basis;

“projected sign” means any sign projected by a laser projector, video projector, or other apparatus;

“projecting sign” means a sign which is affixed to a wall of a building and which at some point projects more than 250 mm in front of the surface of such wall;

“public façade” means any façade of a building that has architectural articulations and which is visible to the public

“public place” means any public road, public street, thoroughfare, bridge, subway, footway, foot pavement, footpath, sidewalk, (or similar pedestrian portion of a road reserve), lane, square, open space, garden, park or enclosed place vested in the Municipality, or other state authority or indicated as such on the Surveyor General’s records, or utilized by the public or zoned as such in terms of the applicable zoning scheme;

“public road” means public road as defined in the National Road Traffic Act, 1996 (Act 93 of 1996);

“road reserve” means the area contained within the statutory width of a road, and includes roadways, shoulders and sidewalks and the airspace above such roadways, shoulders and sidewalks and all other areas within the road reserve boundary;

“roadway” means that portion of a road, street or thoroughfare improved, constructed or intended for vehicular traffic as defined in the National Road Traffic Act, 1996;

“roof sign” means a sign affixed to a roof of a building where the top edge of any point of that sign does not exceed the height of the roof plane to which it is affixed;

“scenic drive” means a road designated as such on an approved zoning scheme or from which landscapes or features of aesthetic or cultural significance can be seen or viewed as designated by the Municipality;

“security sign” means an outdoor sign for neighborhood watch and similar schemes, and a sign containing the name, logo, address and telephone number of a security company contracted to protect, or security system installed to protect, the premises on which the sign is displayed;

“service station facility sign” means freestanding signs at petrol filling stations, roadside rest and service areas and includes service station pylon signs;

“shop” means a building used for retail trade or services;

“sign” means any object, product, replica, advertising structure, mural, device or board which is used to publicly display a sign or which is in itself a sign; and includes a poster and a billboard;

“signalised traffic intersection” means an intersection controlled by traffic signals;

“sky sign” means a sign where the top edge of any point of that sign exceeds the height of the roof plane to which it is affixed;

“sponsored sign” means a sign, the primary purpose of which is not to advertise goods or services but which displays a graphic or content which promotes community or public awareness of a recognised public or community goal;

“street name signs” means pole-mounted, double-sided, internally illuminated or unilluminated signs displayed in combination with names of streets, not exceeding 1 m²;

“street furniture” means public facilities and structures which are not intended primarily for advertising and includes but is not limited to seating benches, planters, bins, pole mounted bins, bus shelters, sidewalk clocks, drinking fountains, Telkom boxes, traffic signal controllers, electricity boxes, post boxes and telephone booths, but excludes road traffic signs, traffic signals, street lights or any other road-related structures;

“temporary signs” means signs which are displayed for a maximum period of 14 days, or such other period as may be approved by the Municipality;

“thickness”, in relation to a projecting sign, means the width of such sign measured parallel to the plane of the main wall to which such sign is affixed;

“third-party advertising” means the advertising of goods or services that are not made, procured, sold or delivered from the property on which the sign or sign advertising of those goods or services is fixed or placed, and includes advertising which is not locality bound.

“three dimensional sign” means a sign containing more than 2 dimensions, including product replicas;

“Traffic Impact Assessment” (TIA) means a study carried out by a registered professional engineer with demonstrable experience in the field of traffic engineering that investigates the impact a proposed sign may have on vehicle, pedestrian, or cyclist safety and traffic operation, which study should recommend any mitigating measures that may be required as a result of that impact;

“traffic sign” means a road traffic sign as prescribed in the National Road Traffic Act, 1996;

“traffic signal” means a road traffic signal as prescribed in the National Road Traffic Act, 1996;

“transit advertising” means advertising by means of a movable sign which is capable of being transported by road either on or in conjunction with a motorized vehicle, including trailers primarily used for advertising;

“transportation terminals” means any area designated by the Municipality as such, where the formal interchange of modes of public transport takes place by the public, including, but not limited to designated railway stations, official taxi terminals and bus terminals;

“urban edge line” means a predetermined point to point boundary line as determined by the Municipality, which has as its purpose, the containment of urban development;

“verandah” includes a cantilevered canopy and sunblind;

“window signs” means signs which are temporarily or permanently painted on, or attached to the window-glass of a building;

“zone” means a land use zone as set out in the relevant zoning schemes or Town Planning Regulations as amended from time to time and applicable to any erf on which a sign is displayed or intended to be displayed and **“zoning”** has a corresponding meaning.

2. Principles and objectives

The object of this By-Law is to manage outdoor advertising in the jurisdiction of the Cacadu District Municipality in a manner that is sensitive to the environmental quality of different parts of Cacadu District Municipality. It seeks to strike a balance between outdoor advertising opportunities and economic development on the one hand, and the conservation of visual, tourist, traffic safety, environmental and heritage characteristics on the other hand. The object of this By-Law is to ensure that outdoor advertising respects the integrity of any site on which it is displayed, and complements the character of the locality in which it is displayed.

CHAPTER 1
SUBMISSION OF APPLICATIONS, CHARGES AND GENERAL FACTORS IN
CONSIDERING APPROVAL, AMENDMENTS AND CONDITIONS TO APPROVAL,
FACTORS RELATING TO SPECIFIC SIGNS, AREAS OF CONTROL AND
COMMERCIAL SPONSORED SIGNS

3. Submission of applications

(1) Other than those signs referred to in section 13(3) to 13(10), no person may display any advertisement or erect or use any sign for advertising purposes without the Municipality's approval in terms of this By-Law and any other applicable legislation.

(2) Every person intending to display a new sign or to alter or to add to an existing approved sign, or submitting a signage plan in terms of a Site Development Plan proposal, must apply in writing to the Municipality which application must be accompanied by the following information in duplicate:

- (a) a site plan, drawn to a scale of not less than 1:200, showing-
 - (i) the site on which the sign is to be erected or displayed;
 - (ii) the position of the sign and the building, if any, to which it is to be attached;
 - (iii) every existing building and signs on the site;
 - (iv) existing and proposed landscaping, traffic signals and road traffic signs;
 - (v) the position, with dimensions, of the sign or signs in relation to the boundaries of the site;
 - (vi) the location of the streets abutting the site; and
 - (vii) existing approved zoning conditions ;
- (b) a drawing, on a scale of not less than 1:20, which complies with the requirements of the National Building and Regulations Standards Act, 1977 (Act 103 of 1977), showing-
 - (i) the appearance of the sign and all relevant construction detail;
 - (ii) the materials of which the sign is to be constructed; and
 - (iii) the colours to be used, and whether or not the sign is to be illuminated;
- (c) in the case of an illuminated sign, the drawing must indicate whether or not the sign is an electronic sign and if so, full details in respect of the requirements set in sections 7 and 8 must be furnished.
- (d) if a sign is to be attached to or displayed on the wall or façade of a building, the Municipality may require the submission of an additional drawing showing an elevation of the building in colour, the details and position of the proposed sign and the details and the position of every existing sign on the building drawn to a scale of not less than 1:100, or the Municipality may require a coloured print of or an artist's photographic or computer generated impression of the building with the details of the proposed sign superimposed on such graphic and drawn as nearly as is practicable to the same scale as that of the graphic;
- (e) if the applicant is not the registered owner of the property on which the sign will be erected, the applicant must obtain the signature of the registered owner of the land or building on which the sign is to be erected, indicating that person's knowledge of and consent to the application; and
- (f) upon the request of the Municipality such additional drawings, calculations and other information as is necessary to enable the Municipality to establish the adequacy of the proposed means of securing, fixing or supporting any proposed sign, sign or billboard and its ability to resist all loads and forces to which the

sign, advertising or billboard may be exposed and the sufficiency of the margin of safety against failure.

(3) The Municipality may require the submission of any or all of the following studies or assessments-

- (a) an Environmental Impact Assessment (either the 1st stage thereof; being the completion of an Environmental Checklist or in its entirety),
- (b) a Heritage Impact Assessment; and
- (c) a Traffic Impact Assessment.

(4) If a community or portion thereof or a person will be affected by the proposed sign, it may require a public participation process prior to considering the approval, which public participation process must comply with the Municipality's policy on public participation.

(5) The Municipality may require a signage master plan in respect of any development where the erection of numerous signs is proposed or the rationalisation of previously approved signs is required so as to allow it to consider a consistent design master plan prior to assessment of any individual sign.

(6) The Municipality must notify the applicant of any additional requirements it has, within 21 working days of the date of submission of the original application and payment of the application fee.

(7) The Municipality must retain a copy of every document supplied to it as part of an application.

(8) The Municipality may require written notification, by the applicant or person who erects an approved sign that such sign has been erected.

4. Charges and general factors in considering approval, amendments, conditions to approval

(1) Every person who applies to the Municipality for approval in terms of this By-Law must pay to the Municipality an application fee as determined by the Municipality and no sign may be erected until such time as the application fees have been paid in full.

(2) In considering an application for the display of an advertisement or the erection of a sign in terms of this By-Law, or an amendment or condition attached or to be attached to an approval, the Municipality must have regard to the following factors:

- (a) the area of control in which the proposed sign is to be erected or displayed as set out in Schedule 1; provided further that if a sign falls into more than one possible area of control or if a proposed sign site is located in one area of control which may impact on an adjacent area of control, the Municipality may determine the area of control pertaining to that application;
- (b) the type of locality or landscape and the advertising opportunities pertaining to that area of control;
- (c) the number of signs already displayed or proposed to be displayed on the erf and in the area surrounding the erf concerned;
- (d) the findings of any Traffic Impact Assessment, Environmental or Heritage Impact Assessment and public participation processes where applicable.
- (e) locality bound signs must relate to the lawful use of a property provided that no such sign must be affixed to or placed on residential premises or portions thereof other than is permitted by or for home industries and legal temporary uses; and
- (f) that no sign or advertisement may be designed or displayed that –
 - (aa) will constitute a danger to any person or property;
 - (bb) will display any material or graphic which, does not comply with the requirements of the Advertising Standards Authority of South Africa.

- (cc) will be detrimental to the environment or amenity of the neighborhood by reason of either its size, intensity, frequency, illumination, quality of design, material, proposed graphic or locality.
- (dd) will obscure any other signs approved in terms of this By-Law or its predecessor; and
- (ee) will be detrimental or otherwise negatively impact on the environment, whether artificial or natural.

(3) Subject to any conditions in Schedule 16, all new advertising signs or advertising structures approved under this by-law and any successive by-law, may remain on display uninterrupted until such time as they do not comply with the provisions of this by-law or any other applicable legislation.

5. Factors relating to specific signs, areas of control, and commercial sponsored signs

(1) The Municipality must, in addition to the factors set out above, apply minimum standards to certain specific sign types and proposed localities and will apply specific criteria to applications for the erection of signs by non-profit bodies. These standards and criteria are set out as Schedules to this By-Law. Schedule 1 to this By-Law indicates the areas of control in which certain sign types may be permitted, subject always to approval in terms of this By-Law and furthermore subject to any additional requirement pertaining to a specific sign type as set out in the following Schedules:

- (a) Schedule 1: Areas of control;
- (b) Schedule 2: Billboards;
- (c) Schedule 3: Locality bound freestanding and composite signs;
- (d) Schedule 4: Signs attached to walls of buildings (flat and projecting signs)
- (e) Schedule 5: Sky signs;
- (f) Schedule 6: Roof signs;
- (g) Schedule 7: Signs on a verandah, balcony, canopy, supporting columns, pillars and posts;
- (h) Schedule 8: Signs on boundary walls, fences and construction sites;
- (i) Schedule 9: Newspaper headline posters;
- (j) Schedule 10: Banners, flags and balloons;
- (k) Schedule 11: Posters;
- (l) Schedule 12: Estate agent signs;
- (m) Schedule 13: Loose portable signs;
- (n) Schedule 14: Aerial signs;
- (o) Schedule 15: Transit advertising;
- (p) Schedule 16: Signs on municipal land/buildings; and
- (q) Schedule 17: Signs by or for non-profit bodies.

(2) The Municipality may grant exemption from the terms of this By-Law in respect of the sign types or areas of control set out in Schedules 10, 11 and 12 hereto having regard to –

- (a) the area of control where it is proposed to display the sign/s;
- (b) nature of the event;
- (c) duration of the erection or display of the sign;
- (d) size of the proposed sign;
- (e) any traffic, safety, environmental or heritage impact assessment; and
- (f) the outcome of any public participation process.

CHAPTER 2

STANDARD CONDITIONS FOR APPROVAL, REQUIREMENTS, AND APPROVAL

6. Standard conditions for approval

- (1) All signs must be properly constructed of the requisite strength and must comply with the requirements of the National Building Regulations and Standards Act, 1977 (Act 103 of 1977), as amended.
- (2) The applicant to whom approval has been granted and the owner of the property or building to which a sign is attached shall be jointly and severally liable for the maintenance thereof.
- (3) Where any sign becomes torn or damaged or otherwise falls into a state of disrepair, the applicant or the owner of the fixture or property which or to which a sign is attached must within 7 working days of a notice in writing to do so, repair it.
- (4) All signs and their support structures must be constructed of incombustible, durable materials suited to the function, nature and permanence of the sign.
- (5) All glass used in a sign, other than glass used in illumination, must be safety glass of at least 3 mm thick.
- (6) Glass panels used in a sign must not exceed 0,9 m² in area, each panel being securely fixed in the body of the sign, structure or device independently of all other panels.
- (7) Every sign and its support structure must be kept in a state of good repair.
- (8) No sign may obstruct the opening and closing of any window or opening provided for ventilation of a building or obstruct any stairway or doorway or other means of exit from the building or prevent movement of people from one part of a roof to another.
- (9) No advertising structure may be closer to overhead electrical equipment than the minimum distance prescribed.

7. Electrical requirements

- (1) All signs needing an electrical connection must preferably be supplied from the existing electrical supply on the erf where it is to be erected. If this is not possible, application for a metered electricity supply must be made to the relevant authority.
- (2) Every sign in connection with which electricity is used, must be provided with suitable capacitors to prevent interference with radio and television reception.
- (3) Each power cable and conduit containing electrical conductors in respect of a sign must be so positioned and fixed so that it is safe, unseen, inaccessible and child tamper proof and animal proof.
- (4) Each interior high-voltage installation that runs unattended (such as a window display) and each exterior high-voltage installation must have a fireman's switch in accordance with the requirements as stipulated in sections 6.7.2 and 7.5 of SANS 0142 1993 promulgated in terms of the Occupational Health and Safety Act.

8. Illumination requirements

- (1) The Municipality may approve an illuminated sign, provided that the provisions of this By-Law are complied with and that such illumination does not constitute a road safety hazard or cause undue light spillage.
- (2) Signs may not be illuminated if no sign content is displayed.
- (3) Requirement for internal illumination and electronic signs:
 - (a) internally illuminated and electronic signs containing third party advertising may only be displayed in areas of partial and minimum control and must be less than 2,1 m². This size condition may be waived, up to a maximum size of 4,5 m²

in any such area upon receipt of an Environmental and Heritage Impact Assessment showing no detrimental impact will be caused by the proposed display, or to any larger size specified by the Municipality in an area designated by the Municipality as a district in which illuminated or electronic signs are to be encouraged;

- (b) electronic signs may not have subliminal flashes; and
 - (c) prior to erection, the Municipality may require a Traffic Impact Assessment, Environmental and Heritage Impact Assessment to be conducted, the results of which must indicate that no detrimental impact on traffic is envisaged. In addition the Municipality may require subsequent traffic monitoring of any internally illuminated or electronic sign.
- (4) Requirements for external illumination:
- (a) The light source emanating from floodlights may not be visible to traffic traveling in either direction;
 - (b) floodlights may not be positioned so as to create any undue light spillage beyond the surface area of the sign; and
 - (c) Approved way leaves must be obtained from the electricity department prior to any excavations for the installation of signs. This also applies for signs to be erected in the vicinity of overhead power lines.

9. Road traffic safety requirements

- (1) Signs may not be erected in an area where they are an unacceptable distraction for drivers..
- (2) Electronic signs may not be permitted if they are visible from class 2 or 3 roads, a gateway route or a scenic drive unless expressly approved in writing by the municipality.
- (3) Advertising on bridges, towers, telecommunication masts, pylons or street poles will not be permitted.
- (4) The graphic content of signs may not have the potential to be visually interpreted as a road traffic sign, due to any factor, including but not limited to the following:
 - (a) any stylised or pictorial presentation of a road traffic sign or traffic signal;
 - (b) any word, symbol, logo or other device used on a road traffic sign;
 - (c) use of combinations of colours specified for road traffic signs, in a manner likely to lead to confusion; and
 - (d) any reflectorised paint or material.
- (5) Signs may not be erected in an area where the traffic volume, the average following headway or accident history requires a higher than average degree of awareness from drivers.
- (6) Signs may not be attached to or obscure a road traffic sign or traffic signal specifically provided for in the South African Road Traffic Signs Manual or the South African Development Community Road Traffic Signs Manual.
- (7) Signs may not be erected within the road reserve of any public road unless expressly approved by the municipality.
- (8) When located at signalised traffic intersections, signs may not have the colours red or yellow or green as main colours and may not obscure or interfere with any road traffic sign or traffic signal.
- (9) Electronic signs will not be permitted within 80 metres of the perimeter of a signalised traffic intersection.
- (10) Flashing or running messages or variable transition messages that have a message change interval of greater than 0,3 seconds or have transition effects between message changes will not be permitted if viewable from a public road.

(11) Static display, simple transition signs must display a complete frame for an information cycle length of not less than 60 seconds when visible from a signalised traffic intersection and 30 seconds at other locations.

(12) All signs larger than 4,5 m² erected adjacent to a public road or in a railway reserve intended to advertise to persons using class 2 and 3 roads must be spaced a minimum specified distance from any other sign or road traffic sign, such distance measured parallel to the centre line of the roadway, in accordance with the measurements set out in Table 1 below:

**TABLE 1:
LINEAR SPACING BETWEEN SIGNS**

TABLE 1. LINEAR SPACING BETWEEN SIGNS

Case	Spacing required when visible to traffic on a road with a speed of:		
	< 60 km/h	61-80 km/h	81-120 km/h
Where an advertising sign follows a road sign	380 m	425 m	475 m
Where an advertising sign follows an advertising sign	310 m	360 m	410 m
Where an advertising sign precedes a road sign	40 m	70 m	100 m

(13) The abovementioned minimum distances specified in Table 1 above may be decreased by the Municipality if the sign falls within an area of minimum control, or in other areas of control on submission of a Traffic Impact Assessment motivating a reduction of this spacing. The Municipality may prepare a list or map of designated areas in which the abovementioned spacing requirements shall not be applicable.

10. Legal requirements

All signs to be erected or displayed within the area of jurisdiction of the Municipality must, in addition to complying with this By-Law, comply with all other applicable legislation, including any applicable Zoning Scheme Regulations or condition of approval or any departure from the applicable Zoning Scheme Regulations.

11. Approval

(1) The Municipality may refuse any application or grant its approval subject to conditions, including a condition that the owner of any sign or billboard or the land or building on which it is erected or displayed, or the person whose product or services are advertised, indemnify the Municipality against any consequences flowing from the erection, display or mere presence of such sign.

(2) The Municipality may, at any time, withdraw an approval granted in terms of this By-Law or its predecessor or amend any condition or impose a further condition in respect of such approval, if a sign or advertising structure is in a state of disrepair, stands empty for more than 90 consecutive days, no longer complies with any provision of this By-Law or is substantially altered from the original approved application by way of either structure or graphic content.

(3) Should an approved sign not be erected within 12 months from the date of approval or within such other time as is specified in the approval, such approval will lapse, unless that period is extended in writing by the Municipality prior to such lapse.

(4) In the event that the structure supporting such sign is intentionally demolished before the expiry of the approval period, the approval shall lapse and no further sign or supporting structure may be erected or re-erected without the Municipality's approval.

(5) All decisions by the Municipality regarding applications made in terms of this By-Law

must be in writing and will be provided to applicants within 60 calendar days of date of submission of a complete application, alternatively, if so required by the Municipality, within 60 calendar days of its receipt of any additional information or assessments provided to the Municipality.

(6) In notifying an applicant of its decision in terms of subsection (5), the municipality must inform such applicant and any person who has objected to the granting of an application of their right to appeal in terms of section 12.

CHAPTER 3 GENERAL PROVISIONS

12. Appeal

A person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision.

13. Signs for which Municipality's approval not required

(1) Should any sign not comply with the conditions relative to each sign type listed below, an application in terms of section 3 will be required.

(2) Subject to compliance with the conditions relative to each sign provided for in subsections (3) to (12), and any other applicable legislation, or condition imposed by the Municipality, no application for approval is required in terms of this By-Law in respect of the signs provided for in subsections (3) to (12).

(3) *Development Boards.*

- (a) development boards must be removed when the building operations are complete or if the building operations are discontinued, or when the provisions of the services, the doing of the work, or the supply of the goods to which the sign relate has ceased.
- (b) the Municipality may order the removal of a sign within a specified period if the building operations have been substantially completed or discontinued or an Occupancy Certificate has been issued by the Municipality, or the provision of the services, the doing of the work or the supply of the goods to which it relates, has ceased.
- (c) if the premises on which building operations are in progress, are to be used wholly for residential purposes, only one development board may be displayed and such development board may not exceed 3 m² in total area.
- (d) if the premises are not to be used wholly for residential purposes, no more than two development boards may be displayed and the aggregate area of both development boards may not exceed 5 m² in total;
- (e) if the signage, whether on freestanding boards, or flexible building covering material, include any other form of Third Party advertising, such sign must then comply with the provisions of Schedule 8 hereto and Municipal approval for the display thereof must first be obtained.

(4) *To Let/For Sale Signs.*

These include any sign not exceeding 400 mm x 500 mm displayed at existing premises or at properties upon which new buildings are erected and relating to accommodation being offered in the building; provided that any such sign must be removed within 60 days from the date upon

which the accommodation to which it relates becomes capable of occupation.

(5) *On Premises Business Signs.*

These include any unilluminated sign not projecting over a public road and not exceeding 0,2 m² in total area indicating the types of trade, business, industry or profession lawfully conducted by any occupant or permanent resident of the premises to which it is attached, the name of such occupant, the type of activity, the address and telephone number of such premises and the hours of attendance; provided that only one such sign per occupant may be displayed.

(6) *Window Signs.*

These include any locality bound signs which are temporarily or permanently painted on or attached to the window glass of a building used for commercial, office, industrial or entertainment purposes, or any other temporary or permanent sign which is displayed within 2 metres of any window or external opening through which it can be seen from outside such a building; provided that no window sign may exceed 4,5 m² in an area of maximum control.

(7) *Signs incorporated in the face of a building.*

Any sign forming an integral part of the fabric of a building (but excluding a painted sign or a sign affixed in any manner onto the building), on condition that no such sign may exceed 0,2 m² in total area.

(8) *Signs on Sports Fields.*

Except when visible from scenic drives, any sign erected around the perimeter of a sports field, to a maximum size of 2 x 1 meter, provided further that larger signs which face inwards onto the field and are not visible from any other public road, may also be permitted.

(9) *Security Signs.*

Any security sign not projecting over a public road and not exceeding 0,2 m² in total area indicating either that a security watch scheme is in operation or that a security company has been contracted to protect the premises on which the sign is displayed, on condition that –

- (a) only one such sign is displayed on any public road or each street frontage of such premises; and
- (b) the said sign displays only the name, logo, address and telephone number of a security company contracted to protect the premises on which the sign is displayed.

(10) *Sponsored, Commercially sponsored and Non-Profit Body Signs: less than 4,5 m².*

- (a) any such sign whether erected by or in connection with a non profit body or not, not exceeding 4,5 m² in total area on condition that-
 - (i) no more than 5% of the total surface area of the sign is used for third party advertising;
 - (ii) the sign is not illuminated; and
 - (iii) that only one such sign may be permitted per erf.
- (b) signs which comply with the provisions of subsection (a) may, when erected on municipal land, only be erected once agreement has been concluded with the Municipality, wherein the extent of the community or public benefit and the terms of the erection of the sign has been agreed.
- (c) all other sponsored signs are dealt with in Schedules 16 and 17.

(11) *Advertising on Flags*

Advertising flags may only be displayed on flag poles, provided that no more than 3 flag poles of 3 m each in total height, may be permitted on any one property on which they are displayed.

(12) *Advertising on Vehicles*

Signs painted or affixed directly onto the body of a motorised vehicle.

14. Disfigurement

No person may destroy, harm, damage or disfigure or deface the front or frontage of any street, road traffic sign, wall, fence, land, rock, tree or other natural feature, or the front or frontage or roof of any building or structure during construction or through the display or use of a sign or the writing or painting of any sign, symbol, letters or numerals. Furthermore, no person may disfigure any sign legally displayed in terms of this By-Law.

15. Damage to municipal property

No person may, in the course of erecting or removing any sign, or banner, cause damage to any tree, electric standard or service or other municipal installation or property and street furniture.

16. Entry and inspections

The Municipality shall be entitled, through its duly authorized officers, to enter into and upon any premises, at a reasonable time for the purpose of carrying out any inspection necessary for the proper administration and enforcement of the provisions of this By-Law.

17. Offences

Any person who –

- (a) contravenes or fails to comply with any provision of this By-Law;
- (b) contravenes or fails to comply with any requirement set out in a notice served on him in terms of this By-Law;
- (c) contravenes or fails to comply with any condition imposed in terms of this By-Law;
- (d) knowingly makes a false statement in respect of any application in terms of this By-Law, commits an offence and on conviction may be liable to-
 - (i) a fine or imprisonment, or either such fine or imprisonment or to both such fine and such imprisonment and,
 - (ii) in the case of a continuing offence, to an additional fine or an additional period of imprisonment or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued and,
 - (iii) a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as result of such contravention or failure.

18. Presumptions

Any person charged with an offence in terms of this By-Law who is –

- (a) alone or jointly with any other person in control of, or responsible for the organisation of any meeting, function or event to which a sign or poster relates, shall be deemed to have displayed or caused or allowed to be displayed every unlawful sign or poster relating to such meeting, function or event;
- (b) the person whose name appears on an unlawful sign or whose product or services are advertised on such sign, shall be deemed, to have displayed or caused or allowed it to be displayed;
- (c) the owner of any land or building on which any unlawful sign is displayed, shall be deemed to have knowingly displayed such sign, or caused or allowed it to be displayed.

19. Enforcement and removal of signs

- (1) If any sign displayed is in contravention of this By-Law, the Municipality may serve a notice on the owner or lessee of the sign, or the land owner on whose land the sign is erected or displayed, or the person whose product or services are advertised, calling upon such person to remove the sign or carry out such alteration thereto or to do such work as may be specified in such request or notice, within the time specified therein.
- (2) A notice served in terms of subsection (1) may be amended by the Municipality upon agreement with the person so served, or failing such agreement, by the service of a further notice.
- (3) Should the Municipality's directives, as set out in the notice, not be complied with within the time period specified therein, the Municipality may, without further notice to the person upon whom the notice was served, remove or alter the sign or do such work as may be specified in such notice.
- (4) Any costs incurred by the Municipality in removing signs, or in doing alterations or other works required in terms of a notice, may be recovered from the person on whom the notice was served.
- (5) Notwithstanding any other provision in this By-Law, if a sign is, or is reasonably considered to be a danger to life or property, the Municipality itself may, without prior notice arrange for the removal of such sign.
- (6) Any costs incurred by the Municipality for the removal of such sign may be recovered from the owner or lessee of the sign, or the land owner on whose land the sign was erected, or the person whose product or services were advertised, jointly and severally.
- (7) Unlawful signs removed by the Municipality may be reclaimed from the Municipality on payment of any costs incurred by the Municipality in the removal of the said sign, as well as payment of the costs of the storage of such sign.
- (8) Any unlawful signs removed by the Municipality and not reclaimed within two months of the date of removal may be disposed of by the Municipality to defray its removal or storage costs.

20. Service of notices

- (1) A notice issued by the municipality in terms of this by-law is deemed to be duly issued if an official of the municipality signed it.
- (2) Any notice or other document that is served on a person in terms of this by-law is regarded as having been duly served –
- (a) when it has been delivered to that person personally;
 - (b) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of 16 years;
 - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic, and an acknowledgment of the posting thereof from the postal service is obtained;
 - (d) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided by paragraphs (a), (b) or (c);
 - (e) if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the land or business premises to which it relates;
 - (f) in the event of a body corporate, when it has been delivered at the registered office of the business premises of the body corporate; or
 - (g) when it has been delivered, at the request of that person, to his or her e-

mail address.

- (3) Service of a copy is deemed to be service of the original.
- (4) When any notice or other document is served on the owner, occupier, or holder of any property, or right in any property, it is sufficient if that person is described in the notice or other document as the owner, occupier, or holder of the property or right in question, and it is not necessary to name that person.

21. Liaison forums in community

- (1) The municipality may establish liaison forums in a community for the purposes of -
 - (a) encouraging a local community to participate in the implementation, development and enforcement of this by-law; and
 - (b) promoting local economic development and the conservation of visual, tourist, environmental and heritage characteristics of the Cacadu District municipal area;
- (2) The forums contemplated in sub-section (1) may consist of -
 - (a) a member or members of an interest group or an affected person or community;
 - (b) a designated official or officials of the municipality; and
 - (c) a councilor from the relevant council committee.
- (3) The municipality may, in the implementation and enforcement of this by-law, -
 - (a) request the input of a forum;
 - (b) employ any skills or capacity that may exist in such a forum.
- (4) A forum, or a person or persons contemplated in sub-section 2, may, on own initiative, submit an input to the municipality for consideration.

22. Magistrate's court jurisdiction

Notwithstanding anything to the contrary contained in any law relating to Magistrates' Courts, a Magistrate shall have jurisdiction, on the application of the municipality, to make an order for the enforcement of any of the provisions of this By-Law or of any approval, refusal or condition granted or applicable in terms hereof.

23. Transitional arrangements

- (1) Anything done under or in terms of any provision repealed by this By-Law shall be deemed to have been done under the corresponding provisions of this By-Law and the repeal in section 24 shall not affect the validity of anything done under the By-Law so repealed.
- (2) Anything done prior to promulgation of this By-Law, which was not done in terms of a provision repealed in this By-Law and was unlawful, shall in the event of such act or sign still not complying with the provisions of this By-Law, be unlawful.
- (3) Any application for the display of any advertisement or erection of any advertising structure submitted to the Municipality prior to promulgation of this By-Law and in respect of which a decision has not yet been made by the Municipality prior to promulgation of this By-Law, shall be considered by the Municipality in terms of this By-Law.
- (4) Any sign not complying with the provision of this by-law must be removed or rectified within 6 months after the commencement of this by-law.

24. Repeal of by-laws

The following by-laws are hereby repealed:

- (a) Any by-law previously promulgated by the municipality or any of the disestablished municipalities now incorporated into the municipality, in so far as it relates to any matter provided for in this by-law; and
- (b) Any by-law previously promulgated by the Cacadu District Municipality or any of its predecessors, in so far as it has been made applicable to the municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Municipal Structures Act, 117 of 1998.

25. Short title and commencement

This by-law may be cited as the Outdoor Advertising and Signage By-law and commences on the date of publication thereof in the Provincial Gazette.

ANNEXURE 1

AREAS OF CONTROL

Natural Area	MAXIMUM		PARTIAL	MINIMUM
	Rural Area (Outside urban edge)	Urban Area	Urban Area (Within urban edge)	Urban Area (Within urban edge)
Proclaimed nature reserve	Agricultural areas / zones	Urban conservation areas	Central business districts (Outside area of special significance)	Industrial zones
Protected natural environment	Horticultural areas	Declared Heritage sites (rural and natural)	Mixed use commercial and residential areas	Designated transportation terminals
Game reserves	Rural small holdings	Graded buildings and places	Commercial ribbon development and activity corridors	Designated areas within undetermined zones
Proclaimed bird parks	Large private open spaces (e.g. golf courses)	Residential zones and adjacent road and rail reserves	Commercial and business districts and adjacent streets and rail reserves	Specific areas or sites designated as minimum control by way of a map prepared by the Municipality
Forestry areas	Scenic drives	Mobility routes	Entertainment district or complexes with commercial zones	
River corridors	Scenic landscapes	Pedestrian malls and pedestrian squares	Sportsfields and stadia	
1:100 Year Flood plains	Scenic features	School sites and institutional zones	Undetermined zones (including railway reserves, transport use zones)	
Wetlands	Municipal parks	Scenic features	Specific areas or sites designated as partial control by way of a map prepared by the Municipality	
Scenic Drives	Urban edge zones as defined in the Urban Edge Policy	Scenic drives		
Greening of city network	Agricultural and horticultural areas and adjacent road and rail reserves	Gateways		
Specific areas or sites designated as maximum natural by way of a map prepared by the Municipality	Specific areas or sites designated as maximum rural by way of a map prepared by the Municipality	Public Open Spaces		
		Private Open Spaces		
		Urban small holdings		
		Intensive urban agriculture areas		
		Subsistence urban agriculture areas		
		1:100 Year flood plains		
		River corridors		
		Wetlands		

		Community facilities (excluding sports facilities and stadia)		
		Core flora conservation sites as identified by the National Botanical Institute		
		Special Business zones		
		Residential components of mixed use buildings		
		Specific areas or sites designated as maximum urban by way of a map prepared by the Municipality		

SCHEDULE 2: BILLBOARDS

1. Subject to approval in terms of this By-law, the erection or display of Billboards, whether custom made or of standard design, is permitted only in areas of minimum control. In addition Billboards must:

- (a) If the proposed erf where the billboards are to be erected borders on class 2 and 3 roads the billboard may not be placed less than 5 metres from the property's boundary line. If the proposed site of erection of a billboard has been designated as a gateway then no billboards will be permitted within such gateway.
 - (b) Comply with the standard conditions of approval set out in this By-law.
 - (c) Not encroach over the boundary lien of the property on which it is erected, whether such encroachment is aerial or on ground level.
 - (d) Have a minimum clear height of 2.4m and a sign structure which does not exceed a maximum height of 7.5m above natural ground level.
 - (e) Not exceed a maximum total size of 6 x 3m (18m²) provided that on any V-shaped structure, two such panels may be permitted.
 - (f) Be displayed between the angles of 90° and 60° to the direction of oncoming traffic.
 - (g) Be spaced a minimum distance apart as specified in section 9 of this by-law.
 - (h) Only be externally illuminated.
 - (i) If located at signalized traffic intersections: may not be erected or displayed within 50m of the perimeter of the intersection if unilluminated; and within 80m of the perimeter of the intersection if illuminated.
 - (j) If erected along the right hand side of a section of road, such that its graphics are visible to a driver traveling on the left hand side of the road, shall be deemed to have replaced the advertising opportunity that existed on the left hand side of the road.
 - (k) Have a minimum letter or number height of 285mm.
2. The information content of a proposed advertisement will be measured in "bits". In calculating the information content of a proposed advertisement, the bit weights shown in the table below must be used.
3. The total bits in a proposed advertisement may not exceed 15.
4. No tri face signs are allowed.

ELEMENTS OF THE ADVERTISEMENT		BITS PER ELEMENT
Words	up to 4 letters	0.5
	5 - 8 letters	1.0
	more than 8 letters	2.0
Numbers	up to 4 digits	0.5
	5 - 8 digits	1.0
	more than 8 digits	2.0
Logos, symbols and graphics	smaller than 9m ²	0.5
	between 9 and 18m ²	1.0
	between 18 and 27m ²	1.5
	larger than 27m ²	2

SCHEDULE 3**LOCALITY BOUND FREESTANDING AND COMPOSITE SIGNS**

Subject to approval in terms of this By-law, the erection or display of Locality Bound freestanding and composite signs are permitted only in urban areas of maximum, partial and minimum control. In addition:

1. Locality bound freestanding signs may only be permitted in the following instances:
 - (a) where business premises are set back 15 metres or more from the boundary of the road reserve; or
 - (b) where it is not reasonably possible to affix appropriate signs to a building; or
 - (c) where such a sign is necessary to allow the public to locate the entrance to business premises; or
 - (d) where the existence of a freestanding composite sign may prevent the proliferation of signs.
2. Locality bound freestanding composite signs may not exceed 4.5 metres in height and in addition may not exceed 4.5m² in total area. This provision may be waived to a maximum height of 7.5 metres and a maximum total area of 10m² per side, having regard to the following factors:
 - (a) if such increase reduces the number of individual signs facing any one street boundary of the site, thereby minimising the visual impact on the surrounding environment;
 - (b) if more than two significant roads approach the site in question;
 - (c) the number of businesses which will be advertising on such sign;
 - (d) the number of approach or exit routes to the site in question;
 - (e) the applicable zoning of the area surrounding the site in question.
3. Service Station freestanding signs must be locality bound and may only be erected or displayed at service stations adjacent to and directly accessible from the public road at which such a sign is directed and only one Service Station freestanding facility sign per street boundary may be permitted.
4. Service station freestanding signs may not exceed 7.5 metres in height and may not consist of more than eight advertising panels of 4.5m² each in total area. The provisions of this section may be waived to a maximum height of 16 metres and eight advertising panels not exceeding 6m² each in total area having regard to the factors mentioned in item 2 above. In areas of maximum control the maximum height is 4.5 metres and an area of 7.0m² on each side.

SCHEDULE 4**SIGNS ATTACHED TO WALLS OF BUILDINGS: FLAT AND PROJECTING SIGNS**

Subject to approval in terms of this By-law, the erection or display of flat and projecting signs are permitted in all areas of maximum, partial or minimum control. In addition, flat and projecting signs may:

1. Not be allowed within 0.6 metres of the edge of a roadway nor may it extend to within 0.6 metres of the edge of a roadway.
2. Not project in front of a wall more than 1.5 metres in the case of a sign which has a clear height of more than 7.5 metres or more than 1 metre in the case of any lesser clear height.
3. Not project more than 250mm over a footway unless such sign has more than 2.4 metres clear height.
4. Not obstruct the view from any window or any other external opening of any building and no portion of any such sign may obstruct the opening or closing of any window, door or any other openings.
5. Not exceed 54m² in total area and may not exceed one-quarter of the overall area of the surface to which they are affixed or painted whichever is the lesser. This size restriction may be waived on condition that:
 - (a) an Environmental Impact Assessment be submitted to the Municipality indicating no detrimental environmental impact is envisaged;
 - (b) if it is proposed to erect or projecting sign in a conservation area, a Heritage Impact Assessment be submitted indicating no detrimental impact in respect of Heritage resources is envisaged; and
 - (c) only graphics designed and created by a suitably qualified consultant be displayed on such sign;
6. Be considered for approval on blank common boundary facades of non-residential buildings.
7. If the sign appears on public facades of any building-
 - (a) be so designed as to become an integral part of the building design; and
 - (b) when third party, only be permitted if custom-made and subject to the requirements of 5(a) to (c) above.

SCHEDULE 5**SKY SIGNS**

Subject to approval in terms of this By-law, the erection or display of sky signs whether custom made or of standard design, is permitted in areas of minimum control only. In addition:

1. Sky signs must:
 - (a) be limited to a maximum total size of 4.5m², provided that this size requirement may be waived up to a maximum of 18m² upon receipt of an Environmental Impact Assessment indicating no detrimental environmental impact is envisaged; and
 - (b) not obstruct the view from any other building.
2. Sky signs along the top edge of the roof of cultural, historic or architecturally significant buildings will only be permitted if they are locality bound, unilluminated and consist of individual cut-out letters or logos.
3. The information content of a proposed advertisement will be measured in "bits". In calculating the information contents of a proposed advertisement, the bit weights shown in the table below should be used.
4. The total bits in a proposed advertisement may not exceed 15.

ELEMENTS OF THE ADVERTISEMENT		BITS PER ELEMENT
Words	up to 4 letters	0.5
	5 - 8 letters	1.0
	more than 8 letters	2.0
Numbers	up to 4 digits	0.5
	5 - 8 digits	1.0
	more than 8 digits	2.0
Logos, symbols and graphics	smaller the 9m ²	0.5
	between 9 and 18m ²	1.0
	between 18 and 27m ²	1.5
	larger than 27m ²	2.0

SCHEDULE 6**ROOF SIGNS**

Subject to approval in terms of this By-law, the erection or display of roof signs is permitted in all urban areas of control except areas zoned for residential purposes in areas of maximum control. In addition:

1. The total area of any roof sign affixed flush onto or painted onto a roof of a building may not exceed one-quarter of the overall area of the roof to which it is affixed or painted.
2. When attached to the bottom edge of a roof or vertically midway on the roof of a building, such sign may not exceed 1 metre in height and its total area may not exceed 25% of the roof area to which it is affixed.
3. It shall be permissible to affix a roof sign along the edge of a roof of a building, if such sign is composed of a single line of individual, cut-out letters, without visible bracing or support but may not be erected along more than two edges of such roof and may not exceed 3.6m² in total area (6 x 0.6m); with a maximum height of 1 metre.

SCHEDULE 7**SIGNS ON A VERANDAH, BALCONY, CANOPY, SUPPORTING COLUMNS,
PILLARS AND POSTS**

Subject to approval in terms of this By-law, the erection or display of signs on a verandah, balcony, canopy, supporting columns, pillars and posts may be permitted in all areas of control on condition that they also comply with the following:

1. No such signs will be allowed on or over architectural features of buildings.
2. Such signs may be affixed flat onto or painted on a parapet wall, balustrade or railing of a verandah or balcony, and beam or fascia of a verandah or balcony. The sign may not exceed 1m in height or project above or below or beyond either end of the surface to which it is affixed, or project more than 250mm in front of the surface to which it is affixed or project over a roadway or within 0.6 metres of the edge of the roadway.
3. Such signs may be affixed flat onto or painted on supporting columns, pillars and posts. In this regard, no sign may project more than 50mm in front of the surface to which it is affixed and may not extend beyond any of the extremities of such column, pillar or post. Signs affixed flat onto non-rectangular supporting structures must be curved to fit the form of such structure. Only one sign per column, pillar or post will be allowed.
4. Such signs suspended below the roof of a verandah, canopy or the floor of a balcony may not exceed 1.8 metres in length or 600mm in height. Every such sign must be at right angles to the building line. No signs suspended under a canopy may extend beyond the external edge of the canopy or verandah to which it is attached. All suspended signs must have a clear height of at least 2.4m².
5. Such signs on the roof of a verandah, canopy or balcony, excluding the main roof of a building, must be composed of a single line of freestanding individual, cut-out silhouette letters without visible bracing or other visible means of support and may not be erected along more than two edges of such roof of a verandah or balcony.

SCHEDULE 8**SIGNS ON BOUNDARY WALLS AND FENCES AND ON CONSTRUCTION SITE
HOARDINGS**

Subject to approval in terms of this By-law, the erection or display of signs on boundary walls and fences is permitted only for locality bound signs in urban areas of maximum, minimum or partial control and in addition:

1. In urban areas of maximum and partial control, the Municipality may approve an application to affix a locality bound sign against a boundary wall only if the sign is indented into the wall or composed of individual, unilluminated cut-out letters or symbols fixed flat on such wall not projecting more than 50mm from the face of such wall.
2. In areas of minimum control, the Municipality may approve-
 - (a) an application to affix a locality bound sign flat onto a boundary wall only if it does not project more than 50mm from the face of such wall; and
 - (b) an application to affix a locality bound flat sign with a maximum size of 0.5m² onto the permanent fence of an erf.
3. Third party and locality bound advertising on construction site hoardings and fences must

comply with the following conditions:

- (a) any one sign may not exceed a vertical dimension of 3 metres and total area of 18m² and in the case of construction site cladding, the graphic must comply with the requirements of the Advertising Standards Association of South Africa.
- (b) any such sign may not project more than 100mm in front of the hoarding or fence to which it is affixed;
- (c) it may not be illuminated in areas of maximum and partial control; and
- (d) advertising will not be allowed on construction site hoardings and fences within the cone of vision of motorists at signalised traffic intersections.

SCHEDULE 9**HEADLINE POSTERS**

Subject to approval in terms of this By-law, the erection or display of headline posters is permitted in all areas except natural and rural areas of maximum control. In addition:

1. Headline posters may not exceed 0.9m x 0.6m in area.
2. The commercial content of the poster may not exceed 20% of the area of the poster nor may such commercial lettering be larger than the main lettering in the remainder of the poster.
3. The posters may be attached to Municipal electrical light poles only where available and only pasted posters may be affixed to designated structures which are approved by the Municipality for the express purposes of pasting posters.
4. They are not to be affixed to traffic signal poles, or other poles which carry road traffic signs, or poles erected for any other purpose, or any other street furniture, wall, fences, trees, rocks or other natural features.
5. Headline posters may not be pasted on municipal electric light poles but are to be mounted on board and affixed securely with stout string or plastic ties unless a permanent frame has been approved for this purpose.
6. Only one headline poster per pole, regardless of which newspaper group it is, will be permitted.
7. The number of posters as well as the designated areas for the display of headline posters as submitted by each newspaper group must be strictly adhered to.
8. All "special events" posters are to comply with the following:
 - (a) the name of the newspaper group, the "special event" and the date of the "special event" must appear on the posters in letters not less than 50mm in height;
 - (b) the special event posters may not be displayed more than 7 days before the date of the event and they must be removed within 24 hours after the date of the event shown on the poster.
9. Headline posters and fastenings are to be removed on a daily basis failing which the posters will be removed, at the newspaper group's expense, in accordance with the standard charges for removal of posters.
10. The Municipality may recover the costs of the removal of unauthorised posters, and the reinstatement of the surface from which such posters were removed, from the person responsible for the display of such posters or the newspaper group concerned.
11. The Municipality may remove any poster displayed in contravention of the abovementioned conditions.
12. Any poster not removed on a daily basis or a poster relating to a "special event" by due date referred to in item 7(b) may be removed by the Municipality.
13. The display of unauthorised posters is illegal and the Municipality may also remove such posters.
14. The Municipality may determine the costs involved for the removal of unauthorised posters..
15. Application must be made on an annual basis by each newspaper group for permission to display such signs subject to an annual fee per newspaper group.
16. A deposit per newspaper group who wishes to display posters must be paid annually against which a charge for the removal of any poster which contravenes the By-law will be levied. In the event of the above deposit being exhausted, permission to display such poster may be withdrawn until a further deposit is submitted to the Municipality.

SCHEDULE 10**ADVERTISING ON BANNERS, FLAGS AND BALLOONS**

Subject to approval in terms of this By-law, the erection or display of banners, flags or balloons is permitted in all areas except natural and rural areas of maximum control. In addition:

1. Approval for third party advertising on banners, flags and balloons may only be granted for a function or event conducted for religious, educational, social welfare, animal welfare, sporting, civic or cultural purposes or to a function or event relating to a Municipal, Provincial or Parliamentary election or referendum.
2. The display of banners is prohibited on any bridge or across any public road, and along any road designated by the Municipality, unless consent has been obtained from the Municipality.
3. Banners may not be attached so as to interfere with or constitute a danger to passing pedestrians or vehicular traffic.
4. No banner may be larger than 3m² except with the prior written approval of the Municipality.
5. No banner may be displayed within 30 metres of any road traffic sign or traffic signal.
6. Banners are not to be affixed to trees, traffic signal poles, electrical or service authority distribution boxes, or other poles which carry road traffic signs, rock, other natural features, street furniture or other Municipal property.
7. Banners may not be affixed in such a way that they unfairly prejudice other businesses or organisations or obscure any approved existing signs.
8. Only one advertising banner per premises will be permitted unless the Municipality's written permission is obtained for more than one banner and the applicant is to submit in writing the time frame required for the erection of such banner, which time frame may not exceed ten days unless the Municipality has specified, in its approval, that a longer period has been granted.

SCHEDULE 11**POSTERS**

Subject to approval in terms of this Bylaw, the erection or display of posters is permitted in all areas of control except natural and rural areas of maximum control. In addition

1. The name of the host organisation, the date and venue must appear on the posters in letters not less than 50 mm in height.
2. Posters may only be erected to advertise the event and the name or emblem of a sponsor may not cover more than 20% of the surface of the poster.
3. The Municipality may levy a tariff to cover the cost for the removal of the posters which have been erected without the approval of the Municipality.
4. Posters may be displayed for a maximum period of fourteen days prior to the event and must be removed within 2 days from the date of the event or the last day thereof as applicable.
5. Posters with a maximum measurement of 80 cm x 50 cm must be mounted on a board and affixed securely with stout string or plastic fastening without damage caused to the poles. No securing material with a metal content is permitted.
6. Posters, excluding election posters, may only be erected in the streets as indicated by the Municipality and may not be erected in residential areas or bridges.
7. Only one poster per organisation may be erected on every second streetlight pole.
8. Posters must be erected at a uniform height of approximately 2 metres.
9. No posters may be affixed to trees, traffic signs, traffic signals, central ridges, existing advertising signs or any municipal buildings or over hydrant identification signs.
10. No posters may be displayed within 30 m of any road traffic sign or traffic signal.
11. All materials used to affix the posters must be removed together with the posters.
12. The Municipality may remove any indecent or torn posters or any posters which creates a traffic hazard.
13. The display of posters purely for commercial advertising is not permitted, provided that any poster which relates to a sport, the arts, or cultural event may be permitted, despite such posters containing commercial elements.
14. Organisations or persons intending to display posters must pay a deposit as determined by the municipality, which shall entitle that person to display the said poster for a maximum period of 14 days, or such time as stipulated by the Municipality. No poster may be displayed without such deposit having been paid.
15. The Municipality may remove or request the applicant to remove all posters should any of the above conditions not be complied with.
16. Posters that are not removed by the due date may be removed by the Municipality in which case the deposit paid in terms of item 14 will be forfeited to the municipality.

SCHEDULE 12**ESTATE AGENT SIGNS**

Subject to approval in terms of this By-law, the erection or display of estate agent signs is permitted in all areas except natural areas of maximum control. In addition:

1. "Show House" signs may be displayed only from 12h00 on Friday to 20h00 on Sundays.
2. Estate Agent signs may not be affixed to trees, traffic signals, street poles or other poles which carry road traffic signs, walls, fences, rocks, other natural features or landscaped areas, street furniture, or other Municipal property, unless such other display is authorised by the Municipality in writing.
3. On each sign, the wording "On Show", "Show House", "Show Flat" or "Show Plot" with the Agency's name and directional arrow must be displayed.
4. Signs may be displayed on stakes making use of a design approved by the Municipality. Estate Agent signs may not be displayed on concrete, premix or paved surfaces. It is not permissible for stakes to penetrate the ground deeper than 15cm.
5. Estate Agent signs may not exceed 0.3m² in total area.
6. Not more than six estate agent directional signs will be permitted in total per show house, show plot or block of flats in which a show flat is on display. The definition of one sign will include the display of two signboards only when such boards are sandwiched back to back around an electric light pole.
7. Estate Agent signs may not be displayed along Scenic Drives or on any bridge, public park or public open space.
8. Only one directional sign per show house / flat / plot may be displayed along class 2 or 3 roads, excluding roads referred to in item 7 above.
9. No Estate Agent sign may obscure a road traffic sign.
10. No Estate Agent sign may be erected on center islands.
11. No Estate Agent sign may be erected in such a way that any part of it is closer than 1.5m from a road verge.
12. Directional signs may be displayed along main routes only, being the shortest route from a main road to the property.
13. No Estate Agent signs may be erected on any tarred area of pavements.
14. "Sold" / "For Sale" / "To Let" signs may be erected flush against the fence or wall of the property.
15. "Sold" signs may be displayed flush against the fence or wall of the property for a maximum period of two weeks only.
16. No signs indicating anything other than property for sale may be erected or displayed by Estate Agents.
17. Estate Agencies must apply annually for permission to display Estate Agent signs and approval may be subject to payment of an annual fee in accordance with the Municipality's Schedule of Tariffs.
18. A deposit may be required by the municipality against which a charge for the removal of any sign which contravenes the By-law will be levied. In the event of the above deposit being exhausted, permission to display such signage may be withdrawn until a further deposit is paid to the Municipality.
19. Any Estate Agent sign unlawfully erected, or in contravention of the provisions of this Schedule, will be subject to a charge by the Municipality; in the event of the said sign not being removed by the Municipality, photographic evidence of the unlawful sign may be obtained by the Municipality prior to levying the said charge.

SCHEDULE 13**LOOSE PORTABLE SIGNS**

Subject to approval in terms of this By-law, the erection or display of loose portable signs is permitted in areas of minimum and partial control as well as designated areas within urban areas of maximum control. In addition:

1. Loose portable signs may not be placed in a road reserve or in public open spaces without the written permission of the Municipality.
2. The Municipality may remove and impound loose portable signs placed without permission in a road reserve or on Municipal property. Owners can recover their signs on payment of the prescribed fee as determined the Municipality which will be used to defray the cost of removal, storage and transportation.
3. The following criteria will apply in respect of an application in terms of item 1:
 - (a) that it does not pose a hazard in terms of safety to the public;
 - (b) that it does not obstruct or cause inconvenience to the public either by its physical size or location;
 - (c) that it does not unfairly prejudice other traders;
 - (d) that the loose portable sign or proposed number thereof does not detract from the amenity of the local streetscape or local environment;
 - (e) that it is intended solely to advertise the name of the business, goods or services for sale from the advertiser's premises;
 - (f) that the maximum dimensions of the proposed loose portable sign shall be 1.2m (height) x 0.6m (width).
 - (g) that it may be placed directly in front of the advertiser's premises, provided that the above criteria are met; and
 - (h) that a minimum clear footway width of 1.8 metres must remain clear and 2.5 metres in the central business district and sidewalks with high pedestrian volumes.
4. The municipality may demarcate areas within the road reserve or on municipal property where, during normal trading hours, applicants may then place the approved loose portable signs. The said signs must be removed outside normal trading hours and stored away from public view.
5. The municipality may levy tariffs for displaying the loose portable signs, which tariffs shall be payable in advance for a maximum period of six months.
6. Applicants will be required to indemnify the Municipality against any claims from third parties that may arise, due to the placement of loose portable signs within the road reserve or on municipal property.
7. Notwithstanding the above, the Municipality may cause the removal or impoundment of the sign or signs should the applicant contravene any of the above conditions.

SCHEDULE 14**AERIAL SIGNS**

Subject to approval in terms of this By-law, the erection display of aerial signs is permitted only in urban areas of partial or minimum control. In addition:

1. No aerial signs affixed to any building or structure may be flown at a height of more than 45 metres from the surface measured from ground level.
2. Aerial signs may not be flown above a public road.

SCHEDULE 15**TRANSIT ADVERTISING**

Subject to approval in terms of this By-law, the erection or display of transit advertising signs is permitted only in urban areas of partial or minimum control. In addition:

1. The parking of a transit advertising sign which is visible from a public road or a public place for the purpose of third-party advertising is prohibited, except if it is displayed on a designated display site approved in terms of this By-law.
2. Transit advertising signs parked on private property for the purpose of storage must be positioned in such a manner as not to be visible from a street or public place.
3. The advertising panel or portion of the vehicle used for transit advertising may not exceed a cumulative total of 18m² in areas of partial control, which size may be increased to a maximum size of 36m² in areas of minimum control.
4. The Municipality may designate sites in areas of partial and minimum control for transit advertising and may publish notices indicating such sites.
5. Notwithstanding any provisions of this By-law, the Municipality may, without prior notice remove any unauthorised transit advertising signs from municipal property, and, in the case of unauthorised transit advertising on private property, the Municipality may serve a notice ordering the removal thereof in terms of this By-law.
6. Transit advertising signs must be fixed to the ground at the parking location.

SCHEDULE 16**SIGNS ON MUNICIPAL LAND OR BUILDINGS**

1. No advertising sign may be displayed or erected on municipal land or buildings without the written permission of the municipality.
2. The following specific conditions and criteria will apply to the signs mentioned in items (a) to (c) below:
 - (a) *Commercially sponsored signs other than those in section 13(10)*

Notwithstanding the area of control within which it is proposed to erect a commercially sponsored sign on municipal land or buildings, and subject to compliance with all other provisions of this By-law, the Municipality may consider a commercially sponsored sign for approval, subject to the following:

 - (i) community needs or goals must be identified or adopted by the Municipality and if such needs can be addressed either entirely or in part by the granting of concessions to particular persons for the erection of commercially sponsored

signs, the Municipality may call for public input on such community needs or goals and the related advertising opportunity.

- (ii) in order to identify such community needs or goals, the municipality and other interested authorities must consult prior to proposals being invited, so as to establish conditions, criteria and constraints in respect of such advertising.
 - (iii) the Municipality's Supply Chain Management Policy will apply.
 - (iv) that any proposal be evaluated on the following factors:
 - (aa) the adherence to the principles of this By-law;
 - (bb) the design contribution;
 - (cc) the best community benefit offered;
 - (dd) the creativity and public safety;
 - (ee) the permanence of the contribution to the community goals or needs; and
 - (ff) the recovery cost over the period of the erection of the sign as opposed to the largest advertising opportunity or financial gain.
 - (v) when contributions in kind are to be recovered by the Municipality, a conversion thereof to a monetary contribution to the Municipality's income base will be assessed.
 - (vi) the Municipality, as landowner, reserves the right not to proceed with any proposal prior to final approval thereof and the call for invitations for proposals in any respect shall not be regarded as decision by the Municipality to proceed with the erection of a sign in respect of a specific site.
 - (vii) once accepted, any sign to be erected in terms of this schedule must be the subject matter of a written agreement between the Municipality as landowner and the person responsible for the erection of the sign.
- (b) *Sponsored signs*
Notwithstanding the area of control within which it is proposed to erect such a sign on Municipal owned land or buildings and subject to compliance with all other provisions of the By-law, the Municipality may consider a sponsored sign for approval on condition that:
- (i) written detail which clearly indicates the recognised community goals which will be promoted by the erection or display of the proposed sign;
 - (ii) signs with a political content will not be permitted;
 - (iii) no more than 5% of the total surface of the sign is used for third party advertising.
 - (iv) the maximum size of any such sign will be 6m x 3m; provided in the event of a V-shaped sign where the size may not exceed two panels of 6m x 3m each.
 - (v) applications for billboards to be erected in terms of this section comply with the requirements as set out in Schedule 2.
 - (vi) no sign erected in terms of this clause be located within 5 metres of a property's boundary line.
- (c) *Non-profit body signs*
Notwithstanding the area of control within which it is proposed to erect a sign, and subject to compliance with all other provisions of this By-law, the Municipality may consider the erection of a sign by or for the benefit of a non-profit body subject to compliance with the requirements set out in Schedule 17 hereto.

SCHEDULE 17**SIGNS ERECTED BY OR FOR THE BENEFIT OF NON-PROFIT BODIES**

1. Notwithstanding the area of control within which it is proposed to erect a sign by or for the benefit of a non-profit body, and subject to compliance with all other provisions of this By-law, the Municipality may consider such a sign for approval subject to the following:
- (a) written details from the host non-profit body regarding the nature and extent of the support to be received from the erection or display of the sign must be delivered to the Municipality together with the other information set out in section 3 of this By-law;
 - (b) the extent of involvement of previously disadvantaged communities, small businesses, job creation and empowerment will be considered in any proposal;
 - (c) that any proposal be evaluated on the following factors;
 - (i) the adherence to the principles or provisions of this By-law;
 - (ii) the design contribution;
 - (iii) the best community benefit offered;
 - (iv) the creativity and public safety; and
 - (v) the permanence of the contribution to the community goals or needs as opposed to the largest advertising opportunity or financial gain.
 - (d) in the event of it being proposed that the said sign will be erected on municipal property:
 - (i) the municipality must evaluate the proposal;
 - (ii) the municipality as landowner reserves the right not to proceed with any proposal prior to final approval thereof; and
 - (iii) if accepted, a written agreement between the Municipality, the person responsible for the erection of the sign and the non-profit body must be entered into.
 - (e) In addition the following conditions will apply:
 - (i) signs with a political content will not be permitted;
 - (ii) the maximum size of any such sign is 6m x 3m; provided in the event of a V-shaped sign being proposed, its maximum size will not exceed two panels of 6m x 3m each;
 - (iii) applications for billboards to be erected in terms of this section must comply with the requirements as set out in Schedule 2;
 - (iv) no sign erected in terms of this clause may be located within 5 metres of a property's boundary line;
 - (v) the name of the non-profit body must be displayed prominently along the top width of the sign with a maximum 300mm lettering height;
 - (vi) all parties that may be affected by the erection or display of such sign must be given opportunity for their input;
 - (vii) the Municipality may require submission of impact assessment studies; and
 - (viii) no more than two individual signs of 6m x 3m each may be permitted, or alternatively one V-shaped sign with a maximum of two panels of 6m x 3m each on any one property. In addition, only one sign per street frontage will be permitted.

No. 224

**CACADU DISTRICT MUNICIPALITY
PREVENTION OF PUBLIC NUISANCES AND KEEPING OF ANIMALS
BY-LAW**

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996, the Cacadu District Municipality, enacts as follows for application within the District Management Area established in terms of section 6 of the Local Government: Municipal Structures Act, Act 117 of 1998 :-

Table of contents

1. Definitions
2. Application of by-law

CHAPTER I: GENERAL PROVISIONS RELATING TO PUBLIC NUISANCES

3. Behaviour and conduct

CHAPTER II: GENERAL PROVISIONS RELATING TO KEEPING OF ANIMALS

4. Permission to keep animals
5. Plans for structures and management
6. Consideration of application and imposition of conditions
7. Visibility of structures on premises
8. Wavering of requirements and withdrawal of authorisations
9. Validity of authorisations
10. Duties of owner or keeper of animal
11. Animals kept in unsatisfactory manner
12. Destruction of animals
13. Hawking of animals

CHAPTER III: PROVISIONS RELATING TO KEEPING OF DOGS, CATS AND PETS

Part 1 – General Provisions relating to dogs, cats and pets

14. Number of dogs and cats
15. Breeders of dogs and cats
16. Breeders of pets
17. Conditions and restrictions
18. Withdrawal of permission
19. Dogs or cats in public places

Part 2 – Specific provisions relating to dogs

20. Control of dogs

CHAPTER IV: DOG KENNELS, CATTERIES, PET SHOPS AND PET PARLOURS

21. Permission to operate

CHAPTER V: CO-OPERATION BETWEEN MUNICIPALITIES

22. Service delivery agreements

CHAPTER VI: POWERS OF MUNICIPALITY IN CASE OF OMISSION BY DISTRICT MUNICIPALITY

23. Failure or omission by District Municipality

CHAPTER VII: GENERAL PROVISIONS

- 24. Right of entry and inspection
- 25. Service of documents and process
- 26. Transitional provisions
- 27. Appeal
- 28. Penalties
- 29. Exemptions
- 30. Liaison forums in Community
- 31. Repeal of by-laws
- 32. Short title and commencement

1. Definitions

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

“agent”, in relation to the owner of a property, means a person appointed by the owner of the property-

(a) to receive rental or other payments in respect of the property on behalf of the owner; or

(b) to make payments in respect of the property on behalf of the owner;

“animal” means any equine, bovine, sheep, goat, poultry, camel, dog, cat, or other domestic animal or bird, or any wild animal or reptile which is in captivity or under the control of a person, or insects such as, but not limited to, bees which is kept or under control of a person, but excluding any pet;

“bird” means a pigeon, peafowl, pheasant, partridge, canary, budgerigar, parrot, ostrich and any other domesticated bird or wild bird which is in captivity or under control of a person;

“cattery” means any establishment where cats are bred or boarded;

“kennel” means any establishment that has as its business the breeding, training or boarding of dogs and includes pounds whether operated by the State or otherwise;

“local municipality” means a category B municipality;

“municipality” means the Cacadu District Municipality established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, councillor, duly authorised agent or any employee acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

“municipal manager” is the person appointed by the municipality in terms of Section 82 of the Municipal Structures Act, Act 117 of 1998, and includes a person –

(a) acting in such position; and

(b) to whom the municipal manager has delegated any power, function or responsibility;

“owner” –

(a) in relation to an animal, includes the person having the possession, charge, custody or control of such animal;

(b) in relation to property includes an occupier, lessee, servitude holder, trustee, executor, curator or assignee, agent or administrator of such property;

"pet" means a tame animal which is kept in a household for companionship or amusement;

"pet parlour" means an establishment where pets are groomed;

"petshop" means an establishment where pets are kept for trading purposes;

"poultry" means any fowl, goose, ostrich, duck, pigeon, dove, turkey, muscovy, guinea-fowl, peacock or peahen or bird whether domesticated or wild;

"premises" means –

(a) land or a portion of land, whether or not a building or structure has been constructed or erected on such land or portion thereof; or

(b) a building, structure, tent or caravan and the land on which it is situated and includes any vehicle, carriage, ship or boat;

"public nuisance" means any act, omission or condition on any premises, including any building, structure or growth thereon, which is offensive or dangerous, or which materially interferes with the ordinary comfort, convenience, peace or quiet of other people or which adversely affects the safety of the public;

"public place" means any square, building, park, recreation ground or open space which:–

(a) is vested in the municipality;

(b) the public has the right to use; or

(c) is shown on a general plan of a township filed in a deeds registry or a Surveyor-General's office and has been provided for or reserved for the use of the public or the owners of erven in such township;

"responsible authority" means the Cacadu District Municipality or any national or provincial department that may in terms of its powers and functions impose conditions or restrictions in respect of the keeping of animals;

"street" means any road, street or thoroughfare or any section or part thereof which is commonly used by the public or to which the public has a right of access,;

"structure" means any stable, shed, pigsty, kraal, aviary, paddock, covering structure, poultry house, enclosure, run, loft or building used for human shelter or the keeping or enclosing of animals.

2. Application of by-law

(1) Sections 4(1), 14(1), 15(1), 21(1) and 24 do not apply to –

(a) premises which is used for bona fide agricultural purposes; or

(b) premises identified by the municipality where the keeping of animals or the operation of pet parlours, pet shops or catteries and kennels is permitted and indicated as such in an approved spatial development framework and zoning scheme.

(2) A person who keeps animals on premises contemplated in subsection (1) is not exempt from the provisions relating to the inception or bringing about of a public nuisance.

CHAPTER I

GENERAL PROVISIONS RELATING TO PUBLIC NUISANCES

3. Behaviour and conduct

(1) No person may –

(a) do work on or use any premises in such a manner that it interferes with the convenience or comfort of other people or that it becomes a source of danger to any person;

- (b) carry on any trade, business, profession or hobby which may be a source of discomfort or annoyance to other people;
 - (c) deposit, leave, spill, drop or place any fruit or vegetable peels, broken bottles, glass, refuse, garden refuse or thing which is offensive or likely to cause annoyance, danger or injury to persons;
 - (d) allow the fencing of any premises to fall into a state of disrepair or to become unsightly or dilapidated;
 - (e) allow any building or structure or any portion thereof to fall into a dilapidated, neglected or unsightly state;
 - (f) use any stoep, verandah or alley of any shop or business premises or vacant land adjoining such shop or business premises for the purpose of storing, stacking, dumping, disposing, displaying or keeping articles or merchandise;
 - (g) enclose any stoep or verandah of any shop or business premises by any means otherwise than by such means as approved by the municipality;
 - (h) disturbance the comfort, convenience, peace or quiet of other people by the use of electrical appliances or machinery whether malfunctioning or not;
 - (i) befoul, misuse or damage public toilets;
 - (j) carry or convey in any street or public place, any objectionable material or thing, which is or may become offensive or dangerous, unless such material or thing is suitably covered;
 - (k) allow any erf to be overgrown to such an extent that it may be used as a shelter by vagrants, wild animals or vermin or may threaten the safety of any member of the community;
 - (l) by an action allow that a nuisance be created or continued;
 - (m) bathe or wash him- or herself or any animal, article or clothing in a public stream, pool, water trough, hydrant, fountain or at any place which has not been set aside by the municipality for such purpose;
 - (n) at any time disturb the public peace by making unseemly noises in any manner whatsoever;
 - (o) cause a nuisance by loitering in any street or public place;
 - (p) advertise wares or services by means of any megaphone, loudspeaker, or similar device or by insistent shouting, striking of gongs, blowing of horns or ringing of bells;
 - (q) in any street or public place use any abusive or threatening language;
 - (r) cleanse or wash any vehicle or part in any street or public place;
 - (s) discharge any fire-arm, airgun or air pistol on any premises except premises or land zoned for agricultural purposes and which does not form part of a general plan for a township.
- (2) (a) In the event of a contravention of section 3(1)(a) to (l), the municipality may issue a notice on the owner, occupier or alleged offender to terminate the action or to abate the nuisance created. In the event of non-compliance with such order and without prejudice to the municipality's right to prosecute, the municipality may take the necessary steps to remove the cause or source of the nuisance and any costs incurred in connection therewith may be recovered from the person responsible for the nuisance or the owner or occupier of the premises whether or not such owner or occupier is responsible therefore.

- (b) Where any vacant or developed premises or land in the vicinity of a street is used by unauthorised persons or where any of the materials or things mentioned in subsection (1) are dumped or deposited on such premises, the municipality may serve a written notice on the owner or occupier requiring him or her to enclose or fence it in to its satisfaction by a date specified in the notice. Every such enclosure or fence must be so constructed that it will effectively prevent the entry of unauthorised persons and the dumping of materials and things.
- (3) For the application of this by-law, any action or condition on any premises that endangers the safety of any person or property or which is untidy, annoying, troublesome, offensive or disturbing to the peace of other people, shall be considered a public nuisance.
- (4) Any person who contravenes or fails to comply with any provisions of this section or fails to comply with any notice lawfully given thereunder is guilty of an offence.

CHAPTER II

GENERAL PROVISIONS RELATING TO KEEPING OF ANIMALS

4. Permission to keep animals

- (1) No person may keep or permit to be kept on any premises any animals, excluding pets, without the written permission of the municipality.
- (2) Any person who applies for a permit to keep a wild animal must, when submitting an application contemplated in subsection (1), furnish the municipality with a captivity permit issued by the Department of Economic Affairs, Environment and Tourism.
- (3) The municipality may determine the number of bee hives, as well as the kind, number and gender of animals that may be kept and the areas within which the keeping of such animals will be prohibited.
- (4) In order to consider an application in terms of subsection (1), the municipality may obtain the input or comments of the owners or occupants or surrounding premises.
- (5) A person who contravenes subsection (1) or who fails to comply with a determination in subsection (3) commits an offence.

5. Plans for structures and management

The municipality may require from applicants who apply to keep animals that they must submit an application form and a detailed site plan according to specifications set by the municipality.

6. Consideration of application and imposition of conditions

- (1) The municipality may, after consideration of –
 - (a) the input or comments obtained in terms of section 4(3);
 - (b) the location, geographical features or size of the premises in respect of which the application is submitted;
 - (c) the documents and site plans submitted in terms of section 5; or
 - (d) any other information relating to the application,refuse to grant consent or grant consent.

(2) Where consent is refused, the municipality must furnish the applicant with the reasons for such refusal and at the same time advise him or her of the right of appeal in terms of section 27.

(3) Where consent is granted, the municipality may impose conditions.

7. Visibility of structures on premises

(1) All structures in which animals are kept must be suitably screened from any street.

(2) A person who fails to comply with subsection (1) commits an offence.

8. Wavering of requirements and withdrawal of authorisations

The municipality may after considering conditions particular to the property and provided that no objection is received from the owners or occupants of surrounding premises, waive any or all of the requirements of this part and impose other conditions and may withdraw any consent granted in terms of section 6(3) if any of the conditions imposed are not adhered to.

9. Validity of authorisations

All authorisations to keep animals granted in terms of any by-law or regulation repealed are deemed to have been granted in terms of this by-law.

10. Duties of owner or keeper of animal

(1) The owner or keeper of an animal –

- (a) may not cause or allow an animal to interfere with the comfort, convenience, peace or quiet of other people;
- (b) must provide such animal with shelter, water and proper food ; and
- (c) must maintain the premises on which an animal is kept in good repair and in a neat condition in order to prevent the occurrence of a public nuisance.

(2) A person who contravenes a provision of subsection (1) commits an offence.

11. Animals kept in unsatisfactory manner

(1) Whenever animals kept on any premises are a public nuisance, the municipality may by written notice require the owner or occupier of such premises to remove the cause of and to abate such nuisance.

(2) The municipality may prescribe the steps that need to be taken or the work that must be done to remove the cause of and to abate any nuisance.

(3) Any activities undertaken by the owner in terms of a notice contemplated in subsection (1) will be for such owner's own account.

(4) If an owner fails to comply with a notice issued in terms of subsection (1) the municipality may take the steps required and recover the cost thereof from such owner.

(5) A person who fails to comply with a notice contemplated in subsection (1) commits an offence.

12. Destruction of animals

(1) The municipality may order the euthanization or destruction of an animal which is –

- (a) dangerous or ferocious; or
- (b) injured or diseased to such an extent that it would be humane to do so.

(2) An animal to be destroyed in terms of subsection (1) must be euthanized by a registered veterinary surgeon or destroyed with such instruments or appliances and in such a manner as to inflict as little suffering as possible.

(3) A person who fails to comply with an order contemplated in subsection (1) or who contravenes subsection (2) commits an offence.

13. Hawking of animals

(1) No person may hawk an animal in a street or public place or from a movable structure or vehicle.

(2) A person who contravenes subsection (1) commits an offence.

CHAPTER III

PROVISIONS RELATING TO KEEPING OF DOGS, CATS AND PETS

Part 1 – General Provisions relating to dogs, cats and pets

14. Number of dogs and cats

(1) Subject to the provisions of section 15, no person may, without the permission of the municipality, keep on any premises –

(a) more than two dogs; and

(b) more than two cats.

(2) An application for permission in terms of subsection (1) must be submitted on an application form obtainable from the municipality and must contain an exposition of the breed, gender and number of dogs or cats applied for.

(3) A restriction imposed under section 17 on the number of animals that may be kept on premises does not apply for a period of 10 weeks after the birth of a litter from an animal kept in terms of a permit.

(4) A person who contravenes subsection (1) commits an offence.

15. Breeders of dogs and cats

(1) A breeder of dogs or cats who wishes to keep more than two dogs or cats who wishes to keep more than two cats must obtain permission from the municipality.

(2) The municipality may require the submission of plans and specifications of structures in which it is proposed to keep the dogs or cats as well as a site plan indicating all existing or proposed structures and fences on the premises.

(3) A person who fails to obtain the permission of the municipality as required in subsection (1) commits an offence.

16. Breeders of pets

(1) A person who breeds pets must obtain the approval of the municipality.

(2) The provisions of section 15(1) and (2) are with the necessary adjustment applicable to an application in terms subsection (1).

(3) A person who contravenes subsection (1) commits an offence.

17. Conditions and restrictions

The municipality's consent in terms of sections 4, 14(1), 15(1) and 16(1) may be subject to any conditions that the municipality, in consultation with another responsible authority, may deem fit to impose.

18. Withdrawal of permission

- (1) Where a person contravenes or fails to adhere to a condition or restriction set in terms of section 17, the municipality may, after hearing that person, withdraw its consent and may order the removal of animals from the premises for care and safekeeping by an animal welfare organisation or pound.
- (2) Any costs incurred by the municipality for the removal and safekeeping of animals in terms of subsection (1), will be recovered from the owner or keeper of such animals.

19. Dogs or cats in public places

- (1) The owner or keeper of a dog or cat may not bring or allow it in a street or public place unless the dog is on a leash or the cat is under physical control.
- (2) Except in the event of a blind person being lead by a guide dog, a person in charge of a dog in a street or public place, must remove any faeces left by the dog by wrapping it in paper or plastic and disposing of it in a receptacle provided for litter or refuse.
- (3) A person who contravenes any of the provisions of subsection (1) or (2) commits an offence.

Part 2 – Specific provisions relating to dogs**20. Control of dogs**

- (1) No person who owns or keeps a dog may –
- (a) permit a bitch on heat to be in a street or public place without supervision;
 - (b) urge a dog to attack, worry or frighten any person or animal unless in self-defence;
 - (c) keep a dog if the premises is not adequately fenced to keep such dog inside when it is not on a leash; or
 - (d) permit a dog –
 - (i) to trespass on private property;
 - (ii) to constitute a hazard to traffic using any public road;
 - (iii) to constitute source of danger or injury to a person outside the premises on which such dog is kept; or
 - (iv) to be a source of danger to employees of the municipality entering such premises for the purpose of carrying out their duties. A notice to the effect that a dog is kept must be displayed in a conspicuous place.
 - (e) keep any dog which interferes materially with the comfort, convenience, peace or quiet of neighbours by–
 - (i) barking, yelping, howling or whining;
 - (ii) charging any vehicles, animals, poultry, pigeons or persons outside any premises where it is kept; or
 - (iii) by behaving in any other manner.
- (2) The municipality may seize and impound a dog which is found in a street or public place in contravention with the provisions of this by-law.
- (3) A dog impounded in terms of subsection 2 may be released to the owner upon payment of a fee determined by the municipality.
- (4) A person who contravenes a provision of subsection (1) commits an offence.

**CHAPTER IV
DOG KENNELS, CATTERIES, PET SHOPS
AND PET PARLOURS**

21. Permission to operate

- (1) No kennel, cattery, pet shop or pet parlour may be operated without the permission of and subject to conditions imposed by the municipality.
- (2) The person operating a kennel, cattery, pet shop or pet parlour may not conduct the business in such a manner so as to cause any nuisance or annoyance to other people.
- (3) A person who contravenes subsection (1) or (2) commits an offence.

**CHAPTER V
CO-OPERATION BETWEEN MUNICIPALITIES**

22. Service delivery agreements

In order to achieve optimal service delivery in terms of this by-law, the municipality may enter into agreements with category B municipalities with which legislative and executive powers is shared.

**CHAPTER VI
POWERS OF MUNICIPALITY IN CASE OF OMISSION BY LOCAL
MUNICIPALITY**

23. Failure or omission by Local Municipality

- (1) If the service delivery referred to in section 22 is impeded by the refusal or omission by a local municipality to execute any of the arrangements envisaged in an agreement in terms of section 22, the municipality may, subject to the principles of cooperative government as set out in section 41 of the Constitution of the Republic of South Africa, Act 108 of 1996, proceed to give effect to such arrangement and any expenses incurred by the municipality in giving effect to such an arrangement may be recovered from the local municipality.

**CHAPTER VII
GENERAL PROVISIONS**

24. Right of entry and inspection

- (1) Any duly authorised employee of the municipality is authorised to inspect any premises within the municipal area in order to determine whether there is compliance with the provisions of this by-law.
- (2) When entering premises in terms of subsection (1), the employee must on request by any person, identify him- or herself by producing written proof of authorisation.
- (3) The authorised employee may be accompanied by a person reasonably required to assist in conducting the inspection.
- (4) Any person who fails to give or refuses access to any authorised, or obstructs or hinders him or her in the execution of his or her duties under this by-law, or who fails or refuses to give information that he or she may lawfully be required to give to such employee, or who gives false or misleading information knowing it to be false or misleading, commits an offence.

25. Service of documents and process

(1) Whenever a notice, order, demand or other document is authorised or required to be served on a person in terms of this by-law, it shall be deemed to have been effectively and sufficiently served on such person –

- (a) when it has been delivered to him personally;
- (b) when it has been left at his place of residence or business in the Republic with a person apparently over the age of sixteen years;
- (c) when it has been posted by registered or certified mail to his last known residential or businesses address in the Republic and an acknowledgment of the posting thereof is produced;
- (d) if his address in the Republic is unknown, when it has been served on his agent or representative in the Republic in the manner provided by paragraph (a), (b) or (c); or
- (e) if his address and agent in the Republic are unknown, when it has been posted in a conspicuous place on the immovable property (if any) to which it relates.

(2) When any notice, order, demand or other document is authorised or required to be served on a person, it is not necessary to name him or her but it will be sufficient if he or she is described as the owner, occupier or holder of a right.

26. Transitional provisions

(1) A person who, at the commencement of this by-law, owns a larger number of animals than the number contemplated in section 4(2), may not replace animals that die or are disposed of and must gradually reduce the number of animals that may be kept.

27. Appeal

A person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision.

28. Penalties

A person who has committed an offence in terms of this by-law is, on conviction, and subject to penalties prescribed in any other law, liable to a fine or in default of payment, to imprisonment, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment, and in the case of a successive or continuing offence, to a fine for every day such offence continues, or in default of payment thereof, to imprisonment and a further amount equal to any costs and expenses incurred by the municipality as result of any contravention.

29. Exemptions

Notwithstanding the provisions of this by-law, the municipality may exempt any person and class of persons from any or all of these requirements and may impose any other requirements it deems appropriate.

30. Liaison forums in community

(1) The municipality may establish one or more liaison forums in a community for the purposes of –

- (a) creating conditions for a local community to participate in the affairs of the municipality; and
- (b) promoting a safe and healthy environment;

(2) A liaison forum may consist of –

- (a) a member of members of an interest group, or an affected person;
- (b) designated official or officials of the municipality; and
- (c) a councillor.

(3) (a) the municipality may, when considering an application for an approval, or exemption certificate in terms of this by-law, request the input of a liaison forum.

- (b) a liaison forum or any person or persons contemplated in subsection (2) may, on own initiative an input to the municipality for consideration.

31. Repeal of by-laws

The following by-laws are hereby repealed:

- (a) Any by-law previously promulgated by the municipality or any of the disestablished municipalities now incorporated into the municipality, in so far as it relates to any matter provided for in this by-law; and
- (b) Any by-law previously promulgated by the Cacadu District Municipality or any of its predecessors, in so far as it has been made applicable to the municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Municipal Structures Act, 117 of 1998.

32. Short title and commencement

This by-law is called the Prevention of Public Nuisances and Keeping of Animals By-law and will come into operation on the date of publication thereof in the Provincial Gazette.

No. 225**CACADU DISTRICT MUNICIPALITY
PUBLIC AMENITIES BY-LAW**

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996, the Cacadu District Municipality enacts as follows:-

TABLE OF CONTENTS

1. Definitions
2. Principles and objectives

CHAPTER I: GENERAL PROVISIONS RELATING TO PUBLIC AMENITIES

3. Number of visitors
4. Admission to public amenity
5. Entrance fees
6. Notice boards
7. Consent required for certain activities
8. Use of public amenities
9. Permit
10. Prescribed fees
11. Animals
12. Prohibited behaviour
13. Vehicles
14. Camping
15. Caravan Parks

CHAPTER II: MISCELLANEOUS PROVISIONS

16. Powers of official and offences
17. Appeal
18. Penalties
19. Limitation of liability
20. Authentication and service of notices and other documents
21. Presumption
22. Liaison forums in community
23. Repeal of by-laws
24. Short title and commencement

1. Definitions

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

"animal" means any equine, bovine, sheep, goat, pig, fowl, camel, dog, cat, or other domestic animal or bird, or any wild animal or reptile which is in captivity or under the control of a person;

"authorised officer" means any person authorized by the municipality to perform the functions of an authorised officer under this By-law, or a member of the South African Police;

"camp" or "camping" means to occupy land by picnicking thereon or by standing thereon with a caravan or vehicle or erecting thereon a tent or temporary structure and using such caravan, vehicle, tent or temporary structure for the purpose of habitation or sleeping or as a shelter or protection against the weather;

"camping area" means land vesting in and set aside by the municipality as a public picnic, camping or caravan park site or a similar facility approved by the municipality on private land;

"camping permit" means a document printed and issued by the municipality for the purposes contemplated in this by-law or the municipality's officials receipt issued against payment of the prescribed camping charges;

"camping site" means any part of a camping area, demarcated or assigned for the purpose of camping thereon;

"caravan" means any vehicle permanently fitted out for use by persons for living and sleeping purposes, whether or not such a vehicle is a trailer;

"erect" in relation to a notice board means construct, post, affix or place;

"garden" means any piece of land under the control of the municipality and maintained by it as a garden for the use of by the public;

"mobile home" means a factory assembled structure approved by the municipality with the necessary service connections made so as to be movable on site and designed to be used as a permanent dwelling;

"municipality" means the Municipality of Cacadu District established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, duly authorised agent or any employee acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, agent or employee;

"Municipal Manager" means a person appointed in terms of section 82 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

"nature reserve" means a nature reserve established as a local nature reserve by the Cacadu District Municipality in terms of section 7(1) of Ordinance 19 of 1974;

"notice board" includes a sign, poster or other device on which the municipality displays information;

"Ordinance" means the nature and Environmental Conservation Ordinance, 1974 (Ordinance 19 of 1974);

"person" includes an association or organisation;

“public amenity” means –

- (a) any land, square, camping area, caravan park, beach, swimming pool, public open space, public resort, recreation site, river, dam, nature reserve, zoo-logical, botanical or other garden, or hiking trail, including any portion thereof and any facility or apparatus therein or thereon, which is the property of, or is possessed, controlled or leased by the municipality and to which the general public has access, whether on payment of admission fees or not, but excluding a public road or street;
- (b) a building, structure, hall room or office, including any part thereof or any facility or apparatus therein, which is the property of, or is possessed, controlled or leased by the municipality and to which the general public has access, whether on payment of admission of fees or not; and
- (c) a public amenity contemplated in paragraphs (a) and (b) if it is lawfully controlled or managed in terms of an agreement between a person and the municipality;

“public gathering or procession” means a procession or gathering of more than 10 people;

“public open space” means –

- (a) any flower bed, grass plot, pleasure ground, plantation, side-walk, temporary enclosures, or other public open spaces and town land within the municipality, under the control of the municipality and include all buildings, improvements, ground and spaces comprised in such areas;
- (b) any land which is owned by an organ of State and which has in terms of any zoning scheme of an organ of State been set aside or demarcated for the purpose of conservation; or
- (c) any undeveloped land which is owned by an organ of State and which has not yet been set aside or demarcated by an organ of State for the purpose of conservation;

“vehicle” means any vehicle driven by mechanical, animal, natural or human power, and includes any craft or aircraft, but does not include a wheeled chair or a perambulator drawn or propelled by hand and used solely for the conveyance of a child or invalid.

2. Principles and objectives

The municipality adopts this By-law with the aim of controlling access to and use of all public amenities owned by or under the control of the municipality.

CHAPTER I GENERAL PROVISIONS RELATING TO PUBLIC AMENITIES

3. Number of visitors

The municipality may determine –

- (a) the maximum number of persons or vehicles that may be in or at a public amenity at any time; and
- (b) different classes of vehicles that may be in or at a public amenity at any time and it may differentiate between public amenities.

4. Admission to public amenity

- (1) The municipality may determine the times, dates and conditions under which a public amenity is open to the public and having due regard to section 6(1)(a).
- (2) The municipality may determine the activities that may or may not be undertaken in a public amenity and these include, but are not limited to –
 - (a) the driving of a motor vehicle and different classes of motor vehicles in a public amenity;
 - (b) kite flying, wind surfing, surfing, kite surfing and similar activities on beaches at which these activities are allowed; and
 - (c) sea bathing in such bathing areas on the beach, which areas were demarcated by the municipality.
- (3) The municipality may grant to any person or persons, during such hours and for such period as he or she may deem fit, the exclusive use of a public amenity for games, a public meeting, fete, show or other function or entertainment.
- (4) The municipality may for reasons of maintenance, development, security, safety or public health, temporarily or permanently –
 - (a) close a public amenity or a portion thereof; or
 - (b) suspend all or any activities thereon.
- (5) Where a person in a public amenity has committed an offence in terms of this by-law, an official may order such person to leave the public amenity, and a person ordered to leave must leave the amenity by the shortest route available to the public;
- (6) Where an official on reasonable grounds suspects that a person wishing to enter a public amenity intends to commit an offence in or at the public amenity, he or she may refuse entry to such person.

5. Entrance fees

- (1) The municipality may levy different entrance fees and issue entrance tickets in respect of persons of different ages, groups of persons, or different classes of vehicles and grant concessions in respect of entrance fees payable.

- (2) Entrance fees are payable at the entrance to a public amenity, except where another fee is indicated on a notice board in terms of section 6(1).
- (3) An entrance ticket contemplated in subsection (1) is valid for the period contemplated in subsection (4).
- (4) An entrance fee is payable in respect of each day or portion thereof during which a person, group or vehicle is in a public amenity, provided that no fee is payable for the day on which such public amenity is left, if the amenity is left before 10:00 on such day and if the day is not the day of arrival.
- (5) No fee contemplated in subsection (1) is repayable where any portion of the period in respect of which such fee has been paid has not been or cannot be utilised, provided that the fee which has been paid in respect of each full day which has not been utilised may, with the approval of the municipality, be repaid upon application, and for the purposes of this subsection "full day" means a period of 24 hours commencing at 10:00 of any day.
- (6) An official may require any person in a public amenity to produce the entrance ticket issued in terms of subsection (1), and a person who fails to produce such ticket, or a person who enters a public amenity without having paid the entrance fee commits an offence.

6. Notice boards

- (1) The municipality may erect a notice board at the entrance to or in the immediate vicinity of a public amenity, on which any of the following are displayed:
- (a) The times, dates and conditions of entry and activities that may be undertaken;
 - (b) the fees payable; and
 - (c) a notice of closure referred to in section 4(4).
- (2) No person other than an official or other person authorised to do so in this By-law may move or alter the contents of, and no person may deface or otherwise tamper with a notice board erected by the municipality.
- (3) A notice posted by municipality in terms of subsection (1) may contain a graphic representation to convey meaning.
- (4) A person who contravenes any of the provisions of this section commits an offence.

7. Consent required for certain activities

- (1) No person may, without the prior written consent of the municipality at, in or upon a public amenity –
- (a) arrange, hold, present or attend –
 - (i) a public entertainment;
 - (ii) a meeting;

- (iii) a public gathering or procession, exhibition or performance; or
- (iv) an auction;
- (b) collect money or any other goods;
- (c) display or distribute a pamphlet, placards, painting, book, handbill or a printed, written or painted work;
- (d) engage in any for of trade..
- (2) No person may at or in a public amenity undertake or perform any activity in contravention of a notice board erected in terms of section 6(1).
- (3) No person may without the prior written consent of the municipality erect or establish any fence, structure, dam, shelter or anything else and a person who has obtained such consent may only erect such fence, structure, dam, shelter or anything else at a designated area set aside for this purpose.
- (4) No person may, without the prior written consent of the municipality bring into, or have in his or her possession in a public amenity a firearm, and the municipality may grant consent in the following instances only:
 - (a) For the firing of blank cartridges during organised competitions or sports meetings;
 - (b) in connection with the collection of specimens of marine life or birds or animals for scientific purposes;
 - (c) for the lawful culling of a whale, dolphin, or animal; or
 - (d) to signal distress in the instance where a proposed activity may require a distress signal to be given by means of a firearm.
- (5) A person who wishes to obtain the consent of the municipality as contemplated in subsection (1) must complete and submit the prescribed form, and the municipality may refuse or grant consent subject to any conditions it deems necessary and subject to the prescribed fee having been paid, and a person who wishes to sell food must also comply with any laws relating to the selling of food.
- (6) A person who has been granted consent in terms of subsection (5) must at all times keep the consent form in his or her possession, and must produce the form on request of an official.

8. Use of public amenities

The municipality may enter into an agreement with any person in terms of which a public amenity or any part thereof may be used for the purposes and subject to the conditions set out in the agreement.

9. Permit

(1) Notwithstanding the provisions of section 4, 5(1), 5(3), and 6(1), the municipality may, on application and subject to any conditions it may impose, issue, free of charge or otherwise, a permit –

- (a) to a group of people, such as, but not limited to, a group of bona fide students; or

- (b) to a person who is undertaking scientific, educational or similar research.
- (2) The holder of a permit issued in terms of subsection (1) may –
 - (a) if he or she is the holder of a valid hunting licence, hunt, catch, kill or remove, fauna under the supervision, control and in accordance with the instructions of an official;
 - (b) pick, collect or remove fauna;
 - (c) take or remove anything of historical or scientific importance;
 - (d) have in his or her possession diving equipment, a weapon, trap, poison or a gardening tool, living or dead fauna or flora;
 - (e) remove any flora or carcase which has been plucked or hunted only if the official has –
 - (i) inspected such flora or carcase;
 - (ii) considered it necessary or desirable, measured the dimensions or mass, or taken a sample of such flora or carcase; and
 - (iii) in writing authorised the permit holder to remove such flora or carcase; or
 - (iv) excavate soil, sand or stone or remove organic or inorganic objects.
- (3) The holder of a permit must, on arrival at the public amenity, display such permit to the control official, and a person who fails to do so, commits an offence.
- (4) The holder of a permit who undertakes an activity in contravention of a condition imposed commits an offence.

10. Prescribed fees

The municipality may determine fees payable in terms of this By-law.

11. Animals

- (1) No person may in contravention of any prohibitions displayed on a notice board bring any animal into the public amenity.
- (2) A person who is permitted to bring an animal upon a public amenity must have direct and physical control over the animal by means of a leash or other device, and may not bath, wash or allow such animal to enter or remain in any pond, fountain or ornamental water.
- (3) Any animal not under the control or apparently not under the control of a person, may, if found in or on a public amenity be impounded by the municipality and removed to a pound of the municipality where it may be dealt with in terms of the by-law relating to the impoundment of animals.
- (4) A person who contravenes a provision of subsection (1) or (2) commits an offence.

12. Prohibited behaviour

(1) No person –

- (a) who is in a state of intoxication or under the influence of any drug may enter or remain in, and such person will not be admitted to a public amenity;
- (b) may in or at a public amenity –
 - (i) break, damage, destroy, tamper with, remove, misuse, disfigure or use anything or fail to observe an instruction by the municipality;
 - (ii) throw or roll a rock, stone or object;
 - (iii) except if authorised to do so under section 8(2)(b), pull out, pick, cut or damage any flora growing in the amenity, or have such flora in his or her possession;
 - (iv) walk on a flowerbed;
 - (v) walk, stand, sit or lie on grass in contradiction with a notice;
 - (vi) write, paint, draw graffiti or a symbol, emblem or the like on a structure or path;
 - (vii) excavate soil, sand or stone or remove organic or inorganic objects; except if authorised to do so in terms of section 8;
 - (viii) interfere with water flow, obstruct water, divert a stream or drain a wetland;
 - (ix) deface or disfigure anything provided by the municipality by pasting or affixing in any way any bills, papers, placards, notices or anything else;
 - (x) wash, polish or repair a vehicle, except emergency repairs;
 - (xi) burn refuse;
 - (xii) litter or dump any refuse, garden refuse or building materials;
 - (xiii) wash crockery or laundry or hang out clothes, except at places indicated by notice for that purpose;
 - (xiv) use or try to use anything provided by the municipality in an amenity for a purpose other than that for which it is designed or determined by notice;
 - (xv) dispose of any burning or smouldering object;
 - (xvi) behave or conduct himself or herself in an improper, indecent or unbecoming manner;
 - (xvii) defecate, urinate or undress, except in such building or on premises intended for that purpose;
 - (xviii) lie on a bench or seating place provided by the municipality or use it in such a manner that other users or potential users find it impossible to make use thereof;

- (xix) play or sit on play-park equipment, except if the person concerned is a child under the age of 13 years;
 - (xx) swim, walk or play in a fish-pond, fountain, dam, river artificial feature or pond; in contravention with a notice prohibiting such action;
 - (xxi) having an open wound on his or her body, enter any bath provided by the municipality;
 - (xxii) perform any act that may detrimentally affect the health of another person;
 - (xxiii) enter or use a toilet facility indicated by notice for use by members of the opposite sex;
 - (xxiv) stay or sleep over night other than in terms of section 13;
 - (xxv) hunt, injure, disturb, feed, kill, hurt, follow, disturb, ill-treat or catch an animal, or displace, disturb, destroy or remove a bird, nest or egg, or skin or gut an animal, except if authorised to do so under section 8(2);
 - (xxvi) discharge a firearm, airgun or pistol, except if consent has been granted in terms of section 7(4);
 - (xxvii) discharge a bow, fireworks or use a slingshot or catapult;
 - (xxiii) in any way whatsoever prejudice the safety, convenience or rights of other persons;
 - (xxix) play or conduct a game in a manner that causes annoyance or endangers public safety;
 - (xxx) expose his or her body or clothe indecently; or
 - (xxxi) discard of a burning or smouldering object or throw it out of a vehicle;
 - (c) may enter –
 - (i) or leave a public amenity other than by way of the official entry and exit point;
 - (ii) a public amenity without having paid the entrance fees as contemplated in section 5(1);
 - (d) may release any wild animal, bird or flora into a public amenity;
 - (e) may, in inland waters –
 - (i) swim, catch fish or angle if not authorised to do so in terms of a notice board erected in terms of section 6(1);
 - (ii) wash himself or herself or clean anything;
 - (f) may use any craft on inland waters at any place other than that which has been indicated on a notice board erected in terms of section 6(1);
- (2) A person who contravenes a provision of subsection (1) commits an offence.

13. Vehicles

- (1) Where a person is permitted to drive a vehicle in a public amenity he or she may not –
 - (a) travel with the vehicle elsewhere than on a road constructed by the municipality;
 - (b) drive the vehicle at a speed in excess of the speed indicated on a notice board erected by the municipality.
- (2) The provisions of subsection (1) do not apply to an emergency vehicle while lawfully in use as such, or a vehicle used in an emergency, or a vehicle used by an official in the discharge of his or her duties.
- (3) A person who contravenes a provision of subsection (1) commits an offence.

14. Camping

- (1) No person may camp on any land belonging to or which is under the control of the municipality except on a camping site within the boundaries of a camping area.
- (2) No person may camp in a camping area whether continuous or otherwise for a period exceeding three months in any period of twelve months without the written consent of the municipality.
- (3) The municipality may grant or refuse such an application subject to such conditions and for such period as it may deem fit but not for any period in excess of a further three consecutive months.
- (4) The occupier of a camping site must be the person whose name appears on the camping permit and he or she may not sublet, cede, dispose of or in any manner alienate his or her rights thereunder.
- (5) Reservation of camping sites will only be considered upon receipt of a written application.
- (6) The municipality may determine conditions additional to those contained in this by-law for the use of camping sites that fall under the control of the municipality.
- (7) The municipality may determine conditions for the establishment of private camping facilities.
- (8) A person who contravenes a provision of subsections (1), (2) and (4) or any condition imposed by the municipality in terms of subsections (6) and (7) commits an offence.

15. Caravan parks

- (1) Notwithstanding the provisions of section 13(1) the municipality may allocate ten percent (10%), or such greater percentage of the sites in a caravan park to be permanently occupied by caravans or mobile homes.
- (2) The municipality may determine conditions for the establishment of private caravan parks.

- (3) The municipality may determine conditions additional to those contained in this by-law for the use of caravan parks that fall under the control of the municipality.
- (4) Any person who contravenes or fails to comply with any condition imposed in terms of sub sections (2) and (3) commits an offence.

CHAPTER II: MISCELLANEOUS PROVISIONS

16. Powers of official and offences

The official appointed by the municipality to monitor and enforce this By-law may investigate any act or omission which on reasonable suspicion may constitute an offence, and a person commits an offence if he or she -

- (a) threatens, resists, hinders or obstructs, or uses foul, abusive or insulting language towards or at an official in the exercise of his or her powers or execution or his or her duties; or
- (b) falsely holds himself or herself out to be an official;
- (c) furnishes false or misleading information when complying with a request of an official; or
- (d) fails to comply with a request of an official.

17. Appeal

A person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision.

18. Penalties

A person who has committed an offence in terms of this By-law is, on conviction liable to a fine or in default of payment, to imprisonment, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment, and in the case of a successive or continuing offence, to a fine for every day such offence continues, or in default of payment thereof, to imprisonment.

19. Limitation of liability

The municipality is not liable for any damage or loss caused by -

- (a) the exercise of any power or the performance of any duty in good faith under this By-law; or
- (b) the failure to exercise any power, or perform any function or duty in good faith under this By-law.

20. Authentication and service of notices and other documents

- (1) A notice issued by the municipality in terms of this By-law is deemed to be duly issued if it is signed by an officer authorised by the municipality.
- (2) Any notice or other document that is served on a person is regarded as duly served –
 - (a) when it has been delivered to that person personally;
 - (b) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of 16 years;
 - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic, and an acknowledgment of the posting thereof from the postal service is obtained;
 - (d) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided by paragraphs (a), (b) or (c);
 - (e) if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the land or business premises to which it relates;
 - (f) in the event of a body corporate, when it has been delivered at the registered office of the business premises of such body corporate; or
 - (g) when it has been delivered, at the request of that person, to his or her e-mail address.
- (3) Service of a copy is deemed to be service of the original.
- (4) When any notice or other document is served on the owner, occupier, or holder of any property, or right in any property, it is sufficient if that person is described in the notice or other document as the owner, occupier, or holder of the property or right in question, and it is not necessary to name that person.

21. Presumption

In any prosecution under this by-law it shall be presumed, unless the contrary is proved, that an animal found in a public amenity was brought into the amenity by the owner thereof or a person under the control of the owner, or that the owner or the person allowed the animal to enter the amenity.

22. Liaison forums in community

- (1) The municipality may establish one or more liaison forums in a community for the purposes of –
 - (a) creating conditions for a local community to participate in the affairs of the municipality;

- (b) encouraging a local community to participate in the affairs of the municipality; and
 - (c) promoting the effective and safe use of public amenities.
- (2) A liaison forum may consist of –
- (a) a member or members of an interest group, or an affected person;
 - (b) a member or members of a community in whose immediate area a public amenity exists;
 - (c) a designated official or officials of the municipality; and
 - (d) the councillor responsible for public amenities.
- (3) (a) The municipality may, when considering an application or registration in terms of this By-law request the input of a liaison forum.
- (b) A liaison forum or any person or persons contemplated in subsection (2) may, on own initiative submit an input to the municipality for consideration.

23. Repeal of by-laws

The following by-laws are hereby repealed:

- (a) Any by-law previously promulgated by the municipality or any of the disestablished municipalities now incorporated into the municipality, in so far as it relates to any matter provided for in this by-law; and
- (b) Any by-law previously promulgated by the Cacadu District Municipality or any of its predecessors, in so far as it has been made applicable to the municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Municipal Structures Act, 117 of 1998.

24. Short title and commencement

This By-law may be cited as the Public Amenities By-law, and commences on the date of publication thereof in the Provincial Gazette.

No. 226

1

**CACADU DISTRICT MUNICIPALITY
ROADS AND TRAFFIC BY-LAW**

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996, the Cacadu District Municipality, enacts as follows:-

Table of contents

1. Definitions
2. Purpose of by-Law
3. Construction of Streets
4. Advertisements visible from streets
5. Animals or objects causing an obstruction
6. Trees in streets
7. Trees or growth causing an interference or obstruction
8. Dumping of waste.
9. Prohibition of certain activities in connection with objects in streets and public places
10. Prohibition of games and other acts in streets and public places
11. Animal manure and conveyance of animal carcasses or other waste products through streets and public places
12. Building materials in streets and public places
13. Balconies and verandahs
14. Drying of washing on fences on boundaries of streets and public places
15. Outspanning in streets
16. Protection of street surface and public places
17. Damaging of notice-boards
18. Collections and distribution of handbills
19. Excavations in streets
20. Poison in streets or public places
21. Processions
22. Roller-skating and skating on skate-boards
23. Persons to be decently clad
24. Overflow of water into streets and public places
25. Behaviour in streets and public places
26. Animals in a street or public place
27. Display of street number of places
28. Bridges and crossings over gutters and sidewalks
29. Control of amusement shows and devices
30. Control of animal-drawn vehicles
31. Vehicles to be attended
32. Municipality may act and recover costs
33. Closure of streets and public places
34. Construction, maintenance and naming of streets and public places
35. Declaration of streets and public places
36. Parking of heavy vehicles and caravans
37. Parking attendants
38. Encroachments
39. Penalty
40. Appeal
41. Repeal of by-laws

41. Short title and commencement

1. Definitions

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

"animals" means any horses, mules, donkeys, cattle, pigs, sheep, goats, ostriches indigenous mammals and other wild animals;

"caravan" means any vehicle permanently fitted out for use by persons for living and sleeping purposes, whether or not such vehicle is a trailer;

"Council" means the municipal council of Cacadu District;

"municipality" means the Municipality of Cacadu District established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, councillor, duly authorised agent or any employee acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

"municipal area" means the area of jurisdiction of Cacadu District Municipality as determined in terms of the Local Government: Municipal Demarcation Act, 1998 (Act 27 of 1998);

"municipal manager" means a person appointed in terms of section 82 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);

"motor vehicle" means any self-propelled vehicle and includes-

(a) a trailer; and

(b) a vehicle having pedals and an engine or an electric motor as an integral part thereof or attached thereto and which is designed or adapted to be propelled by means of such pedals, engine or motor, or both such pedals and engine or motor, but does not include-

(i) a vehicle propelled by electrical power derived from storage batteries and which is controlled by a pedestrian; or

(ii) a vehicle with a mass not exceeding 230 kilograms and specially designed and constructed, and not merely adapted, for the use of any person suffering from some physical defect or disability and used solely by such person;

"nuisance" means any act, omission or condition on any premises, street or public place, including any building, structure or growth thereon, which is offensive or dangerous, or which materially interferes with the ordinary comfort, convenience, peace or quiet of other people or which adversely affects the safety of the public;

"park" means to keep a vehicle, whether occupied or not, stationary for a period of time longer than is reasonably necessary for the actual loading or unloading of persons or goods, but does not include any such keeping of a vehicle by reason of a cause beyond the control of the person in charge of such vehicle;

"public place" means any square, park, recreation ground, sports ground, sanitary lane or open space which has-

(a) in connection with any subdivision or layout of land into erven, been provided, reserved or set apart for use by the public or the owners or occupiers of such erven, whether or not it is shown on a general plan, plan of subdivision or diagram;

(b) at any time been dedicated to the public;

(c) been used by the public without interruption for a period of at least thirty years, or at any time been declared or rendered such by the municipality or other competent authority;

"semi-trailer" means a trailer having no front axle and so designed that at least 15% of its tare is super-imposed on and borne by a vehicle drawing such trailer;

"sidewalk" means that portion of a street between the outer boundary of the roadway of a road and the boundary lines of adjacent properties or buildings which is intended for the use of pedestrians;

"street" means any street, road, cycle path, thoroughfare or any other place, and includes –

- (a) the verge of any such road, street or thoroughfare;
- (b) any footpath, sidewalk or similar pedestrian portion of a road reserve;
- (c) any bridge, ferry or drift traversed by any such road, street or thoroughfare;
- (d) any other object belonging to such road, street or thoroughfare, which has at any time been –
 - (i) dedicated to the public;
 - (ii) used without interruption by the public for a period of at least thirty years;
 - (iii) declared or rendered such by the municipality or other competent authority; or
 - (iv) constructed by a local authority;
- (e) any land, with or without buildings or structures thereon, which is shown as a street on –

- (i) any plan of subdivision or diagram approved by the municipality or other competent authority and acted upon; or

- (ii) any general plan as defined in the Land Survey Act, 1997 (Act 8 of 1997), registered or filed in a deeds registry or Surveyor General's office, unless such land is on such plan or diagram described as a private street;

"tare", in relation to a motor vehicle, means the mass of such a vehicle ready to travel on a road and includes the mass of –

- (a) any spare wheel and of all other accessories and equipment supplied by the manufacturer as standard for the particular model of motor vehicle concerned;
- (b) anything which is a permanent part of the structure of such vehicle;
- (c) anything attached to such vehicle so as to form a structural alteration of a permanent structure; and
- (d) the accumulators, if such vehicle is self-propelled by electrical power, but does not include the mass of –
 - (i) fuel; and
 - (ii) anything attached to such vehicle which is not of the nature referred to in sub-section (a) or (b);

"trailer" means a vehicle which is not self-propelled and designed or adapted to be drawn by a motor vehicle, but does not include a side-car fitted to a motor cycle;

"vehicle" means a device designed or adapted mainly to travel on wheels, tyres or crawler tracks and includes such a device which is connected with a draw-bar to a breakdown vehicle and is used as part of the towing equipment of a breakdown vehicle to support any axle or all the axles of a motor vehicle which is being salvaged other than such a device which moves solely on rails;

"work" means work of any nature whatsoever undertaken on any land within the area of jurisdiction of Cacadu District Municipality and, without in any way limiting the ordinary meaning of the word, includes the erection of a new building or alterations or additions to any existing building, the laying of cables and pipes, the dumping of building or other material anywhere in a street or public place, or delivery to or removal from any site of any soil or material of any nature whatsoever.

2. Purpose of by-Law

The purpose of this by-law is to promote the achievement of a safe environment for the benefit of residents within the area of jurisdiction of the municipality, and to provide for procedures, methods and practices to manage the use and utilisation of streets in the area of jurisdiction of the municipality.

3. Construction of streets

No person may -

- (a) make, construct, reconstruct, or alter a street or sidewalk except with the written permission of the municipality and in accordance with the requirements prescribed by the municipality; or
- (b) construct a verandah, stoep, steps or other projection or erect a post in a street or public place except with the written permission of the municipality.

4. Advertisements visible from streets

- (1) No person may display any advertisement, placard, poster or bill in a street except with the written permission of the municipality and subject to any conditions that may be imposed by the municipality.
- (2) This section does not apply to signs which have been exempted under the provisions of the municipality's by-law relating to Advertising Signs.

5. Animals or objects causing an obstruction

No person, except with the written permission of, and subject to any conditions that may be imposed by the municipality, may -

- (a) deposit or leave any goods or articles in a street or public place other than for a reasonable period during the course of the loading, off-loading or removal thereof; or
- (b) obstruct the traffic in a street or pedestrian traffic on a sidewalk by bringing or allowing to be brought thereon any animal, object or vehicle (other than a perambulator or wheel-chair which is being used for the conveyance of children or the disabled); or
- (c) cause or allow any blind, awning, cord or other object to project or to be stretched over or onto a street.

6. Trees in streets

- (1) No person may in a street or public place -
 - (a) plant, cut down or remove a tree or shrub there from, except with the written permission of the municipality;
 - (b) climb, break or damage a tree; or
 - (c) mark or paint any tree or attach any advertisement thereto.
- (2) Any tree or shrub planted in a street or public place is the property of the municipality.

7. Trees or growth causing an interference or obstruction

- (1) Whenever there is upon any property any tree or other growth which interferes with overhead wires or is a source of annoyance, damage, danger or inconvenience to persons using a street or public place, the municipality may by written notice order the owner or occupier to prune or remove such tree or growth to the extent and within the period specified in such notice.

(2) Any person who fails to comply with a notice issued in terms of subsection (1) commits an offence.

(3) If any person fails to comply with a notice in terms of this section, the municipality may itself prune or remove the tree or growth at the expense of the person on whom the notice was served.

8. Dumping of waste.

No person may –

- (a) dump, leave or accumulate any garden refuse, motor vehicle wrecks, spare parts of vehicles, building or waste materials, rubbish or any other waste products in any street or public place; or
- (b) permit any such objects or substances to be dumped or placed in a street or public place.

9. Prohibition of certain activities in connection with objects in streets and public places

No person may, in a street or public place –

- (a) repair or service a vehicle, except where necessary for the purpose of removing such vehicle from the place where it was involved in an accident; or
- (b) clean or wash a vehicle.

10. Prohibition of games and other acts in streets and public places

No person may –

- (a) roll a hoop, fly a kite, shoot with a bow and arrow or catapult, discharge fireworks or throw a stone, stick or other projectile in, onto or across a street or public place; or
- (b) do anything in a street or public place which may endanger the life or safety of any person, animal or thing or create a nuisance, obstruction or annoyance to the public.

11. Animal manure and conveyance of animal carcasses or other waste products through streets and public places

(1) No person may carry or convey through a street or public place the carcass of an animal or any garbage, night soil, refuse, litter, rubbish, manure, gravel or sand, unless –

- (a) it is properly covered; and
- (b) it is conveyed in such type of container as will not allow any offensive liquids or parts of the load to be spilt in the street or public place.

(2) The owner or person in charge of animals which are brought onto or driven along a street or public place must remove or clean up manure or droppings caused by such animals.

12. Building materials in streets and public places

No person may bore or cut stone or bricks, slake or sift lime, or mix building materials, or store or place building materials or any other materials in a street or public place except with the written permission of the municipality, and subject to the conditions imposed by the municipality.

13. Balconies and verandahs

No person may, except with the written permission of the municipality –

- (a) use a balcony or verandah erected beyond the boundary line of a street or public place for the purposes of trading or the storage of goods, or for the washing or drying of clothes; or
- (b) enclose or partition a balcony or verandah erected beyond the boundary line of a street or public place or portion thereof as a room.

14. Drying of washing on fences on boundaries of streets and public places

No person may hang, display or dry any washing on a balcony facing onto a street or which is visible to the neighbours, neither may any person hang, display, dry or spread any washing on a fence on the boundary of a street or public place.

15. Outspanning in streets

No person may outspan a vehicle drawn by animals in any street or public place, or detach or leave in any street or public place any trailer, caravan or vehicle which is not self-propelled; provided that this provision shall not apply to the actual loading or unloading of such vehicle.

16. Protection of street surface and public places

(1) No person may –

- (a) use a vehicle or allow it to be used in any street or public place if such vehicle is in such a defective condition that it will or may cause damage to any street or public place; or
- (b) drive, push, roll, pull or propel any object, machine or other material through or along a street or public place in such a way that the surface of the street or public place is damaged, broken or destroyed.

(2) If the municipality identifies a person whose actions referred to in subsection (1), has damaged, broken or destroyed the surface of a street or public place, the cost of repairs may be recovered from the offender.

(3) Any person who is the owner of land on which any work is done is liable for any damage to any portion of a street or public place caused by or in connection with the execution of such work by such owner, his or her employee or any independent contractor acting on behalf of such owner.

(4) When any work which has to be undertaken on any land entails the driving of vehicles over kerbs, sidewalks or road verges, the owner of such land may not commence, or allow any other person to commence, any such work until such a person has deposited with the municipality an amount sufficient to cover the cost of repairing any damage which may be caused to any such street or public place as a result of, or in connection with, the execution of such work by such owner, his or her employee or any independent contractor acting on behalf of such owner.

(5) (a) After completion of the work referred to in subsection (4), the municipality may repair of damage caused by such work and may set off the cost of such repairs against the deposit.

(b) If such cost is less than the amount of the deposit, the municipality shall refund the balance to the depositor, but if the amount of the deposit does not cover such cost, the owner shall be liable for the difference.

(6) No person other than an authorised official of the municipality in the performance of his or her duties may apply, mark, paint or draw lines, marks, words, signs or advertisements on the surface of a street or public place.

17. Damaging of notice boards

No person may deface, damage or interfere with any notice board, road traffic sign, street-name board or other similar sign or any hoarding which has been erected in a street or public place by or with the permission of the municipality.

18. Collections and distribution of handbills

(1) No person may -

- (a) collect or attempt to collect money in a street or public place or organise or in any way assist in the organisation of such collection, except with the written permission of the municipality and subject to any conditions that may be imposed by the municipality;
- (b) collect from door to door, beg or solicit or accept alms, except with the written permission of the municipality; or
- (c) distribute a handbill or similar advertising material or cause it to be distributed in any street or public place, by placing it on or in any vehicle without prior permission of the municipality.

(2) An application fee may be levied in respect of any application in terms of subsection (c).

19. Work in street or public place

(1) No person may without the prior written permission of the municipality and subject to any conditions that may be imposed undertake any work in a street or public place.

(2) A person referred to in subsection (1) must pay the prescribed fee as set out in the municipality's annual list of Tariffs.

- (3) (a) A person may by means of a written application, in which the reasons are given in full, apply to the municipality for exemption from any condition contemplated in subsection (1).
- (b) The municipality may -
 - (i) grant an exemption in writing and set conditions and the period for which such exemption is granted;
 - (ii) alter or cancel any exemption or condition in an exemption; or
 - (iii) refuse to grant an exemption.
- (c) An exemption does not take effect before the applicant has undertaken in writing to comply with all conditions imposed by the municipality under subsection (1), however, if an activity is commenced before such undertaking has been submitted to the municipality, the exemption lapses.
- (d) If any condition of an exemption is not complied with, the exemption lapses immediately.

20. Poison in streets or public places

No person other than an official of the municipality or an authorised person who administers legally approved weed-killers or poisons, may use, set or cast poison in any street or public place.

21. Processions

(1) Subject to the provisions of sub-section (6), no person may hold, organise, initiate, control or actively participate in a procession or gathering in a street or public place, or dance or sing or play a musical instrument, or do anything which is likely to cause a gathering of persons or the disruption or obstruction of traffic in such street or public place, or use any loudspeaker or other device for the reproduction or amplification of sound without the written permission of the municipality in terms of subsections (2) and (3).

(2) Any person who intends to perform or carry out any one or more of the actions described in subsection (1) must submit a written application for permission, which must reach the municipality at least seven days before the date upon which any such action is intended to be performed or carried out, provided that persons who intend to participate actively in a procession, or gathering need not apply to the municipality for permission and it is not illegal for such persons to participate actively in such procession or gathering if the organiser, promoter or controller has obtained the permission of the municipality. An application made in terms hereof must contain the following:

- (a) Full details of the name, address and occupation of the applicant;
- (b) full details of the street or public place where or route along which any one or more of the actions prescribed in subsection (1) is or are intended to be performed or carried out, proposed starting and finishing times and, in the case of processions and gatherings, the number of persons expected to attend; and
- (c) general details of the purpose of any one or more of the aforesaid actions intended to be performed or carried out.

(3) Any application submitted in accordance with subsection (2) shall be considered by the municipality, and if any one or more of the actions to be performed or carried out as proposed in such application is or are not likely to be in conflict with the interests of public peace, good order or safety, the municipality may issue a certificate granting permission and imposing conditions.

(4) The municipality may refuse to approve applications in terms of subsection (2) if an action will be in conflict with the interests of public peace, good order or safety.

(5) The municipality may withdraw any permission granted in terms of subsection (3), if, as a result of further information, the action will be in conflict with the interests of public peace, good order or safety.

(6) The provisions of this section do not apply to –

- (a) wedding or funeral processions; and
- (b) to a gathering or demonstration as contemplated by the Regulation of Gatherings Act, 1993 (Act 205 of 1993).

22. Roller-skating and skating on skate-boards

No person may, except with the prior written permission of the municipality, skate on roller skates or a skate board or a similar device in or on a street or public place or where skating is prohibited by a sign.

23. Persons to be decently clad

No person may appear in any street or public place if he or she is not decently clothed.

24. Overflow of water into streets and public places

Subject to the provisions of the municipality's Storm Water Management By-law, no person may cause or allow any water other than rain water to flow into a street or public place.

25. Behaviour in streets and public places

No person may, in a street or public place –

- (a) cause a nuisance to other persons by loitering, standing, sitting or lying or begging;
- (b) sleep, overnight or erect any shelter;
- (c) wash or dry clothes, blankets or any other domestic articles;
- (d) use abusive, insulting, obscene, threatening or blasphemous language;
- (e) fight or act in a riotous manner;
- (f) discharge a fire-arm, airgun or air-pistol;
- (g) annoy or inconvenience any other person by yelling, shouting or making any noise in any manner whatsoever;
- (h) defecate, urinate or wash himself;
- (i) solicit or importune any person for the purpose of prostitution or immorality;
- (j) engage in gambling;
- (k) use intoxicating liquor or drugs; or
- (l) spit.

26. Animals in a street or public place

No owner or person –

- (a) in charge of any wild or ferocious animal, monkey or horned cattle may allow such animal at any time to be insufficiently attended or at large in any street or public place or may keep any such animal in such a manner as to be a danger or annoyance to the public; or
- (b) may allow, permit or cause any animal to graze or stray in or about any street or public place.

27. Display of street number of places

- (1) The municipality may prescribe by notice in writing to the owner of any premises that a number allocated to such premises by the municipality in terms of section 34(c) must be displayed, and the owner must, within 30 days of the date of such notice, display the allocated number on the premises.
- (2) A number displayed as contemplated by sub-section (1) must –
 - (a) be displayed in a conspicuous position on the premises and must at all times be visible and legible from the adjacent street; and
 - (b) be replaced by the owner of the premises as often as it gets obliterated, defaced or illegible.

28. Bridges and crossings over gutters and sidewalks

No private crossing, pathway, bridge or culvert may be made or built to or in front of any dwelling or other premises in any street or public place except with the written permission of the municipality, and subject to the conditions imposed by the municipality.

29. Control of amusement shows and devices

- (1) No person may set up or use in any street or public place any circus, whirligig, roundabout or other show or device for the amusement or recreation of the public –
- (a) except with the written permission of the municipality and subject to such conditions as may be determined by the municipality;
 - (b) unless suitable sanitary conveniences for both sexes of the staff have been provided; and
 - (c) if it is in any way dangerous or unsafe for public use.
- (2) An authorised official of the municipality shall, for the purposes of inspection, at all reasonable times have free access to such circus, whirligig, roundabout or other side-show or device.

30. Control of animal-drawn vehicles

No person may –

- (a) simultaneously drive or be in control of more than one animal-drawn vehicle in a street or public place;
- (b) drive or be in control of an animal-drawn vehicle in a street or public place if he or she is under 16 years of age; or
- (c) if he or she is in control of an animal-drawn vehicle in a street, allow a person under 16 years of age to drive or be in control of such vehicle.

31. Vehicles to be attended

No person may, in a street or public place, sleep in a vehicle other than a motor vehicle parked in a taxi rank or on some other stand duly allocated by the municipality.

32. Municipality may act and recover costs

- (1) Notwithstanding any other provisions of this by-law, the municipality may –
- (a) where the permission of the municipality is required before a person may perform a certain action or build or erect anything, and such permission has not been obtained; and
 - (b) where any provision of this by-law is contravened under circumstances in which the contravention may be terminated by the removal of any structure, object, material or substance,

serve a written notice on the owner of the premises or the offender to terminate such contravention, or to remove the structure, object, material or substance, or to take such other steps as the municipality may require to rectify such contravention within the period stated in such notice.

- (2) Any person who fails to comply with a notice in terms of subsection (1) commits an offence, and the municipality may, without prejudice to its powers to take action against the offender, take the necessary steps to implement such notice at the expense of the owner of the premises or the offender, as the case may be.

33. Closure of streets and public places

- (1) No person may, without the approval of the municipality, close or barricade any street or public place or restrict access thereto.
- (2) The municipality may permanently close or divert any street or public place or part thereof or restrict access to any street or public place.
- (3) When the municipality decides to act in terms of subsection (2), it shall give notice of such intention in terms of its communication policy, and in the absence of

such policy the municipality shall give notice of its intention in a local newspaper in at least two official languages;

(4) Any objection against the action referred to in subsection (2) must be delivered in writing to the municipal manager within 30 days from the date of notification in terms of subsection (3) for submission to Council or a committee or person who has delegated powers to decide the matter.

(5) The municipality may, without complying with subsection (3) -

(a) temporarily close a street or public place -

(i) for the purpose of or pending the construction, reconstruction, maintenance or repair of such street or public place;

(ii) for the purpose of or pending the construction, erection, laying, extension, maintenance, repair or demolition of any building, structure, works or service alongside, on, across, through, over or under such street or public place -

(aa) if such street or public place is dangerous to traffic;

(bb) by reason of any emergency or public event which requires special measures for the control of traffic or special provision for the accommodation of crowds; or

(cc) for any other reason which renders the temporary closing of a street necessary; and

(b) divert a street which has been temporarily closed in terms of paragraph (a).

(6) The municipal manager has the discretion to, for general information, place a notice of such temporary closure in terms of subsection (5) in a local newspaper.

34. Construction, maintenance and naming of streets and public places

The municipality may -

(a) make, construct, reconstruct, alter and maintain streets and public places;

(b) name and re-name streets and public places;

(c) allocate and re-allocate numbers to properties abutting on streets and public places.

35. Declaration of streets and public places

(1) The municipality may -

(a) declare any land or portion of land under its control as a street, or any street or portion thereof to be a public place;

(b) declare any private street or portion thereof as a public street, or any place or portion thereof to be a public place.

(2) When the municipality acts in terms of subsection (1), it must give notice of such intention in terms of its communication policy, and in the absence of such policy, in a local newspaper in at least two official languages.

(3) Any objection against the intended action must be delivered in writing to the municipal manager within 30 days from the date of notification in terms of subsection (2) for submission to Council or a committee or person who has delegated powers to decide upon it.

36. Parking of heavy vehicles and caravans

- (1) No person may, for an uninterrupted period exceeding two hours, except on places reserved for parking of heavy vehicles, park on a street -
- (a) a motor vehicle with a tare exceeding 3500 kg;
 - (b) a trailer;
 - (c) a semi-trailer, or
 - (d) a caravan,
- (2) Whenever a vehicle is parked in contravention of subsection (1), it is deemed that such vehicle has been parked by the owner thereof unless the contrary is proved.

37. Parking attendants

- (1) No person may, in exchange for money or some other thing of value or in anticipation thereof:
- (a) direct the operator or occupant of a motor vehicle to a public parking space; or
 - (b) provide any other parking or related services in a public place.
- (2) Notwithstanding subsection (1), the Municipality may, subject to such requirements and conditions as determined by it and published in the Provincial Gazette, on application by a person, permit such person, upon payment of a fee, to direct the operator or occupant of a vehicle to a public parking space or to provide any other parking or related service.

38. Encroachments

- (1) Subject to section 3 and to such further conditions as it deems necessary, the municipality may by agreement permit encroachment on municipal property or the erection or maintenance of a verandah, balcony, sign, projecting sign or similar structure which projects in or over any street or public place;
- (2) When any immovable property owned by a municipality or under the control or management of the municipality is encroached upon without permission, the municipality may take the steps necessary to remove or regularise such encroachment.
- (3) The municipality may reduce the extent of a public place or street which is encroached upon by the extent of the encroachment or by such greater extent as may be desirable.
- (4) A permit issued under subsection (1) is, for the purposes of subsection (2), deemed to be a regularisation of the encroachment referred to in such permit.
- (5) A person who wishes to obtain the permission of the municipality as contemplated in subsection (1) must complete and submit to the municipality the prescribed form, and the municipality may issue a permit subject to the prescribed fee having been paid.
- (6) A person who contravenes a provision of subsection (5) commits an offence, and a person who fails to comply with any condition imposed under subsection (1) commits an offence and the municipality may, in addition to any other penalty which may be imposed -
- (a) demolish, remove or fill in the projection or projecting structure concerned; or
 - (b) cause such projection or projecting structure to be demolished, removed or filled in,
- at the cost of the owner thereof.

39. Penalty

A person who contravenes or fails to comply with any provision of this by-law commits an offence and is liable upon conviction to –

- (a) a fine or imprisonment, or either such fine or imprisonment or to both such fine and such imprisonment; and
- (b) in the case of a continuing offence, to an additional fine or an additional period of imprisonment or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued; and
- (c) a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as result of such contravention or failure.

40. Appeal

A person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision.

41. Repeal of by-laws

The following by-laws are hereby repealed:

- (a) Any by-law previously promulgated by the municipality or any of the disestablished municipalities now incorporated into the municipality, in so far as it relates to any matter provided for in this by-law; and
- (b) Any by-law previously promulgated by the Cacadu District Municipality or any of its predecessors, in so far as it has been made applicable to the municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Municipal Structures Act, 117 of 1998.

42. Short title and commencement

This by-law shall be known as the Roads and Traffic By-law and shall come into operation on the date of publication thereof in the Provincial Gazette.

No. 227

**CACADU DISTRICT MUNICIPALITY
SOLID WASTE DISPOSAL BY-LAW**

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996, the Cacadu District Municipality, enacts as follows for application within the District Management Area established in terms of section 6 of the Local Government: Municipal Structures Act, Act 117 of 1998 :-

Table of contents

1. Definitions
2. Purpose of by-laws
3. Applicable legislation
4. Establishment and control of disposal site
5. Access to disposal site
6. Off-loading of waste
7. Ownership of waste
8. Categories of waste
9. Separation of waste
10. Provision of waste bins
11. Location of waste bins
12. Maintenance of waste bins
13. Collection of waste
14. Access to premises
15. Right of entry
16. Dumping and littering
17. Burning of waste
18. Charges
19. Exemptions
20. Liaison forums in community
21. Authentication and service of order, notice or other document
22. Appeal
23. Penalties
24. Revocation of by-laws
25. Short title and commencement

1. Definitions

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

"attendant", means an employee of the municipality or agent of the municipality duly authorised to be in charge of the disposal site;

"municipality" means the Cacadu District Municipality, and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub delegated to such political structure, political office bearer, councillor, agent or employee;

"owner" also means lessee, occupier, resident or any person who obtains a benefit from the premises or is entitled thereto and also includes any insolvent estate, executor, administrator, trustee, liquidator judicial manager;

"premises" means residential-, business-, and industrial premises and includes any land, whether vacant, occupied or with buildings thereon, forming part of a piece of land laid out as a township, irrespective of being proclaimed as a township;

"removal day" means the day fixed by the municipality for removal of waste from premises and depending on the case may be multiple removals per week;

"waste" includes -

- (a) "business waste" which means any matter or substance arising out of the use of business premises but does not include, hazardous waste, material, domestic waste or garden waste;
- (b) "domestic waste" which means any fruit or vegetable peels, fruit or vegetable waste, general domestic waste as well as garden waste which is of such size that it may be deposited in a refuse bin.
- (c) "garden waste" which means waste originating from a gardening activity such as grass cutting, leaves, plants flowers or similar waste of such size that it can be placed in a refuse bin;
- (d) "hazardous waste" which means any waste, matter or substance which may be hazardous or harmful to the environment and residents or which may pollute the environment including asbestos, motor oils or lubricants, or any other waste, matter or substance which constitutes hazardous waste;
- (e) "materials" which means any stone, rock, sand, building materials or building rubble or any other type of composite or artificial materials such as plastic pipes and similar materials as well as materials which are utilised in the erection of buildings or structures or any other materials which constitute materials;

"waste bin" means a mobile container with a capacity determined by the municipality, or alternatively plastic bags, which the municipality may make available to each premises;

"waste management activities" means the generation, reduction and minimisation of waste, waste handling, which includes the separation, storage, collection, and transfer of waste, and waste treatment, which includes the recovery of waste, recovery being the recycling, reclamation and re-use of waste, and disposal of waste, and any word to which a meaning has been assigned in the Environment Conservation Act, 1989 (Act 73 of 1989) and in the Directions with regard to the Control and Management of General Communal and General Small Waste Disposal Sites issued under the Act and published per GN R91 in Government Gazette No. 23053 dated 1st February 2002, bears that meaning.

2. Purpose of by-laws

This by-law strive to promote the achievement of a safe and healthy environment for the benefit of residents within the area of jurisdiction of the municipality, and to provide for procedures, methods and practices to promote waste management activities such as, but not limited to, the dumping of waste and the management of solid waste disposal sites.

3. Applicable legislation

The Directions in terms of section 20(5)(b) of the Environment Conservation Act, 1989 (Act 73 of 1989) with regard to the Control and Management of General Communal and General Small Waste Disposal Sites as published in GN 91 in GG 23053 of 1 February 2002 apply.

4. Establishment and control of disposal site

The municipality may establish and control a disposal site, or may appoint agents or may contract some other person or body to control, manage and operate a disposal site on behalf of the municipality in accordance with the provisions of this by-law and the provisions of any other legislation that may be applicable.

5. Access to disposal site

(1) Only a person wishing to dump waste who has paid the prescribed fees or who is in possession of a written permission issued by the municipality which permits him or her to dump such waste at a disposal site and a person having obtained the written consent of the municipality to recycle any materials or objects on such a site, is entitled to enter the disposal site or to be on the site.

(2) Notwithstanding anything to the contrary contained in this by-law, any employee of the municipality or anybody acting on behalf of the municipality and duly authorised thereto, may enter a disposal site at any time in exercising his or her duties.

(3) A person making use of the disposal site or entering the disposal site, do so at his or her own risk and the municipality accepts no responsibility for the safety of such person or any damages or losses sustained by such person.

(4) A person who enters a disposal site or who is found on such a site in contravention of the provisions of this section commits an offence.

6. Off-loading of waste

(1) A person who wishes to dump waste at a disposal site, must off-load such waste at such a place within the borders of the disposal site and in such a manner as the attendant may direct.

(2) The municipality may-

- (a) set aside any part of a disposal site where only waste of a particular kind may be dumped or deposited.
- (b) limit the type or size of vehicle from which waste may be dumped or deposited at any disposal site.
- (c) limit the quantity of waste in general or the quantity of a particular type of waste which may be dumped or deposited at any disposal site.
- (d) the days when and hours during which dumping may take place at any disposal site.

(3) Any requirement imposed in terms of this by-law must be indicated to the public by means of an appropriate notice erected at the entrance of the disposal site concerned and any instruction issued by an official of the municipality or a person acting on behalf of the municipality in charge of access control at the dumping site, shall be strictly complied with.

(4) The municipality reserves the right not to permit the dumping of toxic or offensive waste at a disposal site.

(5) A person who contravenes any of the provisions of this section commits an offence.

7. Ownership of waste

(1) Waste dumped at a disposal site, becomes the property of the municipality and no person who is not duly authorised by the municipality to do so may remove or interfere with such waste.

(2) A person who contravenes subsection (1) commits an offence.

8. Categories of waste

The municipality may, for the purposes of this by-law, categorise waste into different categories.

9. Separation of waste

The municipality may, for the purposes of this by-law, require that waste be separated into different kinds and nature of waste.

10. Provision of waste bins

(1) The municipality may –

- (a) provide waste bins, or alternatively plastic bags, for the disposal of waste generated on premises; and
- (b) authorise the use of bins and lids constructed of rubber or other material where the design and construction has been approved by the municipality.

(2) Waste bins other than plastic bags provided in terms of subsection (1) remain the property of the municipality.

(3) The municipality may prescribe special waste bins for the reception and storage of such types of waste as the municipality may specify and may by written notice on the owner of premises require the owner to provide at his or her own expense such number of special waste bins as are specified in the notice.

(4) Where any waste bin provided on premises is –

- (a) of a size likely to hinder the efficient removal of waste there from by the servants of the municipality;
- (b) is insufficient for the reception of all waste which is to be removed from such premises by the municipality;
- (c) dilapidated; or
- (d) likely to cause a nuisance,

the municipality may by notice, require the owner of the premises to provide, at his or her own expense, an additional number of waste bins or such other means of storing receptacles as may be necessary to comply with the provisions of this by-law.

(5) A waste bin shall be replaced as and when it is necessary, provided that where such waste bin has to be replaced as a result of theft or damage caused through the negligence of the owner, such owner shall be held liable for the cost of replacing it.

(6) No person may dispose of any waste by placing it anywhere else than in a waste bin provided or approved by the municipality.

(7) In respect of a group development the municipality may provide less waste bins per household subject to the following conditions –

- (a) a central refuse collection point must be provided by the managing body;
- (b) the managing body must apply in writing for the reduction of waste bins issued to the development;
- (c) the reduced number of bins must be approved by the municipality; and
- (d) the managing body shall be held liable for payment of the account for waste removal.

(8) A person who contravenes a provision of subsections (5) and (6) or who fails to comply with a notice issued in terms of subsections (3) and (4) commits an offence.

11. Location of waste bins

- (1) The owner of premises must provide adequate space on the premises where a waste bin or other receptacle for the purpose of depositing waste or a specific category of waste are kept, and the space must –
- (a) comply with requirements imposed by the municipality by notice to the owner;
 - (b) where applicable, be constructed in accordance with the requirements of any applicable building regulations and be so located that the waste bin or receptacle is not visible from a street or public place;
 - (c) where applicable, be so located as to permit convenient access to and egress from such place for a waste collection vehicle; and
 - (d) be in a location convenient for the use by users or occupants of the premises so as to discourage littering or the unhealthy accumulation of waste.
- (2) In the case of multi-storey buildings, the municipality may approve the installation of refuse chutes of an approved design and specification, and subject to the submission and approval of the plans for such installation.
- (3) The owner of premises must place or cause the waste bins to be placed in the space provided and must at all times keep it there.
- (4) A person who contravenes a provision of subsection (1) or (3) commits an offence.

12. Maintenance of waste bins

- (1) The occupier of premises must ensure that a waste bin other than plastic bags is –
- (a) at all times maintained in good order and repair;
 - (b) emptied and cleansed when full, so that its contents do not become a nuisance or provide grounds for complaint;
 - (c) no waste which may cause such bin to be damaged or destroyed be deposited therein;
 - (d) protected against unauthorised disturbance or interference at all times when waste is not being deposited into it or discharged from it.
- (2) No person may remove a waste bin from any premises to which it has been allocated or destroy or damage it, or permit it to be removed, destroyed or damaged.
- (3) A person who contravenes any provision of this section commits an offence.

13. Collection of waste

- (1) The municipality may indicate a position within or outside the premises where waste bins must be placed for the collection and removal thereof and may require certain kinds of waste, such as garden waste, to be bundled or packaged and be placed in that position at the times and for a period as the municipality may require.
- (2) The municipality shall on removal days collect only waste placed in waste bin or other container approved by it or is which bundled or packaged in a manner approved by the municipality.
- (3) Where a particular kind of waste as stipulated by the municipality is not collected by the municipality from premises, the owner of the waste must arrange for the collection and transport of the waste as often as may be necessary to prevent undue accumulation or any nuisance arising there from, to a waste disposal or processing site under the control of the municipality, or to such other place as may be approved by the municipality.

- (4) The municipality may decide on separate times on which particular categories of waste are to be collected.
- (5) The municipality may –
 - (a) cause collections to be made at regular periods daily or otherwise, and may alter dates of collection;
 - (b) increase the number of collections as it may deem necessary or desirable; or
 - (c) make additional collections should it be desirable.
- (6) In the event of any additional collection being required by the owner of premises, the additional collection will be subject to the approval of the municipality and each additional collection must be paid for by the owner of premises from which the waste is collected at the tariff prescribed by the municipality.
- (7) The municipality may, upon application by the owner of premises, approve alternative arrangements for removal of waste from such premises.
- (8) A person who contravenes the provisions of section (1) or (3) commits an offence.

14. Access to premises

Except where otherwise approved by the municipality, the owner of premises must ensure that access from the nearest public road to the waste storage area on a premises is independent and unimpeded, and an owner who fails to do so, commits an offence.

15. Right of entry

- (1) Any duly authorised employee of the municipality is entitled to enter premises in respect of which the municipality's waste management services are rendered at any reasonable time on any day, or at any other time at which the service is ordinarily rendered for any of the following purposes:
 - (a) for collecting and supervising the collection of waste;
 - (b) for replacing waste bins; or
 - (c) for inspecting the means of access to the premises, or the space where waste bins are kept so as to ensure that they are accessible and convenient for the collectors.
- (2) The owner of the premises may not refuse access to the premises by an employee of the municipality.
- (3) An owner of premises commits an offence if he or she –
 - (a) denies access to the premises to an authorised employee of the municipality in the performance of his or her duties; or
 - (b) obstructs or impedes such employee of the municipality in the performance of his or her duties.

16. Dumping and littering

- (1) No person may –
 - (a) except by permission of the owner or of the person or authority having control thereof; or
 - (b) unless authorised by law to do so, dump, accumulate, place, deposit or leave any waste whatsoever, whether for gain or otherwise, or cause or allow to be dumped, accumulated, placed, deposited or left such waste on or in –
 - (i) any road, highway, street, lane, public footway or pavement or any road verge;

- (ii) any commonage land, village green, park, recreation ground or other open space to which the public have access;
 - (iii) any drain, watercourse, flood prone areas, tidal or other water in or abutting on any such road, highway, street, lane, public footway or pavement, roadside or other open space to which the public have access; or
 - (iv) private or municipal land,
- (2) Should a person do any of the acts contemplated in subsection (1), the municipality may by written notice require any of the following persons to dispose of, destroy or remove the waste within the period stated in the notice:
- (a) the person directly or indirectly responsible for dumping, accumulating, placing, depositing, or leaving the waste;
 - (b) the owner of the waste, whether or not he is responsible for dumping, accumulating, placing, depositing, or leaving the waste; or
 - (c) the owner of the premises on which the waste was dumped, accumulated, placed, deposited, or left, whether or not he or she is responsible therefor.
- (3) If a person fails to comply with the requirements of a written notice, the municipality may dispose of, destroy or remove the waste and may recover the cost of doing so from the person or persons to whom the notice was issued.
- (4) If waste has been deposited in or on any land in contravention of subsection (1) and –
- (a) in order to remove or prevent pollution of land, water or air or harm to human health, it is necessary that the waste be forthwith removed or other steps taken to eliminate or reduce the consequences of the deposit or both; and
 - (b) there is no occupier of the land; or
 - (c) the owner neither made nor knowingly permitted the deposit of the waste, the municipality may remove the waste or take other steps to eliminate or reduce the consequences of the deposit and is entitled to recover the cost incurred by it–
 - (i) from the owner of the land unless he or she proves that he or she neither made nor knowingly caused nor knowingly permitted the deposit of the waste; or
 - (ii) from any person who deposited or knowingly caused or knowingly permitted the deposit of any of the waste.
- (5) Any waste removed by the municipality belongs to the municipality and may be dealt with as the municipality deems fit.
- (6) A person who contravenes a provision of subsection (1) commits an offence.

17. Burning of waste

No person may burn waste without the written approval of the municipality.

18. Charges

- (1) The municipality may fix the charges payable to it for the removal of waste from premises or the dumping of waste at a disposal site under the control of the municipality.
- (2) A person who fails or refuses to pay the charges contemplated in subsection (1) commits an offence.

19. Exemptions

- (1) A person may by means of a written application, in which the reasons are given in full, apply to the municipality for exemption from any provision of this by-law.
- (2) The municipality may –
 - (a) grant an exemption in writing and the conditions in terms of which, if any, and the period for which such exemption is granted must be stipulated therein;
 - (b) alter or cancel any exemption or condition in an exemption; or
 - (c) refuse to grant an exemption.
- (3) An exemption does not take effect before the applicant has undertaken in writing to comply with all conditions imposed by the municipality under subsection (2), however, if an activity is commenced before such undertaking has been submitted to the municipality, the exemption lapses.
- (4) If any condition of an exemption is not complied with, the exemption lapses immediately.

20. Liaison forums in community

- (1) The municipality may establish one or more liaison forums in a community for the purposes of –
 - (a) creating conditions for a local community to participate in the affairs of the municipality; and
 - (c) promoting the waste management activities of the municipality.
- (2) A liaison forum may consist of –
 - (a) a member or members of an interest group, or an affected person, in the spirit of section 2(4)(f) – (h) of the National Environmental Management Act, 1998 (Act 107 of 1998);
 - (b) a member or members of a community in whose immediate area a solid waste disposal site exists or may come be established;
 - (c) a designated official or officials of the municipality;
 - (d) a councillor; and
 - (e) such other person or persons the municipality may decide on.
- (3)
 - (a) The municipality may, when considering an application for consent, permit or exemption certificate in terms of this by-law, where applicable, request the input of a liaison forum.
 - (b) A liaison forum, person or persons contemplated in subsection (2), or any other person may, on own initiative, having regard to the provisions of section 31 of the National Environmental Management Act, 1998, submit an input to the municipality for consideration.

21. Authentication and service of order, notice or other document

- (1) An order, notice or other document requiring authentication by the municipality must be sufficiently signed by the Municipal Manager shall be deemed to be duly issued if it is signed by the Municipal Manager.
- (2) Any notice or other document that is served on a person in terms of this by-law is regarded as having been served –
 - (a) when it has been delivered to that person personally;
 - (b) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of sixteen years;

- (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic and an acknowledgment of the posting thereof from the postal service is obtained;
 - (d) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided by paragraphs (a), (b) or (c);
 - (e) if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the property or premises, if any, to which it relates; or
 - (f) in the event of a body corporate, when it has been delivered at the registered office of the business premises of such body corporate.
- (3) Service of a copy shall be deemed to be service of the original.
- (4) Any legal process is effectively and sufficiently served on the municipality when it is delivered to the municipal manager or a person in attendance at the municipal manager's office.

22. Appeal

A person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision.

23. Penalties

A person who has committed an offence in terms of this by-law is liable upon conviction to a fine or imprisonment, or either such fine or imprisonment or to both such fine and such imprisonment and, in the case of a continuing offence, to an additional fine or an additional period of imprisonment or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued and, a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as result of such contravention or failure.

24. Revocation of by-laws

The following by-laws are hereby repealed:

- (a) Any by-law previously promulgated by the municipality or any of the disestablished municipalities now incorporated into the municipality, in so far as it relates to any matter provided for in this by-law; and
- (b) Any by-law previously promulgated by the Cacadu District Municipality or any of its predecessors, in so far as it has been made applicable to the municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Municipal Structures Act, 117 of 1998.

25. Short title and commencement

This by-law may be cited as the Solid Waste Disposal By-law, and commences on the date of publication thereof in the Provincial Gazette.

No. 228

CACADU DISTRICT MUNICIPALITY SPORTING FACILITIES BY-LAW

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996, the Cacadu District Municipality, enacts as follows for application within the District Management Area established in terms of section 6 of the Local Government: Municipal Structures Act, Act 117 of 1998 :-

TABLE OF CONTENTS

Section

1. Interpretation
2. Principles and objectives
3. Application of By-laws
- Chapter 1: Administration, access, fees and prohibited behaviour
4. Administration, control over, and maintenance of sporting facilities
5. Access to sporting facilities and storage facilities
6. Admission fees and other fees
7. Prohibited behaviour in or on a sporting facility or its premises
- Chapter 2: Organised sporting activities
8. Organised sporting activities
9. Reservation and hiring of sporting facilities
10. Cancellation, postponement or extension of reservation
11. Termination of hire
12. Duties of organisation
- Chapter 3: Miscellaneous provisions
13. Enforcement
14. Indemnity
15. Appeal
16. Penalty
17. Revocation of by-laws
18. Short title and commencement

1. Definitions

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

"accessories" means an object or objects on or in a field, sporting area or course necessary for a particular sport to be performed, such as, but not limited to goal posts, a tennis net, or a flag, and any other feature or fixture;

"appurtenance" means any fitting, installation, appliance, device, instrument, apparatus, utensil, tool whatsoever on the premises, such as, but not limited to a lock, cock, tap, valve, pipe and includes any other appliance or any machine;

"equipment" means gear used by a person in a sporting activity;

"facility" means a sporting facility and includes any appliance, equipment, apparatus or storage facility in or on a facility;

"municipality" means the Cacadu District Municipality established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, councillor, duly authorised agent or any employee acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

"organised sporting activity" means a sporting activity that is organised or controlled by an organisation, and includes a practice or training session;

"organisation" means a sport club, educational institution, or association of people, and includes a group or sport club established by the municipality, which sport club or association or group can be joined by a member of the public;

"sporting facility" means any land, area, premises, building or structure, or part thereof, which is administered or controlled by the municipality and which is designated, demarcated, or set aside for a sporting activity, and includes facilities surrounding and normally supplementary to a sporting facility.

2. Principles and objectives

The municipality recognizes the right of the community, whether associated to an organization or not, to use and enjoy sporting facilities, and accepts the duty to maintain and develop the resources of the municipality to the best interest of the community, and aims, in this by-law, to control and administer sporting facilities.

3. Application of By-laws

This by-law applies to all sporting facilities under the control and administration of the Municipality, but do not apply to land, areas, buildings, and structures regulated by the Municipality's Public Amenities By-laws.

CHAPTER 1: ADMINISTRATION, ACCESS, FEES AND PROHIBITED BEHAVIOR

4. Administration, control over and maintenance of sporting facilities

(1) The municipality may establish a body or sport committee with the aim of advising it on matters relating to sporting facilities.

(2) All sporting facilities must be administered by the municipality in accordance with this By-law.

- (3) The municipality may acquire land or a building with the aim of developing sporting facilities, or dispose of existing sporting facilities or any rights thereto.
- (4) A person or organisation who uses or hires sporting facilities does so subject to the provisions of this by-law and in terms of conditions as may be determined by the municipality.
- (5) Where an organized sporting activity is not organized or controlled by the municipality, a municipal employee may be present.
- (6) Subject to the terms and conditions stipulated in any contract of hire, and subject to any applicable national laws, no person –
 - (a) may sell any alcoholic beverage on the premises of a sporting facility without first obtaining express approval for that activity from the municipality;
 - (b) may bring his or her own supply of alcoholic beverages on or into a sporting facility without written authority from an authorised official.
- (7) If the municipality permits the sale or consumption of alcohol on or in a facility, the sale or consumption is subject to the following conditions:
 - (a) no alcoholic beverage may be served in a glass bottle, glass cup or other container made of glass;
 - (b) beer, cider and alcoholic cordials may be served in cans, kegs, or plastic cups only;
 - (c) the organization must maintain good order within the sporting facility.
- (8) The municipality may close a facility when:
 - (a) The facility is substantially unusable due to -
 - (i) destruction;
 - (ii) severe damage; or
 - (iii) the absence of municipal services;
 - (b) the facility constitutes a danger to human life or property;
 - (c) an emergency has arisen which requires such closure.
- (9) The municipality may temporarily close a facility for purposes of repair or maintenance or for any other reason in the municipality's discretion.
- (10) A person who or organization that contravenes subsection (6) or (7) commits an offence.

5. Access to sporting facilities and storage facilities

- (1) The municipality may by notice posted at or near the entrance to a facility indicate the hours during which it may be used by the public.
- (2) The municipality reserves the right of access to a facility and an official may instruct a person who has contravened a provision of this by-law to leave the facility or premises immediately and should the person fail

to observe the instruction, the official may remove or cause the person to be removed.

(3) The municipality has the right to determine the maximum capacity of a sporting facility and an official must, once the maximum capacity has been reached, refuse further access and may take measures necessary to prevent access.

6. Admission fees and other fees

The municipality may prescribe fees to be charged for admission to or the hire or use of a sporting facility or equipment.

7. Prohibited behavior in or on sporting facility or its premises

(1) No person may –

- (a) enter any part of a facility otherwise than by an entrance designated for that purpose;
- (b) enter or remain inside a facility, without permission, or at any time other than during the hours when such facility is open to members of the public, or when access to the facility has been denied;
- (c) smoke in a sporting facility, except in an open air facility or in those areas which have been designated for this purpose, as indicated by notices to that effect;
- (d) wear footwear that may damage the surface of a facility;
- (e) attend or engage in a sporting activity if dressed indecently or if undressed, except in a facility set aside for use by a person of the same sex;
- (f) relieve him or herself in any part of the sporting facility other than in the ablution facilities;
- (g) excluding a child under the age of five years, use change rooms, places of ablution, cubicles, or any other facilities set aside for a particular sex if he or she is not of that particular sex;
- (h) enter or remain in any area of the sporting facility, which area is reserved for the use of persons of the other sex;
- (i) use a change room, place of ablution, cubicle or any other facility for longer than is reasonably necessary to undertake an activity intended to be undertaken;
- (j) use profane or indecent language or behave in any other manner that constitutes a nuisance or unacceptable behavior towards other persons;
- (k) destroy, damage or deface any part of a sporting facility, accessories or equipment;
- (l) discard rubbish other than in a container provided for that purpose;

- (m) in any manner, interfere with the substance covering the surface of a sporting facility;
 - (n) light any fire;
 - (o) drive, draw, or propel a vehicle, or walk upon or recline on lawn on the premises of a sporting facility if prohibited to do so by a notice on the premises;
 - (p) ride or use in or on a sporting facility a bicycle, roller blades, roller skates, a skateboard, a tricycle or any similar form of transport or amusement, except in a sporting facility which specifically provides for the riding of bicycles;
 - (q) without the prior written consent of the municipality, sell, hawk, advertise, offer for sale or purchase or exhibit any article for sale, lease or hire, distribute a pamphlet, book, handbill or other written or printed matter inside a sporting facility or in the immediate vicinity of the entrance thereto;
 - (r) neither inside nor outside a sporting facility, obstruct, resist or interfere with an official in the execution of his or her duties or the exercise of any authority in terms of this by-law;
 - (s) tamper or interfere with an appurtenance in or on the premises of a sporting facility;
 - (t) bring into or keep on a sporting facility an animal, except a guide dog, without the prior consent of the municipality, unless the sporting activity engaged in involves the use of animals;
 - (u) bring into or keep on a facility a weapon or any other dangerous object.
 - (v) erect or attempt to erect any enclosure, tent or similar construction, stall, booth, stand, screen, fence, or drive into the ground any peg or spike without the permission of the official in charge of the facility;
 - (w) behave or conduct himself or herself in a manner which may prejudice good order;
 - (x) bring into or onto a facility any substance or matter which may endanger the safety of people, or which may be used to disrupt proceedings at or spoil the peaceful enjoyment of the facility;
 - (y) behave or conduct himself or herself in a manner which may disrupt a sporting activity; or
 - (z) fail to comply with a lawful instruction given by an official.
- (2) A person who contravenes any of the provisions of this section commits an offence.

CHAPTER 2: ORGANISED SPORTING ACTIVITIES

8. Organised sporting activities

- (1) The municipality may allow the use of its facilities by sport organisations, municipal staff, or other persons such as, but not limited to free lance instructors.
- (2) An organization to which a sporting facility or a portion thereof has been allocated for use at regular times, must ensure that only its members use the facility, and should it be impossible for the organisation to use the facilities at those times, the organization must notify the official in charge of the sporting facility beforehand, and should an organization fail to do so, the municipality may suspend or cancel the organisation's further use of the facility.

9. Reservation and hiring of sporting facilities

- (1) The municipality may set aside or hire out a sporting facility for the purpose of organised sport or for special occasions on such conditions as it may prescribe and the municipality may charge a fee, or may make it available free of charge or grant free admission to selected persons.
- (2) The representative of an organization that wishes to hire a sporting facility must complete and lodge a prescribed application form with the municipality.
- (3) When considering an application the municipality may have, in addition to other relevant factors, due regard to the following:
 - (a) The principles and objectives of this by-law;
 - (b) that the sporting facility may be used for lawful purposes only;
 - (b) that the use of the sporting facility will not constitute a nuisance or annoyance to other users of another part of the sporting facility which has not been hired by the organisation, or to the occupiers of neighbouring premises; and
 - (c) that the use of the sporting facility will not constitute a danger to any person or property or negatively affect the environment.
- (4) The municipality may approve the use of a sporting facility subject to any condition it may impose, or it may refuse consent.
- (5) The municipality must, within seven days after the application form has been lodged, in writing notify the organisation if the application has been approved or refused, and –
 - (a) if the application is refused, the municipality must supply to the organisation the reasons why the application was refused; or
 - (b) if the application is approved, the municipality must forward a notice of approval which must specify the conditions to which the use of the sporting facility is subject.

- (6) An organisation may not, before the municipality's approval has been received by it, advertise or announce the sporting activity for which it has lodged an application.
- (7) The municipality may, before it approves an application, require of an organization that wishes to make use of a sporting facility to take out, with an insurance company approved by the municipality –
- (a) insurance in an amount approved by the municipality to cover any structural damage which may occur to the sporting facility whilst being used by the organization; and
 - (b) public liability insurance.
- (8) An organization which supplies false information in an application form or with respect to the requirements in subsection (7), or which contravenes subsection (6) commits an offence.

10. Cancellation, postponement or extension of reservation

- (1) An organisation who has applied for the reservation of a sporting facility, may cancel the application, and where the organisation has paid a fee the municipality will determine the percentage of the paid fee to be refunded to the organisation.
- (2) (a) After approval has been given by the municipality, an organisation may apply for the postponement of the reservation to a later date.
- (b) Approval of the postponement does not result in a penalty or forfeiture of any fees already paid.
- (c) Postponement may be refused if the facility has been reserved.
- (3) An organisation may apply for an extension of the period of use of the sporting facility, and –
- (a) the application must be in writing and lodged at the Municipal Manager's offices; and
 - (b) the facility must be available for such use.
- (4) The municipality may cancel the hire of a facility under the circumstances contemplated in section 4(8), or should the municipality require the facility for municipal purposes at the same time, however, the municipality may refund the fees that have already been paid to it in respect of the reservation; or
- (5) Should the municipality cancel a reservation, the municipality must, within a reasonable time and in writing notify the organisation of its decision, however, where a notice is given in terms of section (4)(8), the notice is deemed to be effective from the date on which the destruction or damage took place.
- (6) Subject to the provisions of subsection (4), an organisation has no claim against the municipality for loss of use of the sporting facility or for damage arising from a cancellation in terms of subsection (4).

11. Termination of hire

- (1) On termination of the hire an organisation and an official must inspect the facilities for the purpose of assessing the conditions of the facilities.
- (2) The organisation must –
 - (a) return the sporting facility to the municipality in the condition it was when it was hired out to the organisation;
 - (b) repair any damage or breakages;
 - (c) comply with any instructions by the municipality in respect of the cleaning of the sporting facility; and
 - (d) vacate the sporting facility within the period stated in the application;
and should the organisation fail to comply with –
 - (i) subsection (2)(a), (b) or (c), the municipality may replace, repair or make good any breakages or damages, and recover the costs from the organisation; or
 - (ii) (d), the municipality may levy an additional fee for the period during which the organisation occupies the sporting facility after the expiry of the period stipulated in the application.

12. Duties of organisation

- (1) Before an organisation commences to use the sporting facility, a representative must inspect the facilities, and should he or she find that buildings, structures, accessories or equipment are in a state of disrepair, this fact must be reported to the municipality in writing, and failure to do so is deemed as an acceptance by the organisation that the facilities are in a proper condition.
- (2) The organisation must take all reasonable measures to ensure that its members and persons attending a sporting activity, as participants, visitors or spectators comply with section 7 and, furthermore –
 - (a) may not use the sporting facilities for any other purpose than that for which approval was given;
 - (b) may not use the sporting facilities unless it has fully paid the fees, if stipulated;
 - (c) may not sub-let the sporting facilities;
 - (d) may not allow another organisation to use the facilities;
 - (e) may not without the prior written approval of the municipality cede, pledge or renounce in favour of another organisation any of the rights or obligations under this by-law;
 - (f) may not allow any accessories or any other property of the municipality to be removed from the sporting facilities;

- (g) may not allow a person to drive or screw nails, screws or similar objects into the walls, doors, accessories or into any object belonging to the municipality, in the sporting facilities;
- (h) may not allow a person to apply paint to any window, accessory or object belonging to the municipality, on the premises;
- (i) may not interfere or tamper with any electrical installation or appliance;
- (j) must ensure that persons attending a sporting activity behave in a seemly manner and do not cause a nuisance to other users of the facilities or neighbouring premises;
- (k) may not allow any activity or object in or on the facilities which may invalidate or invalidates any insurance policy of the facility or which may increase or increases the premium;
- (l) must, before vacating the sporting facility, remove any article affixed or erected by it;
- (m) must control the admission of people, the sale of tickets and ensure that no overcrowding takes place;
- (n) may not allow the sale of food or soft drinks in the facility without the municipality's consent;
- (o) ensure, at all times, that the facilities are kept in a clean, sanitary and tidy condition and that drains, water installations, and sewage pipes are kept clean and free of blockages;
- (p) may not allow the parking of vehicles anywhere else in the facility except than in the demarcated parking areas;
- (q) must comply any instruction issued by an official;
- (r) must, subject to the section 10, adhere to the specific times contemplated in section 9 allocated to it by the municipality for the use of the facility or any part thereof; and
- (x) may not, without the prior written permission of the municipality, amplify sound, and should permission be granted, the volume must be moderate and the loudspeakers must be positioned so that the sound does not cause a nuisance outside the facility.

(3) An organisation commits an offence if it contravenes a provision of subsection (2).

CHAPTER 3: MISCELLANEOUS PROVISIONS

13. Enforcement

- (1) An official may search any person, vehicle or container in, entering into or being brought onto a facility.
- (2) An official may confiscate liquor, or any other dangerous object, substance or matter which may endanger the safety of people in the facility,

or which may be used to disrupt proceedings at or spoil the enjoyment of the facility, but must return to the person that which was confiscated when he or she leaves the sporting facility.

(3) If the official finds an unlawful substance as a result of the search contemplated in subsection (1), he or she must immediately alert the South African Police Services, or if he or she is appointed as a peace officer in terms of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), he or she may act in terms of the Act.

(4) A person who obstructs or interferes with an official in the exercise of his or her duty commits an offence.

14. Indemnity

Any person visiting or using a facility does so at his or her own risk and the municipality will not be liable for any injury, loss or damage that such person may suffer while in or on the facility.

15. Appeal

A person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision.

16. Penalty

A person who or organisation which has committed an offence in terms of this by-law is, on conviction, liable to a fine or in default of payment, to imprisonment, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment.

17. Revocation of by-laws

The following by-laws are hereby repealed:

- (a) Any by-law previously promulgated by the municipality or any of the disestablished municipalities now incorporated into the municipality, in so far as it relates to any matter provided for in this by-law; and
- (b) Any by-law previously promulgated by the Cacadu District Municipality or any of its predecessors, in so far as it has been made applicable to the municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Municipal Structures Act, 117 of 1998.

18. Short title and commencement

This by-law may be cited as the Sporting Facilities By-laws, and commence on the date of publication thereof in the Provincial Gazette.

No. 229

**CACADU DISTRICT MUNICIPALITY
STORMWATER MANAGEMENT BY-LAW**

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996, the Cacadu District Municipality, enacts as follows for application within the District Management Area established in terms of section 6 of the Local Government: Municipal Structures Act, Act 117 of 1998 :-

Table of contents

1. Definitions
2. Purpose of by-laws
3. Application of by-laws
4. Prohibited conduct
5. Application and conditions which municipality may impose
6. Stormwater systems on private land
7. Powers of municipality
8. Authentication and service of notices and other documents
9. Appeal
10. Exemptions
11. Penalties
12. Revocation of By-Laws
13. Short title and commencement

1. Definitions

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

"floodplain" means land adjoining a watercourse which is predisposed to flooding up to the 100 year recurrence interval;

"municipality" means the Cacadu District Municipality, and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub delegated to such political structure, political office bearer, councillor, agent or employee;

"private stormwater system" means a stormwater system which is owned, operated or maintained by a person and not the municipality;

"pollute" bears the meaning assigned to it in the National Water Act, 1998 (Act 36 of 1998);

"stormwater" means water resulting from natural rainfall or the accumulation thereof, and includes –

- (a) groundwater and spring water ordinarily conveyed by the stormwater system; and
- (b) sea water within estuaries,

but excludes water in a drinking water or waste water reticulation system;

"stormwater system" means both the constructed and natural facilities, including pipes, culverts, watercourses and their associated floodplains, whether over or under public or privately owned land, used or required for the management, collection, conveyance, temporary storage, control, monitoring, treatment, use or disposal of stormwater;

“watercourse” bears the meaning assigned to it in the National Water Act, 1998 (Act 36 of 1998);

“organ of state” bears the meaning assigned to it in section 239 of the Constitution.

2. Purpose of by-laws

The purpose of this by-law is to regulate stormwater management and activities that may have an adverse impact on the development, operation and maintenance of the stormwater system.

3. Application of by-laws

This by-law –

- (a) binds an organ of state; and
- (b) applies to stormwater systems in built-up areas.

4. Prohibited conduct

- (1) No person may, except with the written consent of the municipality-
 - (a) discharge, place or permit to enter into the stormwater system –
 - (i) anything other than stormwater;
 - (ii) anything likely to damage the stormwater system or interfere with the operation thereof;
 - (iii) anything likely to pollute the water in the stormwater system;
 - (b) discharge from any place, or place onto any surface, any substance other than stormwater, where that substance could reasonably be expected to find its way into the stormwater system;
 - (c) undertake any action that is likely to destroy, damage, endanger or interfere with the stormwater system or the operation thereof, which action includes, but is not limited to -
 - (i) obstructing or reducing the capacity of the stormwater system;
 - (ii) opening a pipe, culvert or canal which forms part of the stormwater system;
 - (iii) constructing or erecting any structure or thing over or in such a position or in such a manner as to destroy, damage, endanger or interfere with the stormwater system or the operation thereof;
 - (iv) draining, abstracting or diverting any water directly from the stormwater system;
 - (v) filling, excavating, shaping, landscaping, opening up or removing the ground above, within, under or immediately next to any part of the stormwater system;
 - (vi) changing the design or the use of, or otherwise modify any feature of the stormwater system which alone or in combination with other existing or potential land uses, may cause an increase in flood levels or create a potential flood risk; or
 - (vii) any activity which alone or in combination with other existing or future activities, may cause an increase in flood levels or create a potential flood risk.

- (d) undertake any action or allow storm water to overflow onto municipal property or to flood such property in a manner which causes damage thereto or is likely to cause damage thereto.
- (2) When an incident contemplated in subsection (1)(a) or (b) occurs without the consent of the municipality—
 - (a) if the incident is not the result of natural causes, the person responsible for the incident; or
 - (b) the owner of the property on which the event took place or is taking place, must immediately report the incident to the municipality, and take, at own cost, all reasonable measures to contain and minimise the effects of the incident, which measures include, but are not limited to, the undertaking of cleaning up operations including the rehabilitation of the environment.
- (3) A person who contravenes a provision of subsection (1) or (2) commits an offence.

5. Application and conditions which municipality may impose

- (1) A person who wishes to obtain the consent of the municipality as contemplated in section 4, must submit an application form obtainable from the municipality.
- (2) When considering an application the municipality may require the applicant to provide the municipality, at own cost, with impact studies such as, but not limited to, environmental impact studies or environmental impact investigations which are required by environmental legislation.
- (3) The municipality may also require the applicant to establish and provide documentation indicating on flood lines.

6. Stormwater systems on private land

- (1) An owner of property on which a private stormwater system is located –
 - (a) may not carry out any activity which may impair the effective functioning of the stormwater system or which could reasonably be expected to impair the effective functioning of the stormwater system; and
 - (b) must, at own cost, keep the stormwater system functioning effectively, including undertaking, on written instruction by the municipality, the refurbishment and reconstruction thereof if the municipality has reasonable grounds for issuing such instruction.
- (2) Subsection (1)(b) does not apply where the municipality has accepted responsibility for any of the duties contained in a maintenance agreement or in terms of a condition of a servitude.
- (3) Should an owner fail or refuse to comply with an instruction by the municipality made in terms of subsection (1)(b), the municipality may undertake measures to refurbish or reconstruct the stormwater system, and the municipality may recover from the owner all reasonable costs incurred as a result of action taken.
- (4) An owner who contravenes a provision of subsection (1)(a) or who fails or refuses to comply with an instruction contemplated in subsection (1)(b) commits an offence.

7. Powers of municipality

(1) The municipality may at all reasonable times enter upon any premises or any portion thereof with the aim of carrying out any inspection or test to determine the current status of a stormwater system.

(2) The municipality may, for the purpose of providing and maintaining infrastructure for a stormwater system- -

- (a) construct, expand, alter, maintain or lay any drain, pipe or other structure related to the stormwater system on or under any immovable property, and may do any other thing necessary or desirable or incidental, supplementary or ancillary to such construction, expansion, alteration or maintenance;
 - (b) drain stormwater or discharge water from any municipal service works into any watercourse;
 - (c) repair and make good any damage done in or damage resulting from a contravention of section 4(1)(a)(ii) or 4(1)(c), such as, but not limited to -
 - (i) demolishing, altering or otherwise dealing with any building, structure or other thing constructed, erected or laid in contravention of section 4(1)(c)(iii);
 - (ii) filling in, removing and making good any ground excavated, removed or placed in contravention of section 4(1)(c)(v);
 - (d) remove anything -
 - (i) discharged or permitted to enter into the stormwater system or watercourse in contravention of section 4(1)(a) or (b);
 - (ii) damaging, obstructing or endangering or likely to obstruct, endanger or destroy any part of the stormwater system;
 - (e) seal off or block any point of discharge from any premises, irrespective of whether the point is used for lawful purposes;
 - (f) cancel any consent granted in terms of section 5 if any condition under which the consent was granted is not complied with;
 - (g) by written notice, instruct any owner of property -
 - (i) to retain stormwater on such property or to lay, at the cost of such owner, a stormwater drain pipe or gutter to a suitable place indicated by the municipality, irrespective of whether the course of the pipe or gutter will run over private property or not;
 - (ii) to allow the owner of a higher lying property to lay a stormwater drain pipe or gutter over his or her property for the draining of concentrated stormwater;
 - (h) discharge stormwater into any watercourse, whether on private land or not.
- (3) Should an owner of property fail to comply with an instruction contemplated in subsection (2)(g)(i), the municipality may undertake measures to retain such stormwater or to lay such stormwater drain pipe or gutter.
- (4) Where it seems that any action or neglect by a person or owner of property may lead to a contravention of a provision of this by-law, the municipality may notify, in writing, such person or owner to comply with such requirement as may be necessary to prevent the occurrence of such contravention.

- (5) The municipality may recover all reasonable costs incurred as a result of action taken –
- (a) in terms of subsection (2)(c) or (d), from the person who was responsible for a contravention of the provisions of this by-law or the owner of the property on which a contravention occurred; or
 - (b) in terms of subsection (3), from the owner of the property.
- (6) Any drain, pipe or structure provided in terms of subsection (2)(a) vests in the municipality.
- (7) A person commits an offence if he or she –
- (a) fails to comply with a notice contemplated in subsection (2)(g);
 - (b) threatens, resists, hinders, obstructs or otherwise interfere with, or who uses foul or abusive language towards or at an employee or contractor of the municipality in the exercise of any powers or performance of any duty or function in terms of this by-law; or
 - (c) impersonates an employee or contractor of the municipality.

8. Authentication and service of notices and other documents

- (1) A notice or other document requiring authentication by the municipality must be signed by the municipal manager and when issued by the municipality in terms of this by-law is deemed to be duly issued if it is signed by the municipal manager.
- (2) Any notice or other document that is served on a person in terms of this by-law is regarded as having been served –
- (a) when it has been delivered to that person personally;
 - (b) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of 16 years;
 - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic, and an acknowledgment of the posting thereof from the postal service is obtained;
 - (d) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided by paragraphs (a), (b) or (c);
 - (e) if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the property or premises, if any, to which it relates;
 - (f) in the event of a body corporate, when it has been delivered at the registered office of the business premises of such body corporate; or
 - (g) when it has been delivered, at the request of that person, to his or her e-mail address.
- (3) Service of a copy is deemed to be service of the original.
- (4) When any notice or other document must be authorised or served on the owner, occupier, or holder of any property, or right in any property, it is sufficient if that person is described in the notice or other document as the owner, occupier, or holder of the property or right in question, and it is not necessary to name that person.
- (5) Any legal process is effectively and sufficiently served on the municipality when it is delivered to the municipal manager, or a person in attendance at the municipal manager's office.

9. Appeal

A person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision.

10. Exemptions

- (1) Any person may by means of a written application, in which the reasons are given in full, apply to the municipality for exemption from any provision of this by-law.
- (2) The municipality may –
 - (a) grant an exemption in writing and the conditions in terms of which, if any, and the period for which such exemption is granted must be stipulated therein;
 - (b) alter or cancel any exemption or condition in an exemption; or
 - (c) refuse to grant an exemption.
- (3) An exemption does not take effect before the applicant has undertaken in writing to comply with all conditions imposed by the municipality under subsection (2), however, if an activity is commenced before such undertaking has been submitted to the municipality, the exemption lapses.
- (4) If any condition of an exemption is not complied with, the exemption lapses immediately.

11. Penalties

A person who has committed an offence in terms of this by-law is, on conviction, liable to a fine or in default of payment, to imprisonment, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment, and in the case of a successive or continuing offence, to a fine for every day such offence continues, or in default of payment thereof, to imprisonment.

12. Revocation of By-Laws

The following by-laws are hereby repealed:

- (a) Any by-law previously promulgated by the municipality or any of the disestablished municipalities now incorporated into the municipality, in so far as it relates to any matter provided for in this by-law; and
- (b) Any by-law previously promulgated by the Cacadu District Municipality or any of its predecessors, in so far as it has been made applicable to the municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Municipal Structures Act, 117 of 1998.

13. Short title and commencement

This by-law may be cited as the Stormwater Management By-law, and commences on the date of publication thereof in the Provincial Gazette.

No. 230

**CACADU DISTRICT MUNICIPALITY
STREET TRADING BY-LAW**

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996, the Cacadu District Municipality, enacts as follows for application within the District Management Area established in terms of section 6 of the Local Government: Municipal Structures Act, Act 117 of 1998 :-

Table of Contents

1. Definitions
2. Principles and objectives
3. Application

CHAPTER 1: GENERAL PROVISIONS APPLICABLE TO STREET TRADING

4. Restricted and prohibited areas
5. Places where street trading is prohibited
6. Duties of street trader
7. Prohibited conduct
8. Removal and impoundment
9. Disposal of impounded goods

CHAPTER 2: MISCELLANEOUS PROVISIONS

10. Penalty
11. Responsible person
12. Appeal
13. Liaison forums in community
14. Revocation of by-laws
15. Short title and commencement

1. Definitions

(1) In this by-law, unless the context otherwise indicates –

“Act” means the Businesses Act, 1991 (Act 71 of 1991), and includes the regulations promulgated under the Act;

“approval” means approval by the municipality and “approve” has a corresponding meaning;

“garden” means a garden to which the public has a right to access;

“goods” means any movable property;

“intersection” means an intersection as defined in the regulations promulgated in terms of the National Road Traffic Act, 1996 (Act 93 of 1996);

“litter” means any object or matter which is discarded by a person;

“motor vehicle” means a motor vehicle as defined in section 1 of the National Road Traffic Act, 1996 (Act 93 of 1996);

“municipality” means the Cacadu District Municipality, and includes any political structure, political office bearer, councilor, duly authorised agent thereof or any employee acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councilor, agent or employee;

"municipal manager" is the person appointed by the municipality in terms of Section 82 of the Municipal Structures Act, 1998 and includes any person:

- (a) acting in such position; and
- (b) to whom the municipal manager has delegated any power, function or responsibility in as far as it concerns the execution of those powers, functions or duties.

"official" means a designated officer who is authorized by the municipality to perform and exercise any or all of the functions and powers contemplated in this by-law;

"park" means a park to which the public has a right to access;

"premises" includes any land, building, structure, part of a building or of a structure, or any vehicle, conveyance, vessel or aircraft;

"prescribed" means prescribed by the municipality by resolution;

"property", in relation to a street trader, means goods in which a street trader trades, and includes any article, container, vehicle or structure used or intended to be used in connection with street trading by the street trader;

"public amenity" means –

(a) any land, square, camping site, caravan park, beach, swimming pool, public open space, public resort, recreation site, river, dam, nature reserve, zoo-logical, botanical or other garden, or hiking trail, including any portion thereof and any facility or apparatus therein or thereon, which is the property of, or is possessed, controlled or leased by the municipality and to which the general public has access, whether on payment of admission of fees or not, but excluding a public road or street;

(b) a building, structure, hall room or office, including any part thereof or any facility or apparatus therein, which is the property of, or is possessed, controlled or leased by the municipality and to which the general public has access, whether on payment of admission of fees or not; and

(c) a public amenity contemplated in paragraphs (a) and (b) if it is lawfully controlled or managed in terms of an agreement between a person and the municipality;

"public road" means a public road as defined in section 1 of the National Road Traffic Act, 1996 (Act 93 of 1996);

"roadway" means a roadway as defined in section 1 of the National Road Traffic Act, 1996 (Act 93 of 1996);

"sell" includes barter, exchange, hire out, display, expose, offer or prepare for sale, store with a view to sell, or provide a service for reward, and "sale" or "selling" has a corresponding meaning;

"sidewalk" means a sidewalk as defined in section 1 of the National Road Traffic Act, 1996 (Act 93 of 1996);

"street furniture" means any furniture installed by the municipality on the street for public use;

"street trader" means a person who, as hawker, vendor or pedlar as contemplated in the Businesses Act, 1991 (Act 71 of 1991), carries on the business of the selling of any goods or the supplying of or offering to supply any service for reward in a public road or public amenity;

"street trading" means the carrying on of the business as a street trader;

"verge" means a verge as defined in section 1 of the National Road Traffic Act, 1996 (Act 93 of 1996), and any words or expressions to which a meaning has been assigned in the Businesses Act, 1991, (Act 71 of 1991) have a corresponding meaning in this by-law.

(2) A single act of selling or offering or rendering of services in a public road or public amenity constitutes street trading.

(3) A reference to a person carrying on the business of street trader includes the employee of the person.

2. Principles and objectives

The Municipality, acting in terms of section 6A(1)(a)(i) of the Businesses Act, 1991 (Act 71 of 1991), and –

- (a) having regard to the principles set out in the Act and in the Constitution;
- (b) taking into consideration the need of the residents to actively participate in economic activities; and
- (c) taking into consideration the need to maintain a clean and healthy environment, in this by-law provides mechanisms, procedures and rules to manage street trading.

3. Application

This by-law applies to all persons who carry on the business of street trading within the area of jurisdiction of the Cacadu District municipality.

CHAPTER 1: GENERAL PROVISIONS APPLICABLE TO STREET TRADING**4. Restricted and prohibited areas**

(1) The municipality may, in terms of section 6A(2)(a) of the Act and subject to the provisions of paragraphs (b) up to and including (j), declare any place in its area of jurisdiction to be an area in which street trading is restricted or prohibited.

(2) The municipality must by public notice and by erected sign indicate such areas, and the notice and sign must indicate –

- (a) the restriction of prohibition against street trading;
 - (b) if street trading is restricted –
 - (i) the boundaries of the area or stand set aside for restricted street trading;
 - (ii) the hours when street trading is restricted or prohibited; and
 - (iii) the goods or services in respect of which street trading is restricted or prohibited; and
 - (c) that the area has been let or otherwise allocated.
- (3) The municipality may change the areas contemplated in subsection (1) if the needs and circumstances of residents and street traders demand such reconsideration.
- (4) A person who carries on the business of a street trader in contravention of a notice contemplated in subsection (2) commits an offence.

5. Places where street trading is prohibited

(1) Unless the municipality has so permitted in terms of an agreement or by means of the display of a sign, no person may carry on the business of a street trader in any of the following places:

- (a) In a garden or a park to which the public has a right of access; or
- (b) on a verge contiguous to –
 - (i) a building belonging to, or occupied solely by, the State or the municipality;
 - (ii) a church or other place of worship; or
 - (iii) a building declared to be a public monument under the National Heritage Resources Act, 1999.

- (2) No person may carry on the business of a street trader in any of the following places:
- (a) in a place declared by the municipality under section 6A(2)(a) of the Act as a place in which street trading is prohibited;
 - (b) at a place where street trading obstructs the use of the sidewalk by pedestrians or interferes with the ability of persons using the sidewalk to view the goods displayed behind a shop display window or obscures such goods from view.
 - (c) within 5 metres of an intersection as defined in Regulation 322 of the National Road Traffic Act, 1996;
 - (d) at a place where street trading obstructs –
 - (i) a fire hydrant;
 - (ii) the entrance to, or exit from, a building;
 - (iii) vehicular traffic;
 - (iv) access to a pedestrian crossing, a parking or loading bay or any other facility for vehicular or pedestrian traffic;
 - (v) access to, or the use, of street furniture or any other facility designed for the use of the general public;
 - (vi) or obscures a road traffic sign that is displayed in terms of the National Road Traffic Act, 1996; or
 - (vii) or obscures a marking, notice or sign displayed or made in terms of this by-law;
 - (e) that half of a public road contiguous to a building which is used for residential purposes, if the owner or person who is in control or any occupier of the building objects thereto; or
 - (f) on a portion of a sidewalk or public amenity in contravention of a notice or sign erected or displayed by the municipality for the purposes of this by-law.
- (3) A person to whom an area or stand has been let or allocated under paragraph (c) of section 6A(3) of the Act must –
- (a) comply with conditions of the lease of allocation; and
 - (b) be in possession of written proof that municipality has let or allocated the area or stand to him or her.
- (4) A person who contravenes a provision of this section commits an offence.

6. Duties of street trader

- (1) A street trader must –
- (a) when he or she concludes business for the day, remove his or her property, except any structure permitted by the municipality, to a place which is not part of a public road or public amenity;
 - (b) when requested by an official of the municipality or a by a person who has been authorized to provide municipal services, move his or her property so as to permit the official or other person to carry out any work in relation to a public road, public amenity or service;
 - (c) keep the area or stand occupied by him or her in a clean and sanitary condition;
 - (d) ensure that the area is free of litter, and must, when he or she concludes business for the day, dispose of litter generated by his or her business –
 - (i) at the dumping sites of the municipality; or

- (e) (ii) in receptacles provided by the municipality for the public; on request by an official of the municipality, move his or her property so as to permit the cleansing of the area where he or she is trading;
 - (f) regarding the size and location of the area or stand occupied by him or her, –
 - (i) ensure that the area which he or she uses does not exceed 6 m² in size and not exceed 3 metres in length;
 - (ii) ensure that a space of not less than 1,5 metres is left between the wall of the shop (contiguous to which he or she conducts his or her business) and himself or herself; and
 - (iii) leave a space of not less than 0,5 metre from the kerb of the roadway.
 - (2) A person who contravenes a provision of subsection (1) commits an offence.
- 7. Prohibited conduct**
- (1) A street trader –
- (a) may not sleep or overnight at the area where he or she is trading, or at the area where another street trader is trading;
 - (b) may not place or stack his or her property in such a manner that it –
 - (i) constitutes a danger to any person or property; or
 - (ii) is likely to injure any person or cause damage to any property;
 - (c) may not dispose of litter in a manhole, storm water drain or other place not intended for the disposal of litter;
 - (d) may not release onto a public road or public amenity or into a storm water drain or fat, oil or grease in the course of conducting his or her business;
 - (e) may not allow smoke, fumes, noise, smells, or other substance arising from his or her activities to cause a nuisance or pollution of any kind;
 - (f) may not erect a structure for the purpose of providing shelter;
 - (g) may not place his or her property in a public road or public amenity;
 - (h) who conducts his or her business from a vehicle, may not park the vehicle or trailer in such a manner as to obstruct pedestrian or vehicular traffic and must ensure that he or she complies with the provisions of the National Road Traffic Act, 1996;
 - (i) may not place, on a public road or public amenity, his or her property that cannot be easily removed to a place of safety, which may not be a public road or public amenity, at the end of the day's business;
 - (j) may not display his or her goods or other property on or in a building, without the consent of the owner, lawful occupier or person in control of such building or property;
 - (k) may not attach an object by any means to a building, structure, sidewalk, tree, parking meter, lamp, pole, electricity pole, telephone booth, post box, traffic sign, bench or any other street furniture in or on a public road or public amenity;
 - (l) may not carry on his or her business in such a manner as to –
 - (i) create a nuisance;
 - (ii) damage or deface the surface of a public road or public amenity or public or private property; or

- (iii) create a traffic hazard;
 - (m) may not make an open fire that poses a health or environment hazard to any person or property or to street furniture;
 - (n) may not, other than in a refuse receptacle approved or supplied by the municipality, accumulate, dump, store or deposit any litter on –
 - (i) any land or premises;
 - (ii) any public road or public amenity or;
 - (iii) any public or private property;
 - (o) may not store his or her property in a manhole, storm water drain, public toilet, bus shelter or in a tree; and
 - (p) may not carry on such business in a place or area in contravention of any prohibition or restriction approved by the municipality in terms of section 6A(2)(a) of the Act.
- (2) A person who contravenes a provision of subsection (1) commits an offence.

8. Removal and impoundment

- (1) An official who reasonably suspects that property is being used or intended to be used in, or in connection with, street trading, whether or not the property is in possession or under the control of any person may, subject to subsection (2), remove and impound the property which he or she finds at a place where street trading is restricted or prohibited and which constitutes an infringement of any such restriction or prohibition.
- (2) An official who acts under subsection (1) must, except in the case of goods that have been left or abandoned, issue to the street trader a receipt for the property so removed and impounded and the receipt must contain the following particulars:
- (a) the address where the impounded property will be kept and the period it will be kept;
 - (b) the conditions for the release of the impounded property; and
 - (c) that unclaimed property will be sold by public auction.
- (3) If any impounded property is attached to immovable property or a structure, and the impounded property is under the apparent control of a person present at that place, an official may order the person to remove the impounded property.
- (4) When a person fails to comply with an order to remove the impounded property, an official may take such steps as may be necessary to remove the impounded property.
- (5) A person who hinders or obstructs an official in the performance of his or her duties under this section, or who refuses or fails to remove the object when ordered to do so by an official, commits an offence.

9. Disposal of impounded goods

- (1) Any perishable goods removed and impounded in terms of section 8(1) may at any time after the impoundment thereof be sold or destroyed by the municipality and in the case of a sale of such goods, the proceeds thereof, less any expenses incurred by the municipality in connection with the removal and impoundment thereof, shall upon presentation of the receipt contemplated by section 8(2)(a), be paid to the person who was the owner thereof when it was impounded. If such owner fails to claim the said proceeds within three months of the date on which it was sold, the proceeds may be forfeited to the municipality.
- (2) The owner of any goods other than perishable goods already dealt with by the municipality in terms of subsection (1) who wishes to claim the return thereof must, within a period of one

month of the date of the impoundment thereof, apply to the municipality and must present the receipt contemplated in section 8(2)(a), failing which the goods may be sold by the municipality, and in the event of a sale thereof the provisions of subsection (1) relating to the proceeds of a sale likewise apply to the proceeds of the sale.

(3) If the owner of any goods impounded in terms of section 8(a) claims the return of the goods from the municipality and he or she is unable or refuses to refund any expenses incurred by the municipality in connection with the removal and impoundment, the goods may be sold by the municipality and the proceeds of any sale thereof, less any expenses shall be paid to him or her..

(4) In the event of the proceeds of any sale of goods contemplated by this section not being sufficient to defray any expenses incurred by the municipality, the owner thereof shall in terms of section 8(3)(a) remain liable for the difference.

CHAPTER 2: MISCELLANEOUS PROVISIONS

10. Penalty

A person who has committed an offence in terms of this by-law is, on conviction, and subject to penalties prescribed in any other law, liable to a fine or in default of payment, to imprisonment, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment, and in the case of a successive or continuing offence, to a fine for every day such offence continues, or in default of payment thereof, to imprisonment.

11. Responsible person

When an employee of a person who performs an act which contravenes a provision of this by-law, the employer is deemed to have committed the contravention himself or herself, unless he or she proves that –

- (a) he or she did not permit such act;
- (b) he or she took all reasonable steps to prevent the performance of the act; and
- (c) it was not in the scope of the authority or the course of employment of the employee to perform an act which contravenes this by-law.

12. Appeal

A person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision.

13. Liaison forums in community

(1) The municipality may establish one or more liaison forums in a community for the purposes of –

- (a) creating conditions for a local community to participate in the affairs of the municipality; and
 - (b) promoting economic development;
- (2) A liaison forum may consist of –
- (a) a member or members of an interest group, or an affected person;
 - (b) a designated official or officials of the municipality; and

- (c) a councillor.
- (3) (a) The municipality may, when considering an application for an approval, or exemption certificate in terms of this by-law, request the input of a liaison forum.
- (b) A liaison forum or any person or persons contemplated in subsection (2) may, on own initiative an input to the municipality for consideration.

14. Revocation of by-laws

The following by-laws are hereby repealed:

- (a) Any by-law previously promulgated by the municipality or any of the disestablished municipalities now incorporated into the municipality, in so far as it relates to any matter provided for in this by-law; and
- (b) Any by-law previously promulgated by the Cacadu District Municipality or any of its predecessors, in so far as it has been made applicable to the municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Municipal Structures Act, 117 of 1998.

15. Short title and commencement

This by-law may be cited as the Street Trading By-laws and commences on the date of publication thereof in the Provincial Gazette.

No. 231**CACADU DISTRICT MUNICIPALITY
WATER SUPPLY AND SANITATION SERVICES BY-LAW**

Under the provisions of Sections 3(1) and 21 of the Water Services Act, 1997 (Act 108 of 1997), and Sections 27(1)(b), 152(1)(b) and 156 of the Constitution of the Republic of South Africa, 1996, the Cacadu District Municipality, enacts as follows for application within the District Management Area established in terms of section 6 of the Local Government: Municipal Structures Act, Act 117 of 1998 :-

Table of contents

1. Definitions
2. Principles and objectives
- CHAPTER 1: APPLICATION, PAYMENT AND TERMINATION
3. Customer Care and Revenue Management By-laws apply
- CHAPTER 2: APPOINTMENT: WATER SERVICES PROVIDER
4. Appointment of Water Services Provider
5. Water Services Provider – Approval
6. Application for approval
7. Additional information to make decision
8. Procedure on approval
9. Water scheme categories
10. Water Services Provider categories
11. Monthly report
12. Quarterly report
13. Disputes
- CHAPTER 3: SERVICE LEVELS
14. Service levels
- CHAPTER 4: CONDITIONS FOR WATER SUPPLY SERVICES
- Part 1: Connection to water supply systems*
15. Application for water service
16. Special agreements for water services
17. Change in purpose for which water services are used
18. Provision of connection pipe
19. Location of connection pipe
20. Provision of single water connection for supply to several consumers on same premises
21. Interconnection between premises or water installations
22. Disconnection of water installation from connection pipe
23. Communal water services works and provision of water service work for water supply to several consumers
24. Temporary supply from water supply system

Part 2: Standards and conditions of supply

25. Quantity, quality and pressure
26. General conditions of supply
27. Testing of pressure in water supply system
28. Pollution of Municipality's water supply
29. Owner to prevent pollution of water
30. Water restrictions
31. Specific conditions of supply

Part 3: Measurement

32. Measuring of quantity of water supplied
33. Quantity of water supplied to consumer
34. Special measurement
35. Sampling of water
36. Supply of non-potable water by Municipality
37. Pipes in streets or public places

Part 4: Audit

38. Water audit

Part 5: Installation work

39. Approval of installation work
40. Persons permitted to do installation and other work
41. Technical requirements for water installation
42. Provision and maintenance of water installations
43. Use of pipes and water fittings to be authorized
44. Labelling of terminal water fittings and appliances
45. Water demand management

Part 6: Communal water supply services

46. Provision of water supply to several consumers

Part 7: Temporary water supply services from fire hydrant

47. Water supplied from fire hydrant

Part 8: Boreholes

48. Notification of boreholes

Part 9: Fire services connections

49. Connection to be approved by Municipality
50. Special provisions
51. Dual and combined installations
52. Connection pipes for fire extinguishing services
53. Valves and meters in connection pipes
54. Meters in fire extinguishing connection pipes
55. Sprinkler extinguishing installations
56. Header tank or double supply from main
57. Sealing of private fire hydrants

CHAPTER 5: CONDITIONS FOR SANITATION SERVICES*Part 1: Connection to sanitation system*

58. Obligation to connect to sanitation system

59. Standards for sanitation services
60. Objectionable discharge to sewage disposal system
- Part 2: On-site sanitation services and associated services*
61. Application for infrastructure
62. Use of on-site sanitation services not connected to sanitation system
63. Septic tanks and on-site sewage treatment plants
64. French drains
65. Conservancy tanks
66. Operation and maintenance of on-site sanitation services
67. Disused conservancy and septic tanks
68. Services associated with on-site sanitation services
69. Charges in respect of services associated with on-site sanitation services
- Part 3: Sewage disposal*
70. Provision of connecting sewer
71. Location of connecting sewer
72. Provision of one connecting sewer for several consumers on same premises
73. Interconnection between premises
74. Disconnection of draining installation from connecting sewer
- Part 4: Standards and Conditions of Supply*
75. Standard for sanitation services
- Part 5: Methods for determining discharges*
76. Measurement of quantity of standard domestic effluent discharged
77. Measurement of quantity and determination of quality of industrial effluent discharged
78. Reduction in measured quantity of effluent discharged
- Part 6: Drainage installations*
79. Installation of drainage installations
80. Construction or installation of drainage installations
81. Disconnection of drainage installations
82. Drains in streets or public places
83. Construction by Municipality
84. Maintenance of drainage installation
85. Technical requirements for drainage installations
86. Drains
87. Sewer blockages
88. Grease traps
89. Industrial grease traps
90. Mechanical appliances for lifting sewage
91. Installation of pre-treatment facility
- Part 7: Protection of infrastructure*
92. Protection from ingress of flood waters
93. Trespassing on sewage disposal system
94. Interference with sewage disposal system
95. Damage to sewage disposal system

- 96. Consequential maintenance of sewers
- 97. Obstruction to access to sewage disposal system
- 98. Work by private person

Part 8: Industrial effluent

- 99. Application for disposal of industrial effluent
- 100. Approval to discharge industrial effluent
- 101. Letter of approval
- 102. Unauthorized discharge of industrial effluent
- 103. Quality standards for disposal of industrial effluent
- 104. Conditions for disposal of industrial effluent
- 105. Withdrawal of approval to discharge industrial effluent

Part 9: Sewage delivered by road haulage

- 106. Acceptance of sewage delivered by road haulage
- 107. Approval for delivery of sewage by road haulage
- 108. Conditions for delivery of sewage by road haulage
- 109. Withdrawal of permission for delivery of sewage by road haulage

Part 10: Other sanitation services

- 110. Stables and similar premises
- 111. Mechanical food-waster or other disposal units

Part 11: Installation work of sanitation sewers

- 112. Approval of installation work
- 113. Persons permitted to do installation and other work
- 114. Use of pipes and water fittings to be authorized
- 115. Testing of drainage installations
- 116. Cisterns

CHAPTER 6: WATER SERVICES INTERMEDIARIES

- 117. Application for registration
- 118. Additional information to make decision
- 119. Approval of application
- 120. Provision of water services
- 121. Charges for water services provided

CHAPTER 7: UNAUTHORIZED WATER SERVICES AND RELATED MATTERS

- 122. Unauthorized use of water services
- 123. Interference with infrastructure for provision of water services
- 124. Obstruction of access to infrastructure for provision of water services
- 125. Waste of water unlawful
- 126. Unauthorized and illegal discharges
- 127. Illegal connection
- 128. Interference with infrastructure
- 129. Use of water from sources other than water supply system provided by Municipality

CHAPTER 8: ENFORCEMENT

- 130. Responsibility for compliance with By-laws

131. Notice of compliance and representations

132. Costs

CHAPTER 9: MISCELLANEOUS PROVISIONS

133. Provision of information

134. Appeal

135. Authentication and serving of notices and other documents

136. Offences

137. Prima facie evidence

138. Power of entry and inspection

139. Indemnification from liability

140. Exemption

141. Availability of By-laws

142. Conflict of law

143. Co-operation between municipalities

144. Liaison forums in community

145. Transitional arrangements

146. Repeal of existing water services by-laws

147. Short title and commencement

Schedules

1. Definitions

(1) In this by-law, unless the context otherwise indicates –

“**accommodation unit**” in relation to any premises, means a building or section of a building occupied or used or intended for occupation or use for any purpose;

“**Act**” means the Water Services Act, 1997 (Act 108 of 1997);

“**approved**” means approved by the Municipality in writing;

“**area of supply**” means any area within or partly within the area of jurisdiction of the Municipality to which water services are provided;

“**authorized agent**” means –

(a) any person authorized by the Municipality to perform any act, function or duty in terms of, or exercise any power under this by-law;

(b) any person to whom the Municipality has transferred the performance of certain rights, duties and obligations in respect of providing water services; or

(c) any person appointed by the Municipality in terms of a written contract as a services provider to provide water services to consumers on its behalf, to the extent authorized in such contract;

“**authorized officer**” has the meaning assigned to the word “officer” in Section 1 of the Customer Care and Revenue Management By-laws;

“**average consumption**” means the average water consumption of a consumer of a municipal service during a specific period, which consumption is calculated by dividing the total measured consumption of that municipal service during the specific period by the specific period of consumption;

"best practicable environmental option" means the option that provides the most benefit or causes the least damage to the environment as a whole, at a cost acceptable to society, in the long term as well as in the short term;

"borehole" means a hole sunk into the earth for the purpose of locating, abstracting or using subterranean water and includes a spring;

"Building Regulations" means the National Building Regulations made under the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977);

"charges" means the rate, charge, tariff, flat rate or subsidy determined by the Municipality;

"cleaning eye" means any access opening to the interior of a discharge pipe or trap provided for the purposes of internal cleaning;

"combined installation" means a water installation used for fire-fighting and domestic, commercial or industrial purposes;

"commercial consumer" means any consumer other than a domestic consumer and indigent consumer, including, without limitation, business, industrial, governmental and institutional consumers;

"communal water services work" means a consumer connection through which services are supplied to more than one person;

"connecting point" means the point at which the drainage installation joins the connecting sewer;

"connecting sewer" means a pipe owned by the Municipality and installed by it for the purpose of conveying sewage from a drainage installation on a premises to a sewer beyond the boundary of those premises or within a servitude area or within an area covered by a way-leave or by agreement;

"connection" means the point at which a consumer gains access to water services;

"connection pipe" means a pipe, the ownership of which is vested in the Municipality and installed by it for the purpose of conveying water from a main to a water installation, and includes a "communication pipe" referred to in SABS 0252 Part I;

"conservancy tank" means a covered tank used for the reception and temporary retention of sewage and which requires emptying at intervals;

"consumer" means a person with whom the Municipality has concluded a services agreement for the provision of a municipal service as provided for in the Customer Care and Revenue Management By-laws;

"Council" means the council of the Cacadu District Municipality;

"Customer Care and Revenue Management By-laws" means the Customer Care and Revenue Management By-laws of the Municipality;

"delivery system" means a water delivery mechanism, which delivers a predetermined quantity of water to a consumer on agreed terms;

"determined" means determined by the Municipality by resolution and published in the Provincial Gazette;

"domestic consumer" means a consumer using water for domestic purposes and producing domestic sewage;

"domestic purposes" in relation to the supply of water means water supplied for drinking, ablution and culinary purposes to premises used predominantly for residential purposes;

"drain" means that portion of the drainage installation that conveys sewage within any premises;

"drainage installation" means a system situated on any premises and vested in the owner thereof and which is used for or intended to be used for or in connection with the reception, storage, treatment or conveyance of sewage on that premises to the connecting point and includes drains, fittings, appliances, septic tanks, conservancy tanks, pit latrines and private pumping installations forming part of or ancillary to such systems;

"drainage work" includes any drain, sanitary fitting, water supplying apparatus, waste or other pipe or any work connected with the discharge of liquid or solid matter into any drain or sewer or otherwise connected with the drainage of any premises;

"duly qualified sampler" means a person who is authorized to take samples for analysis from the sewage disposal system, and stormwater disposal system, from public waters, bulk water supply sources, water treatment works, water reticulation systems and natural water sources and who has been certified to do so by an authorized agent;

"DWAF" means the Department of Water Affairs and Forestry;

"dwelling unit" means an interconnected suite of rooms, including a kitchen or scullery, designed for occupation by a single family, irrespective of whether the dwelling unit is a single building or forms part of a building containing two or more dwelling units;

"effluent" means any liquid whether or not containing matter in solution or suspension;

"emergency" means any situation that poses a risk or potential risk to life, health, the environment or property;

"environmental cost" means the cost of all measures necessary to restore the environment to its condition prior to the damaging incident;

"estimated consumption" means the deemed consumption by a consumer whose consumption is not measured during a specific period, which estimated consumption is rationally determined taking into account at least the consumption of water supply services for a specific level of service during a specific period in the area of supply of the Municipality;

"fire installation" means a potable water installation that conveys water for fire-fighting purposes only, and "fire hydrant" has a similar meaning;

"fixed charge" means the average fixed cost per consumer associated with providing water services in a continuous, effective and efficient manner;

"fixed quantity water delivery system" means a water installation, which delivers a fixed quantity of water to a consumer in any single day;

"french drain" means a soil soak pit for the disposal of sewage and effluent from a septic tank;

"high strength sewage" means industrial sewage with a strength or quality greater than standard domestic effluent in respect of which a specific charge 14 may be charged;

"household" means a traditional family unit, as determined by the Municipality from time to time taking into account the number of persons comprising a household, the relationship between the members of a household, the age of the persons who are members of the household and any other relevant factor;

"illegal connection" means a connection to any system through which water services are provided that is not authorized or approved by the Municipality;

"industrial effluent" means effluent emanating from the use of water for industrial purposes and includes for purposes of this by-law any effluent other than standard domestic effluent or stormwater;

"industrial purposes" in relation to the supply of water means water supplied to any premises which constitutes a factory as defined in the General Administrative Regulations, published in terms of the Occupational Health and Safety Act, 1993 (Act 85 of 1993);

"installation work" means any work done in respect of a water services installation, including the construction, rehabilitation, improvement and maintenance thereof;

"JASWIC" means the Joint Acceptance Scheme for Water Installation Components;

"Local Municipality" means a category B municipality;

"manhole" means any access chamber to the interior of the sewer provided for the purpose of maintenance and internal cleaning;

"main " means a pipe, other than a connection pipe, of which the ownership vests in the Municipality and which is used by it for the purpose of conveying water to consumers;

"measuring device" means any method, procedure, process, device, apparatus or installation that enables the quantity of water services provided to be quantified and includes any method, procedure or process whereby the quantity is estimated or assumed;

"meter" means a water meter as defined by the Regulations published in terms of the Trade Metrology Act, 1973 (Act 77 of 1973) or, in the case of water meters of sizes greater than 100 mm, a device which measures the quantity of water passing through it, including a pre-paid water meter;

"municipal account" has the meaning assigned to it in Section 1 of the Customer Care and Revenue Management By-laws;

"municipality" means the Cacadu District Municipality established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, duly authorised agent or any employee acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, agent or employee;

"municipal manager" means the person appointed as the municipal manager of the Municipality by the Municipality in terms of Section 82 of the Local Government Municipal Structures Act, 1998 (Act 117 of 1998), and includes any person –

- (a) acting in such position; and
- (b) to whom the municipal manager has transferred a power, function or duty in respect of such a power, function or duty;

"municipal services" has the meaning assigned to it in Section 1 of the Customer Care and Revenue Management By-laws;

"occupier" has the meaning assigned to it in Section 1 of the Customer Care and Revenue Management By-laws;

"on-site sanitation services" means any sanitation services other than water borne sewerage disposal through a sewerage disposal system;

"owner" has the meaning assigned to it in the Customer Care and Revenue Management By-laws;

"person" means any person, whether natural or juristic and includes, but is not limited to a local government body, a company or close corporation incorporated under any law, a body of persons whether incorporated or not, a statutory body, public utility body, voluntary association or trust;

"plumber" means a person who has passed a qualifying trade test in plumbing or has been issued with a certificate of proficiency in terms of the Manpower Training Act, 1981 (Act 56 of 1981), or such other qualification as may be required under national legislation;

"pollution" means the introduction of any substance into the water supply system, a water installation or a water resource that may make the water harmful to health or the environment or impair its quality for the use for which it is normally intended;

"premises" has the meaning assigned to it in Section 1 of the Customer Care and Revenue Management By-laws, and includes a register held by a tribal authority or in accordance with a sworn affidavit made by a tribal authority;

"prescribed charge" means a charge prescribed by the Municipality;

"professional Engineer" means a person registered in terms of the Engineering Profession Act, 2000 (Act 46 of 2000), as a professional engineer;

"public notice" means publication in appropriate media that may include one or more of the following:

- (a) publication of a notice, in the official languages determined by the Municipality –
 - (i) in any local newspaper or newspapers circulating in the area of supply of the Municipality;
 - (ii) in the newspaper or newspapers circulating in the area of supply of the Municipality determined by the Municipality as a newspaper of record;
 - (iii) by means of radio broadcasts covering the area of supply of the Municipality; or

- (b) displaying a notice at appropriate offices and pay-points of the Municipality;
or
- (c) communication with consumers at public meetings and ward committee meetings;

"public water" means any river, watercourse, bay, estuary, the sea and any other water to which the public has the right of use or access;

"sanitation services" has the meaning assigned to it in Section 1 of the Act and includes for purposes of this by-law the disposal of industrial effluent;

"sanitation system" means the structures, pipes, valves, pumps, meters or other appurtenances used in the conveyance through the sewer reticulation system and treatment at the sewage treatment plant under the control of the Municipality and which may be used by it in connection with the disposal of sewage, and **"sewage disposal system"** has the same meaning;

"septic tank" means a water tight tank designed to receive sewage and to effect the decomposition of organic matter in sewage by bacterial action;

"service agreement" means the contractual relationship between the Municipality and a consumer, whether written or deemed as provided for in Section 5(3) of the Customer Care and Revenue Management By-laws,;

"service pipe" means a pipe which is part of a water installation provided and installed on any premises by the owner or occupier and which is connected or to be connected to a connection pipe to serve the water installation on the premises;

"sewage" means waste water, industrial effluent, standard domestic effluent and other liquid waste, either separately or in combination, but does not include stormwater;

"sewer" means any pipe or conduit which is the property of or is vested in the Municipality and which may be used for the conveyance of sewage from the connecting sewer, and does not include a drain as defined;

"shared consumption" means the consumption of a consumer of a municipal service during a specific period, which consumption is calculated by dividing the total metered consumption of that municipal service within the supply zone within which a consumer's premises are situated for the same period by the number of consumers within that supply zone, during the same period;

"standpipe" means a connection through which water is supplied in a public space or a yard, and which is supported by various means, in a vertical or near vertical position, with a stopcock at its end;

"standard domestic effluent" means domestic effluent with prescribed strength characteristics as determined by the Municipality in respect of chemical oxygen demand and settleable solids as being appropriate to sewage discharges from domestic premises within the jurisdiction of the Municipality, but shall not include industrial effluent;

"stormwater" means water resulting from natural precipitation or accumulation and includes rainwater, subsoil water or spring water;

"terminal water fitting" means a water fitting at an outlet of a water installation that controls the discharge of water from a water installation;

"**trade premises**" means premises upon which industrial effluent is produced;
"trap" means a pipe fitting or portion of a sanitary appliance designed to retain in position a water seal which serves as a barrier against the flow of foul air or gas;
"unauthorized services" means receipt, use or consumption of any water services which is not in terms of a services agreement, or authorized or approved by the Municipality;

"waste water" means waste water resulting from the supply of water to a household, offices, shops or any other premises other than industrial premises;

"water fitting" means a component of a water installation, other than a pipe, through which water passes or in which it is stored;

"water installation" means the pipes and water fittings which are situated on any premises and ownership of which vests in the owner thereof and used or intended to be used in connection with the use of water on such premises, and includes a pipe and water fitting situated outside the boundary of the premises, which either connects to the connection pipe relating to such premises or is otherwise laid with the permission of the Municipality;

"Water Services Authority" means a local authority duly established in accordance with law and appointed as Water Services Authority;

"Water Services Provider" has the meaning assigned to it in Section 1 of the Act, and includes -

- (a) an entity established or appointed by the Municipality as its authorized agent to operate and maintain a water supply scheme in accordance with these By-laws and in accordance with the Act; and
- (b) the Municipality where it has not appointed an agent to act as water services provider on its behalf and fulfills this duty itself;

"water services" means water supply services and sanitation services;

"water supply services" has the same meaning assigned to it in Section 1 of the Act and includes, for purposes of this by-law, water for industrial purposes and fire extinguishing services;

"water supply system" means the structures, aqueducts, pipes, valves, pumps, meters or other apparatus relating thereto of which the ownership vests in the Municipality and which are used or intended to be used by it in connection with the supply of water, and includes any part of the system;

"working day" means a day other than a Saturday, Sunday or public holiday.

- (2) Unless the context indicates otherwise and subject to subsection (1), any word or expression used in this by-law to which a meaning has been assigned in -
 - (a) the Act and Regulation 22355 promulgated in terms of the Act on 8 June 2003, has that meaning; and
 - (b) the National Building Regulations and Building Standards Act, 1977, has that meaning.

2. Principles and objectives

- (1) The Municipality adopts the following principles:
- (a) The Municipality recognises that all consumers have the right of access to basic water supply and basic sanitation in the area of jurisdiction of the Municipality within an environment not harmful to human health or well being;
 - (b) the Municipality acknowledges that it has the authority to administer water supply services and sanitation services and arising therefrom a concomitant duty to ensure the supply of water services of an acceptable quality within its area of jurisdiction in an efficient, affordable, economical and sustainable manner for subsistence and sustainable economic activity;
 - (c) the Municipality recognizes that, in striving to provide water services it, together with all role-players in the sector and all spheres of government, must observe and adhere to the principle of co-operative governance;
 - (d) the Municipality acknowledges the requirement to draft and promulgate by-laws to govern the provision of water services to its consumers and to govern the relationship between it and its consumers within its area of jurisdiction;
 - (e) the Municipality recognizes that, in the supply of water services, the interests of the consumers and the broader goals of public policy must be promoted;
 - (f) the Municipality acknowledges that there is a duty upon it to prepare and adopt a water services development plan for its area of jurisdiction after thorough consultation with all stakeholders and thereafter to update, manage and report thereon on an annual basis;
 - (g) the Municipality recognises that the provision of water supply services and sanitation services, although an activity distinct from the overall management of water resources, must be undertaken in a manner consistent with the broader goals of water resource management;
 - (h) the Municipality through its Customer Care and Revenue Management By-laws recognises its duty in terms of regulation 16 of Regulation 22355 promulgated in terms of the Act on 8 June 2001, to have a consumer service to which non-compliance with the provisions of above Regulation, as contained in this by-law, can be reported;
 - (i) the Municipality confirms its duty to provide access to water services in an orderly manner within the nation's available water resources.
- (2) The Municipality, in this by-law strives to –
- (a) provide for the rights of access to basic water supply and basic sanitation within its area of jurisdiction, as contemplated in Section

- 27(1)(b) of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), and regulations 2 and 3 of Regulation 22355 promulgated in terms of the Act on 8 June 2001;
- (b) provide for the establishment of a regulatory framework within which to deliver water services;
 - (c) provide for the setting of terms and conditions to ensure compliance with the legislation relating to the water sector;
 - (d) provide for the monitoring of water services within its area of jurisdiction, and being the Water Services Authority and Provider as provided for in terms of the Act, within its area of jurisdiction, where necessary, to provide for –
 - (i) the gathering of information within its area of jurisdiction;
 - (ii) the collation thereof to a central data base; and
 - (iii) the distribution of information to all stakeholders and role-players; and
 - (e) provide for matters related to the supply of water services within its area of jurisdiction.

CHAPTER 1: APPLICATION, PAYMENT AND TERMINATION

3. Customer Care and Revenue Management By-laws apply

The provisions of the Municipality's Customer Care and Revenue Management By-law apply to all matters relating to and incidental to –

- (a) the application for and supply of municipal services;
- (b) municipal service agreements;
- (c) the payment and non-payment of a municipal accounts; and
- (d) the limitation and termination of water services.

CHAPTER 2 : APPOINTMENT : WATER SERVICES PROVIDERS

4. Appointment of water services provider

- (1) Subject to compliance with the provisions of Section 78 of the Municipal Systems Act, No 32 of 2000, the Water Services Authority may elect to perform the function of a Water Services Provider itself or it may enter into a written contract with a Water Services Provider as authorised agent, or form a joint venture with another water services institution to provide water services within its area of jurisdiction.
- (2) When performing the function of a Water Services Provider as authorised agent, a Water Services Authority must manage and account separately for those functions.
- (3) When the Water Services Authority appoints a Water Services Provider as authorised agent to provide water services on its behalf the said Water Services Provider shall be designated as the authorised agent of the Water Services Authority and thereby shall be enabled as Water Services Provider to fulfil the said

function as Water Services Provider on behalf of the Water Services Authority in terms of the contract entered into between the Water Services Authority and Water Services Provider.

(4) When the Water Services Authority, in the event it decides not to perform the function of a Water Services Provider for any local Municipality within its jurisdiction may appoint the said local Municipality as its Water Services Provider as authorised agent and shall then and thereafter enter into written contract with the said local Municipality to provide water services within the local Municipality's area of jurisdiction, in line and in accordance with this by-law.

(5) If, after carrying out an assessment in terms of Section 78 of the Municipal Systems Act, No 32 of 2000, it is decided by the Water Services Authority not to act as the Water Services Provider in respect of such area of jurisdiction or of a specific water scheme and the said Water Services Authority decides not to appoint a local Municipality or a state or parastatal entity, as its Water Services Provider as authorised agent then it may, in respect of any water scheme established or to be established in its area of jurisdiction as contemplating in Section 19(1)(a) of the Act, by public notice, call for proposals from suitable persons or institutions to seek the approval of the Water Services Authority to be the Water Services Provider as authorised agent in respect of such water scheme as contemplated in Section 22 (1), read with Section 19(1)(b), of the Act.

5. Water services provider – approval

(1) The public notice referred to in Section 4(5) shall be delivered to every public sector Water Services Provider as authorized agent known to the Water Services Authority and shall also be published in a newspaper or newspapers circulating in the area where the water scheme is situated, which notice shall be published in the predominant language of such newspaper and of the majority of people to be served by such water scheme.

(2) The Water Services Authority shall give prior consideration to any proposals submitted by any public sector Water Services Provider as authorised agent as contemplated in Section 19(2) of the Act before considering any proposals submitted by any private sector Water Services Provider as authorised agent.

(3) The Water Services Authority shall, in respect of every water scheme for which it intends to approve a Water Services Provider as authorised agent

- (a) prepare a full and detailed description of the water scheme or scheme which will be operated by the Water Services Provider as authorised agent and which shall provide that the Water Services Authority complies with the criteria set in Section 11 of the Act, this by-law and the water development plan adopted by the Water Services Authority in terms of Section 15 of the Act, which description shall include, but not be limited to :

- (i) the name or names of the water scheme or scheme,

- (ii) an indication of the nature of the water services to be provided by the Water Services Provider as authorised agent;
 - (iii) detailed plans or drawings, with co-ordinates and scales, and specifications depicting the physical installation associated with the water scheme or scheme, including all the structures, aqueducts, pipes, valves, pumps, meters or other apparatus relating thereto used or intended to be used by it in connection with the provision of water services contemplated in the proposal;
 - (iv) a detailed description, including numbers and locality, of the clients or potential clients that will be supplied with water by the Water Services Provider as authorised agent;
 - (v) details of the source, the quality and quantity of water that will be supplied to clients or potential clients and what arrangements are in place to ensure that such quality and quantity is consistently maintained; and
 - (vi) a certificate indicating who the legal owner or owners of the water scheme or schemes is or are; and
 - (vii) certified copies of all documents and deeds reflecting the legal status of the water scheme or schemes, including deeds of servitudes where appropriate;
- (b) make such information available to all persons or institutions who wish to submit a proposal in response to the public notice published in terms of Section 5(1) above of this by-law.
- 4) Any proposal submitted in response to the public notice contemplated herein shall include the following:
- (a) A certified copy of the identity document of the applicant, or a certified copy of the founding document or constitution of the applicant, if the applicant is a legal person;
 - (b) a certified resolution adopted by the management body of the applicant, if the applicant is a legal person, resolving to apply for approval as a Water Services Provider as authorised agent;
 - (c) a certified list of the names and addresses of all persons occupying a leadership and decision-making power in the applicant;
 - (d) a detailed statement, supported by adequate proof of authenticity, setting out the applicants qualifications, capacity to undertake the work associated with the provision of water services in the circumstances reflected in the application, and the experience, skills and financial resources available to it to undertake the provision of water services to be provided by the applicant;

- (e) a business plan setting out how the water scheme or water schemes will be operated and maintained during the period the Water Services Provider as authorised agent will undertake the supply of water services as contemplated in the proposal, and what arrangements have been adopted to deal with any emergency, including natural disasters and drought;
- (f) a budget describing the financial administration of the water scheme or water schemes, the source of any capital or revenue requirements, and an indication of the sustainability of the water scheme or water schemes;
- (g) details of tariffs and charges that the applicant will levy on all clients and potential clients, the method of calculations such tariffs and charges, the process whereby increases or decreases in such tariffs and charges will be dealt with and the manner in which such tariffs and charges comply with the national norm set by the Minister of Water Affairs and Forestry in terms of Section 10 of the Act; and
- (h) full details of the conditions that will be imposed in terms of Section 4 of the Act and full details required in terms of Section 19(4) of the Act.

6. Application for approval

(1) Any person or institution seeking approval from the Water Services Authority in terms of Sections 6(1) or 22(1) of the Act under circumstances other than in response to a notice published in terms of Section 5(1), or the renewal of an existing approval, shall do so in accordance with the provisions of this by-law and at its own expense.

- (a) No application for approval in terms of Section 6(1) of the Act shall be granted in respect of any water scheme where the clients or potential clients exceed fifty (50) persons or where the population density exceeds one person per hectare.
- (b) Any application for an approval in terms of Section 30(2)(d) of the Act shall be made under the provisions of Section 22(1) of the Act.

(2) An application for such approval, or the renewal of such approval, shall be made to the Water Services Authority in writing.

(3) Immediately on receipt of an application made in terms of Section 22(1) of the Act, if the applicant is a private sector Water Services Provider as authorised agent the Water Services Authority shall, in terms of Section 19(2) of the Act, notify all public sector water providers known to it and -

- (a) request such public sector water services providers to notify the Water Service Authority within a period of 30 days from the date of the receipt by the public sector water provider of such notice whether it is willing and able to perform the functions contained in the application, and if it is, to provide the Water Services Authority with the documents and particulars referred to in Section 5 and 6, and

- (b) on receipt of such documentation and particulars, the Water Services Authority shall consider such application and decide whether to approve a public sector Water Services Providers or a private sector Water Services Provider as authorised agent in respect of the water scheme concerned.
- (4) Any application for approval in terms of Sections 5 and 6, or the renewal of any approval granted by the Water Services Authority, shall be accompanied by, at least, the following documents or particulars, provided that, in the case of a renewal of an approval, the Water Services Authority may, in its discretion, dispense with some of the documents or particulars to avoid unnecessary duplication :
- (a) a certified copy of the identity document of the applicant, if a natural person, or a certified copy of the founding document or constitution of the applicant, if the applicant is a legal person;
 - (b) a certified resolution adopted by the management body of the applicant, if the applicant is a legal person, resolving to apply for approval as a Water Services Provider as authorised agent;
 - (c) a certified list of the names and addresses of all persons occupying a leadership and decision-making power in the applicant;
 - (d) a detailed statement, supported by adequate proof of authenticity, setting out the applicants qualifications, capacity to undertake the work associated with the provision of water services in the circumstances reflected in the application, and the experience, skills and financial resources available to it to undertake the provision of water services to be provided by the applicant;
 - (e) a full and detailed description of the water scheme or schemes which will be operated by the applicant containing sufficient information to enable the Water Supply Authority to determine whether the water scheme or schemes complies with the criteria set in Section 11 of the Act, this by-law and the water development plan adopted by the Water Services Authority in terms of Section 15 of the Act, which description shall include, but not be limited to :
 - (i) the name or names of the water scheme or schemes,
 - (ii) indication of the nature of the water services to be provided by the applicant;
 - (iii) detailed plans or drawings, with co-ordinates and scales, and specifications depicting the physical installation associated with the water scheme or schemes, including all the structures, aqueducts, pipes, valves, pumps, meters or other apparatus relating thereto used or intended to be used by it in connection with the provision of water services contemplated in the application;

- (iv) a detailed description, including numbers and locality, of the clients or potential clients that will be supplied with water by the applicant;
- (v) details of source, the quality and quantity of water that will be supplied to clients or potential clients and what arrangements are in place to ensure that such quality and quantity is consistently maintained;
- (vi) a business plan setting out how the water scheme or water schemes will be operated and maintained during the period the applicant undertakes the supply of water services as contemplated in the application, and what arrangements have been adopted to deal with any emergency, including natural disasters and drought;
- (vii) a budget describing the financial administration of the water scheme or water schemes, the source of any capital or revenue requirements, and an indication of the sustainability of the water scheme or water schemes; and
- (viii) details of tariffs and charges that the applicant will levy on all clients and potential clients, the method of calculating such tariffs and charges, the process whereby increases or decreases in such tariffs and charges will be dealt with, and the manner in which such tariffs and charges comply with the national norm set by the Minister of Water Affairs and Forestry in terms of Section 10 of the Act.
- (ix) a certificate indicating who the legal owner or owners of the water scheme or schemes is or are;
- (x) certified copies of all documents and deeds reflecting the legal status of the water scheme or schemes, including deeds of servitude where appropriate; and
- (xi) full details of the conditions that will be imposed in terms of Section 4 of the Act and full details required in terms of Section 19(4) of the Act.

7. Additional information to make decision

- (1) The Water Services Authority may call for any additional information or documents reasonably required to enable it to determine whether the proposer or applicant, including a public sector water provider, or the water scheme or schemes will comply with the Act, this by-law and the water development plan of the Water Services Authority, and whether the obligations of the Water Services Authority, imposed on it by the Act, will be met.
- (2) The Water Services Authority may, and it shall, if it initially decides to refuse to accept a proposal made as contemplated in Sections 5 and 6, or if it, initially decides to refuse an application made in terms of Sections 5 and 6, including an application made by a public sector water provider, prior to making a final

decision, meet with the proposer or applicant, as the case may be, and any organization reasonably representative of the clients or potential clients of the water scheme or schemes, in order to hear representations made by the applicant and such representative organizations in support of, or against, the applications, and it shall take such representations into account in arriving at its final decision.

8. Procedure on approval

(1) In the event of the Water Services Authority granting such approval it shall,

(a) in the case of an application for approval in terms of Section 7(1) of the Act, issue a letter of approval to the applicant containing such conditions as the Water Services Authority may deem appropriate, which conditions shall be binding on the applicant, and which may contain an obligation to comply with any provision of the by-laws as though such person or institution was an approved Water Services Provider as authorised agent;

(b) In the case of an application for approval in terms of Section 22(1) of the Act -

(i) if the applicant is a private sector Water Services Provider as authorised agent, cause a notice to be published in a newspaper or newspapers circulating in the area where the water scheme to which the application relates is situated, publicly disclosing its intention to approve such application; and

(ii) enter into a contract with the applicant, as contemplated in Section 19(1)(b)(i) of the Act, provided that, in the case of a private sector Water Services Provider as authorised agent, such contract shall not commence until a period of thirty days has elapsed after the date of publication of the notice contemplated in Section 19(1)(b)(i) of the Act and after the Water Services Authority has taken into account any representations made by any person or institution in response to the said notice; and

(iii) enter into a joint venture agreement with the Water Services Provider as authorised agent as contemplated in Section 19(1)(b)(ii) of the Act upon such terms and conditions as may be negotiated by such parties, provided that, in the case of a private sector water services provider, such agreement shall not commence until a period of thirty days has elapsed after the Water Services Authority has taken into account any representations made by any person or institution in response to the said notice.

(2) Any notice contemplated in Section (1)(b)(i) of the Act shall be published in a newspaper or newspapers, and in the predominant language of such newspaper, which is or are most likely to be read by a majority of the clients or potential

clients of the water scheme and by the public generally in the area of jurisdiction of the Water Services Authority.

(3) The by-laws in this Section shall apply in all cases where the Water Services Authority has granted its approval to a person or institution in terms of Section 22(1) of the Act read with the provisions of this by-law.

(4) The Water Services Authority shall designate each water scheme in its area of jurisdiction into one or other category defined in Section 9 of this by-law.

9 Water scheme categories

(1) The categories of water scheme contemplated in Section 5 and 6 shall be -

(a) "Category A" being a range of water schemes from either elementary or rudimentary water schemes providing water supply services by drawing water from a hand pump or protected spring, or the provision of sanitation services to a rural community, to more advanced water schemes providing water supply services by way of an abstraction system which is more sophisticated, which has a metered connection to a bulk main and the capacity to supply both communal stand-pipes and private connection provision, or sanitation services to a rural or semi-urban community;

(b) "Category B" being a range of water schemes from either water schemes where the abstraction and reticulation provides water to laid out or clearly identified sites, or sanitation services, to small towns, including un-proclaimed towns, to water schemes providing water supply services or sanitation services to a township proclaimed or approved under any law relating to the establishment of townships or water supply services for industrial use, or for the disposal of industrial effluent.

(2) The Water Services Authority may from time to time in appropriate circumstances change the category to which any water scheme has been allocated to.

(3) A Water Services Authority shall give written notice to the appropriate approved Water Services Provider as authorised agent of its intention to change the category to which any water scheme is allocated to such water services of its intention to change the category to which any water scheme is allocated to such Water Services Provider as authorised agent, and the change in allocation shall take effect from the date upon which such notice is delivered to the relevant Water Services Provider as authorised agent.

(4) The decision of the Water Services Authority to allocate a category to a water scheme shall be final, provided that any person or institution which has an interest in a particular water scheme who is aggrieved by such allocation on the grounds that he or she is materially prejudiced by such allocation, shall be entitled to appeal to the council of the Water Services Authority against such allocation in accordance with the following provisions -

- (a) an appeal shall be noted in writing delivered to a recognized main office of the Water Services Authority or by pre-paid post addressed to the recognized postal address of the Water Services Authority;
 - (b) the document evidencing the appeal shall state the grounds upon which the appellant considers that he or she is prejudiced by the allocation appealed against;
 - (c) the appeal shall be considered and disposed of by the Council within 45 days of the receipt by it of the document evidencing the appeal;
 - (d) The decision of the Council shall be final, but does not preclude the appellant from approaching and utilizing the Courts of Law.
- (5) Subject to the provisions of this By Law, the Water Services Authority may, in its discretion, in respect of any water scheme falling into Category "A", suspend any by-laws .
- (6) Any such suspension shall be reviewed at each Council sitting thereafter with a full motivated submission placed before the full Council as to why the suspension should remain in place. No by-law shall be suspended if the consequences of such suspension shall constitute a contravention of the Act.

10. Water services provider categories

- (1) Every approved Water Services Provider as authorised agent shall be designated as a Category 1 or a Category 2 provider in accordance with the following criteria -
- (a) a Category 1 provider shall be a person or institution which, in the opinion of the Water Services Authority, has the capacity, without external assistance, to manage and administer the water scheme in respect of which approval has been granted in terms of Section 22(1) of the Act and to maintain and operate the water scheme efficiently and effectively.
 - (b) a Category 2 provider shall be a person or institution which, in the opinion of the Water Services Authority, does not have the capacity, without external assistance, to manage and administer the water scheme in respect of which approval has been granted in terms of Section 22 (1) of the Act and maintain and operate the water scheme efficiently and effectively.
- (2) The decision of the Water Services Authority to allocate a category to an approved Water Services Provider as authorised agent shall be final, provided that any person or institution which has an interest in a particular provider who is aggrieved by such allocation on the grounds that he or she is materially prejudiced by such allocation, shall be entitled to appeal to the Council of the Water Services Authority against such allocation in accordance with the following provisions -
- (a) an appeal shall be noted in writing delivered to a recognized main office of the Water Services Authority or by pre-paid post addressed to the recognized postal address of the Water Services Authority;

- (b) the document evidencing the appeal shall state the grounds upon which the appellant considers that he or she is prejudiced by the allocation appealed against;
 - (c) the appeal shall be considered and disposed of by the Council within 45 days of the receipt by it of the document evidencing the appeal;
 - (d) the decision of the council shall be final.
- (3) The Water Services Authority may, in its discretion, require a Category 2 Water Services Provider, as a condition of approval in terms of Section 22(1) of the Act, to enter into a contract with a support services agent who shall in the opinion of the Water Services Authority, have the capacity to provide resources and assistance to the Water Services Provider as authorised agent required to enable the Water Services Provider as authorised agent to comply with the provisions of the Act, this by-law and any contract or joint venture agreement contemplated in Section 19(1)(b)(i) or (ii) of the Act.
- (4) A certified copy of the agreement referred to in Section 8 above of this by-law shall be lodged with the Water Services Authority and such copy shall at all times reflect the true agreement between the parties to it.
- (5) Any contract entered into in terms of Section 8 above of this by-law shall be approved by the Water Services Authority and may not be amended by the Water Services Provider as authorised agent and the support services agent without the prior written consent of the Water Services Authority.

11. Monthly report

- (1) An approved Water Services Provider as authorised agent shall submit a monthly report to the Water Services Authority providing at least the following information -
- (a) such information as the Water Services Authority may reasonably require in order to enable it to monitor and evaluate the operation of the water scheme concerned and to satisfy itself that the said scheme is being operated in such a manner so as to fulfil the requirements of the Act, the applicable water development plan, this by-law and the contract or joint venture contemplated in Section 19(1)(b)(i) or (ii) of the Act;
 - (b) Failure to submit the said report shall constitute grounds upon which the Water Services Authority shall be entitled to review the approval granted by it in terms of Section 22(1) of the Act to the Water Services Provider as authorised concerned;
 - (c) Such information pertaining to the quality of water so that the Water Services Authority may monitor and evaluate to such quality of water being delivered to the community within the area of jurisdiction of the Water Services Provider as authorised agent.

12. Quarterly report

- (1) An approved Water Services Provider as authorised agent shall submit a quarterly report to the Water Services Authority providing the following information :
- (a) the names and addresses of all clients;
 - (b) the quantity of water consumed by each client;
 - (c) the record of payments made by each client;
 - (d) arrears owing by clients to the approved Water Services Provider as authorised agent and the steps being taken to recover such arrears;
 - (e) arrears written off as irrecoverable and reasons why they are deemed to be irrecoverable; and
 - (f) circumstances where water services are limited or discontinued and the reasons why such services are so limited or discontinued.
- (2) Failure to submit the said report shall constitute grounds upon which the Water Services Authority shall be entitled to review the approval granted by it in terms of Section 22(1) of the Act to the Water Services Provider as authorised agent concerned.

13. Disputes

Any dispute or conflict arising between the Water Services Authority and an approved Water Services Provider as authorised agent shall be resolved by mediation and arbitration and every agreement made and entered into under the provisions of this by-law shall contain appropriate provisions to that effect.

CHAPTER 3: SERVICE LEVELS**14. Service levels**

- (1) The Municipality may in accordance with national policy, but subject to principles of sustainability and affordability determine the service levels it is able to provide to consumers and must make these known by public notice.
- (2) The Municipality may, in determining service levels, differentiate between types of consumers, geographical areas and socio-economic areas.
- (3) The following levels of service may, subject to subsection (1), be provided by the Municipality:
- (a) Communal water supply services and on-site sanitation services –
 - (i) constituting the minimum level of service provided by the Municipality;
 - (ii) consisting of reticulated standpipes or a stationery water tank serviced either through a network pipe or a water tanker located within a reasonable walking distance from any household with a Ventilated Improved Pit latrine located on each premises, with premises meaning the lowest order of visibly demarcated area on which some sort of informal dwelling has been erected;

- (iii) installed free of charge;
 - (iv) provided free of any charge to consumers; and
 - (v) maintained by the Municipality;
- (b) a yard connection not connected to any water installation and an individual connection to the Municipality's sanitation system –
 - (i) consisting of an un-metered standpipe on a premises not connected to any water installation and a pour-flush toilet pan, wash-trough and suitable toilet top structure connected to the Municipality's sanitation system;
 - (ii) installed free of charge;
 - (iii) provided free of any charge to consumers; and
 - (iv) maintained by the Municipality; and
- (c) a metered pressured water connection with an individual connection to the Municipality's sanitation system –
 - (i) installed against payment of the relevant connection charges;
 - (ii) provided against payment of the prescribed tariff; and
 - (iii) with the water and drainage installations maintained by the consumer.

CHAPTER 4: CONDITIONS FOR WATER SUPPLY SERVICES

Part 1: Connection to water supply systems

15. Application for water service

- (1) Application for water services is to be made in terms of Section 5 of the Customer Care and Revenue Management By-laws.
- (2) Where premises or a consumer are provided with a water service, it is deemed that a services agreement contemplated in Section 5(3) of the Customer Care and Revenue Management By-law, exists.
- (3) The Municipality must, on application as contemplated in subsection (1), inform the applicant of the different levels of services contemplated in Section 14(3) and the tariffs or charges associated with each level of services, and the applicant must elect the level of services to be provided to him or her or it.
- (4) A consumer may at any time apply that the level of services elected in terms of the agreement entered into be altered, provided that –
 - (a) such services are available; and
 - (b) any costs and expenditure associated with altering the level of services are payable by the consumer.
- (5) When a person applies in terms of Section 5 of the Customer Care and Revenue Management By-laws, the Municipality must ensure, through a process of interaction with the applicant, that the applicant understands the contents of the application form.

(6) In the instance where an illiterate or similarly disadvantaged person applies, the Municipality must take additional steps to ensure that the applicant understands such contents.

16. Special agreements for water services

The Municipality may enter into a special agreement with an applicant for the provision of water services to –

- (a) an applicant inside its area of jurisdiction, if the services applied for necessitates the imposition of conditions not contained in the form contemplated in Section 5(1) of the Customer Care and Revenue Management By-laws; and
- (b) an applicant outside its area of jurisdiction, if such application has been approved by the Water Services Authority having jurisdiction or supplying water services in the area in which the water is sourced.

17. Change in purpose for which water services are used

Where the purpose for or extent to which water services used is changed from that provided for in the agreement, the responsibility is on the consumer to advise the Municipality of such change, and the consumer must then enter into a new agreement with the Municipality.

18. Provision of connection pipe

- (1) If a services agreement for water supply services in respect of premises has been concluded and no connection pipe exists in respect of the premises, the owner must apply on the prescribed form, and pay the prescribed tariff for the installation of such a pipe.
- (2) If an application is made for a water supply service which is of such an extent or so situated that it is necessary to extend, modify or upgrade the water supply system in order to supply water to the premises, the Municipality may agree to the extension subject to such conditions as it may impose.
- (3) Only the Municipality may install a connection pipe, but the owner or consumer may connect the water installation to the connection pipe.
- (4) A person may not commence any development on any premises unless the Municipality has installed a connection pipe and meter.

19. Location of connection pipe

- (1) A connection pipe provided and installed by the Municipality must –
 - (a) be located in a position agreed to between the owner and the Municipality and be of the size determined by the Municipality;
 - (b) terminate at –
 - (i) the boundary of the land owned by or vested in the Municipality, or over which the Municipality has a servitude or other right;
 - (ii) the outlet of the water meter if it is situated on the premises; or

- (iii) the isolating valve if it is situated on the premises.
- (2) In reaching agreement with an owner concerning the location of a connection pipe, the Municipality must ensure that the owner is aware of –
 - (a) practical restrictions that may exist regarding the location of a connection pipe;
 - (b) the cost implications of the various possible locations of the connection pipe; and
 - (c) whether or not the Municipality requires the owner to indicate the location of the connection pipe by providing a portion of his or her water installation at or outside the boundary of his or her premises, or such agreed position inside or outside his or her premises where the connection is required, for the Municipality to connect to such installation.
- (3) The Municipality may on application by any person agree, subject to such conditions as it may impose, to a connection to a main other than that which is most readily available for the provision of water supply to the premises, but the applicant is responsible for any extension of the water installation to the connection point designated by the Municipality and for obtaining at his or her cost, such servitudes over other premises as may be necessary.
- (4) An owner must pay the prescribed connection charge in advance before a water connection can be effected.

20. Provision of single water connection for supply to several consumers on same premises

- (1) Despite Section 18, only one connection pipe to the water supply system may be provided for the supply of water to any premises, irrespective of the number of accommodation units, business units or consumers located on such premises.
- (2) Where the owner, or the person having the charge or management of any premises on which several accommodation units are situated, requires the supply of water to such premises for the purpose of supply to the different accommodation units, the Municipality may provide and install either –
 - (a) a single measuring device in respect of the premises as a whole or any number of such accommodation units; or
 - (b) a separate measuring device for each accommodation unit or any number thereof.
- (3) Where the Municipality has installed a single measuring device as contemplated in subsection (2)(a), the owner or the person having the charge or management of the premises, as the case may be –
 - (a) must, if the Municipality so requires, install and maintain on each branch pipe extending from the connection pipe to the different accommodation units –
 - (i) a separate measuring device; and
 - (ii) an isolating valve; and

- (b) is liable to the Municipality for the tariffs and charge for all water supplied to the premises through such a single measuring device, irrespective of the different quantities consumed by the different consumers served by such measuring device.
- (4) Despite subsection (1), the Municipality may authorise that more than one connection pipe be provided on the water supply system for the supply of water to any premises –
 - (a) comprising sectional title units; or
 - (b) if undue hardship or inconvenience would be caused to any consumer on such premises by the provision of only one connection pipe.
- (5) Where the provision of more than one connection pipe is authorized by the Municipality under subsection (4), the tariffs and charges for the provision of a connection pipe is payable in respect of each water connection so provided.
- (6) Where premises is supplied by a number of connection pipes, the Municipality may require the owner to reduce the number of connection points and alter his or her water installation accordingly.

21. Interconnection between premises or water installations

- (1) An owner of premises must ensure, subject to subsection (2), that no interconnection exists between –
 - (a) the water installation on his or her premises and the water installation on other premises; or
 - (b) where several accommodation units are situated on the same premises, between the water installations of the accommodation units.
- (2) Interconnection may exist only if he or she –
 - (a) has obtained the prior written consent of the Municipality; and
 - (b) complies with any conditions that it may have imposed.

22. Disconnection of water installation from connection pipe

The Municipality may disconnect a water installation from the connection pipe and remove the connection pipe if –

- (a) the agreement for supply has been terminated and it has not received an application for a subsequent supply of water to the premises served by the pipe within a period of 90 days of such termination; or
- (b) the building on the premises concerned has been demolished.

23. Communal water services works and provision of water services work for water supply to several consumers

The Municipality may install a communal water services work for the provision of water services to several consumers at a location that the Municipality deems appropriate, provided that the consumers to whom water services will be provided by that water services work have been consulted in respect of –

- (a) the level of service;
- (b) the tariff that will be payable; and
- (c) the location of the work.

24. Temporary supply from water supply system

- (1) The Municipality may authorise a temporary supply of water to be taken from one or more water supply systems specified by it, subject to such conditions and period as it may prescribe.
- (2) A person who desires a temporary supply of water referred to in subsection (1) or the use of a portable water meter in terms of subsection (4) or both a supply and a meter, must apply to the Municipality for such service.
- (3) Supply of water in terms of subsection (1) must be measured.
- (4) The Municipality may for purposes of measuring provide a portable water meter to be returned to the Municipality on termination of the temporary supply, and the portable meter and all other fittings and apparatus used for the connection of the portable water meter to the system –
 - (a) remain the property of the Municipality; and
 - (b) may be provided subject to any conditions imposed by the Municipality.

Part 2: Standards and conditions of supply

25. Quantity, quality and pressure

Water supply services provided by the Municipality must comply with the minimum standards set for the provision of water supply services as required in terms of regulations 3, 5 and 15 of Regulation 22355 promulgated in terms of the Act on 8 June 2001.

26. General conditions of supply

- (1) The Municipality may specify the maximum pressure to which water will be supplied from the water supply system but where a consumer requires water to be supplied at a greater pressure and this is technically feasible the consumer will be responsible for the costs.
- (2) The Municipality may, in an emergency, interrupt the supply of water to any premises without prior notice.
- (3) If the consumption of water by a consumer adversely affects the supply of water to another consumer, the Municipality –
 - (a) may apply restrictions to the supply of water to the first mentioned consumer in order to ensure a reasonable supply of water to the other consumer; and
 - (b) must in writing inform the first mentioned consumer of the restrictions.

27. Testing of pressure in water supply system

The Municipality may, on application by an owner and on payment of the determined charge, determine and furnish the owner with the value of the pressure in the water supply system relating to his or her premises over such period as he or she may request.

28. Pollution of Municipality's water supply

- (1) A person may not, unless the person is specifically authorized to do so in writing by the Municipality on application and if the water is used by it in connection with the water supply, in any manner pollute –
- (a) water in a reservoir or other place –
 - (i) which is either in whole or in part vested in the Municipality; or
 - (ii) which the Municipality owns or controls, either in whole or in part; and
 - (b) water or the environment in the jurisdiction of the Municipality, including but not restricted to all water sources such as streams, rivers, and dams.
- (2) (a) A person may not deposit or discharge rubbish, night-soil, industrial waste or other matter which may cause pollution of any nature on a portion of a catchment area, which has been designated by notice boards as an area where such acts are prohibited, relating to the Municipality's water supply.
- (b) A person may deposit or discharge rubbish, night-soil, industrial waste or other matter only at places designated by notice boards or in receptacles as are provided by the Municipality.
- (3) If a person contravenes subsection (1) or (2)(a), the Municipality may –
- (a) by written notice require the person immediately to stop the prohibited act and to take specified action within the specified period; or
 - (b) if the situation is a matter of urgency, without prior notice take such action as may be necessary and recover the cost from the person.

29. Owner to prevent pollution of water

- (1) An owner must provide and maintain approved measures to prevent the entry of a substance which may be a danger to health or adversely affect the possibility 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,
- (2) If an owner fails to comply with subsection (1) and pollution occurs, the Municipality may serve a notice contemplated in Section 131 on the owner.

30. Water restrictions

- (1) The Municipality may –
- (a) for the purposes of water conservation;
 - (b) where drought conditions prevail or are imminent;
 - (c) to prevent the wasteful use of water, or;
 - (d) in the event of a water shortage, drought or flood,
- by public notice –
- (i) prohibit or restrict the consumption of water in the whole or part of its area of jurisdiction in general or for –
 - (aa) specified purposes;
 - (bb) during specified hours of the day or on specified days; or
 - (cc) in a specified manner;
 - (ii) determine and impose –
 - (aa) a limit on the quantity of water that may be consumed over a specified period;
 - (bb) charges additional to those the prescribed tariff in respect of the supply of water in excess of a limit contemplated in item (aa); or
 - (cc) a general surcharge on the prescribed tariff in respect of the supply of water; or
 - (iii) impose restrictions or prohibitions on –
 - (aa) the use or manner of use or disposition of an appliance by means of which water is used or consumed; or
 - (bb) the connection of such appliances to the water installation.
- (2) A public notice contemplated in subsection (1) must, except in the event of a flood or other disaster necessitating the immediate restriction or prohibition of the consumption of water, set out the date and time when such restrictions become effective, being not less than three days after the date of publication of the public notice.
- (3) The Municipality may –
- (a) limit the application of the provisions of a public notice contemplated by subsection (1) to specified areas and categories of consumers, premises and activities; or
 - (b) permit deviations and exemptions from, and the relaxation of, any of the provisions on reasonable grounds.
- (4) The Municipality may –
- (a) take measures, or by written notice require a consumer at his or her own expense to take measures, including the installation of measurement devices and devices for restricting the flow of water, as may be necessary to ensure compliance with a public notice published contemplated in subsection (1); or
 - (b) for such period as it may deem fit, limit the supply of water to any premises in the event of –
 - (i) a contravention of the public notice on such premises; or

- (ii) failure to comply with the terms of a public notice contemplated in of subsection (1), and where the supply has been limited, it shall only be restored when the prescribed tariff for reconnecting the supply has been paid.
- (5) The provisions of this Section also apply in respect of water supplied directly by the Municipality to consumers outside its area of jurisdiction, despite anything to the contrary in the conditions governing such supply, unless otherwise specified in the public notice contemplated in subsection (1).

31. Specific conditions of supply

- (1) Despite Section 25, the granting of a supply of water by the Municipality does not constitute an undertaking by it to maintain at all times or at all points in its water supply system –
 - (a) an uninterrupted supply, subject to the provisions of regulations 4 and 14 of Regulation 22355 promulgated in terms of the Act on 8 June 2003; or
 - (b) a specific pressure or rate of flow in such supply other than required in terms of regulation 15(2) of Regulation 22355 promulgated in terms of the Act on 8 June 2001.
- (2) The Municipality may, subject to the provisions of subsection (1)(b), specify the maximum pressure to which water will be supplied from the water supply system.
- (3) If an owner requires –
 - (a) that any of the standards referred to in subsection (1); or
 - (b) a higher standard of service than specified in Section 25,be maintained on his or her premises, he or she must take the necessary steps to ensure that his or her water installation is able to meet such standards.
- (4) The Municipality may, in an emergency, interrupt the supply of water to any premises without prior notice.
- (5) The Municipality is not liable for any damage to property caused by water flowing from any water installation left open when the water supply is re-instated, following an interruption in supply.
- (6) Every steam boiler, hospital, industry and any premises which requires, for the purpose of the work undertaken on the premises, a continuous supply of water must have a storage tank where water can be stored when the continuous supply is disrupted, and the storage tank –
 - (a) must comply with the specification for water storage tanks as stipulated in SABS 0252 Part 1; and
 - (b) must have a capacity of not less than 24 hours water supply calculated as the quantity required to provide the average daily consumption.

Part 3: Measurement

32. Measuring of quantity of water supplied

- (1) The Municipality may install at any point on the service pipe on the premises a measuring device, and its associated apparatus.
- (2) If the Municipality installs a measuring device on a service pipe in terms of subsection (4), it may install a section of pipe and associated fittings between the end of its connection pipe and the meter, and such section is deemed to form part of the water supply system.
- (3) If the Municipality installs a measuring device together with its associated apparatus on a service pipe in terms of subsection (4), the owner –
 - (a) must provide a suitable place in which to install it;
 - (b) must ensure that unrestricted access is available at all times;
 - (c) is responsible for its protection and is liable for the costs arising from damage thereto, excluding damage arising from normal wear and tear;
 - (d) must ensure that no connection is made to the pipe in which the measuring device is installed, between the measuring device and the connection pipe serving the installation;
 - (e) must provide for the drainage of water which may be discharged, from the pipe in which the measuring device is installed, in the course of work done by the Municipality on the measuring device; and
 - (f) may not use or permit to be used on any water installation, any fitting, machine or appliance which causes damage or is likely to cause damage to any meter.
- (4) A person other than the Municipality may not –
 - (a) disconnect a measuring device and its associated apparatus from the pipe in which they are installed;
 - (b) break a seal which the Municipality has placed on a meter; or
 - (c) in any other way interfere with a measuring device and its associated apparatus.
- (5) If the measuring device is a meter and its size is unsuitable by reason of the quantity of water supplied to premises, the Municipality may –
 - (a) install a meter of such size as is necessary; and
 - (b) recover from the owner of the premises concerned the prescribed tariff for the installation of the meter.
- (6) The Municipality may require that the owner, at his or her expense, install a measuring device to each dwelling unit on any premises, to determine the quantity of water supplied to each unit, but where fixed quantity water delivery systems are used, a single measuring device may be used to supply more than one unit.

33. Quantity of water supplied to consumer

- (1) Where water supplied by the Municipality to any premises is in any way taken by the consumer without such water passing through any measuring device