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Provincial Gazette Igazethi Yephondo Provinsiale Koerant

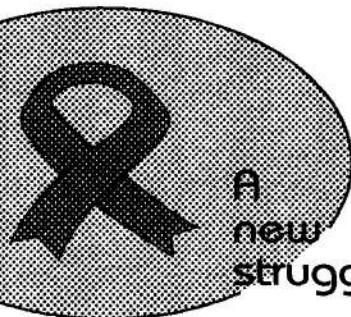
Vol. 13

BISHO/
KING WILLIAM'S TOWN, 27 DECEMBER 2006

No. 1643
(Extraordinary)

We all have the power to prevent AIDS

AIDS
affects
us all



A
new
struggle

Prevention is the cure

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CONTENTS • INHOUD

<i>No.</i>		<i>Page No.</i>	<i>Gazette No.</i>
LOCAL AUTHORITY NOTICES			
278	Constitution of the Republic of South Africa, 1996: Kouga Municipality: Aerodrome By-law	3	1643
279	do.: do.: Customer Care and Revenue Management By-law	10	1643
280	do.: do.: Fences and Fencing By-law	40	1643
281	do.: do.: Funeral Parlours, Cemeteries and Crematoria By-law	49	1643
282	do.: do.: Impoundment of Animals By-law	73	1643
283	Eastern Cape Liquor Act (10/2003): Kouga Municipality: Liquor Trading Hours By-law	79	1643
284	Constitution of the Republic of South Africa, 1996: Kouga Municipality: Public Amenities By-law	86	1643
285	do.: do.: Roads and Traffic By-law	107	1643
286	do.: do.: Sporting Facilities By-law	120	1643
287	do.: do.: Storm Water Management By-law	129	1643

LOCAL AUTHORITY NOTICES

No. 278

KOUGA MUNICIPALITY

AERODROME BY-LAW

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

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. Appeal
17. Penalties
18. Revocation of by-laws
19. 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 Kouga Municipal Aerodrome;

"Council" means the Kouga Municipal Council;

"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 Municipality of Kouga, 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;
"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;
"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.

6. Arrivals and departure of aircraft

The pilot and every other person for the time being 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) Motor cars and other vehicles may, in the absence of any special direction given by the Manager, only be parked in areas designated for that purpose by notices and within any lines which may be marked on the surface of any such area or as directed by the Manager or his or her nominee, however this subsection does not apply to any officer of the municipality employed at the aerodrome while acting in the course of his or her official duties.
- (2) The Manager may at any time without previous notice, and either permanently or for such period as he or she may determine, prohibit or restrict in such manner as he or she may deem necessary the admission of persons or vehicles to the aerodrome or any particular part thereof.
- (3) The Manager may, if it is deemed necessary for the proper control of the aerodrome, direct the person in lawful charge of a vehicle which is parked on the aerodrome to move the vehicle –
 - (a) to another place on the aerodrome indicated by the Manager;
 - or
 - (b) from the aerodrome;

and if such person refuses or fails or is not present to comply forthwith such direction the Manager or a member of the police may have that vehicle moved to such other place or from the aerodrome and any such action by the Manager or a member of the police does not exempt such person from prosecution in respect of such refusal or failure.

(4) Motor vehicles may not be driven on the taxiways and runways without special permission from the Manager.

(5) Pedestrians and persons in vehicles at the aerodrome are subject to the supervision of the Manager and must obey such directions with regard to their movements as he or she considers necessary to give in the interests of safety or the good management of the aerodrome.

(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 there from 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, within or around the aerodrome premises, buildings, structures, trees, fences or 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) play any musical instrument, operate any sound reproducing device, sing or make any speech;
- (k) cause any obstruction, disturbance or nuisance or commit any act causing annoyance to other persons using the aerodrome or lawfully present thereat;
- (l) 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 chock, drum, loading step, trestle or other equipment or object capable of causing an obstruction may be left on the landing field except when its presence there is actually and immediately 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 refuses or fails or is not present to comply forthwith with any direction given by the Manager in terms of subsection (1), the Manager may take all steps necessary to ensure that such direction is complied with as expeditiously and safely as possible and may recover from the operator of that aircraft the cost incurred in ensuring compliance with such direction and any such action by the Manager does not exempt such operator from prosecution in respect of such refusal or failure.

12. Supply of fuel to Aircraft.

(1) No person may on the aerodrome supply fuel to any aircraft except at a place and in a manner approved by the Manager.

(2) The Manager may make any approval granted by him or her in terms of subsection (1) subject to compliance with such conditions as he or she may consider necessary to impose in order to safeguard persons or property on the aerodrome and he or she may from time to time vary or add to any condition so imposed or withdraw his approval.

- (3) The supply of fuel is, notwithstanding the above, subject to the provisions of the municipality's by-law relating to fire prevention.
- (4) A person who contravenes subsection (1) or who fails to comply with a condition imposed in subsection (2) 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 3, the buildings, hangars and other facilities on the aerodrome are under the control of the municipality and the use thereof is subject to such conditions as may be 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 3, no person may engage in the sale of refreshments or in the sale or hire of any other commodity or in the rendering for reward or otherwise of any service within the boundary of the aerodrome unless having obtained a written permit to do so given by the municipality.
- (2) A person who contravenes subsection (1) commits an offence.

16. 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.

17. 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.

18. 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.

19. 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. 279

**KOUGA MUNICIPALITY
CUSTOMER CARE AND REVENUE MANAGEMENT BY-LAW**

Under section 156 of the Constitution of the Republic of South Africa, 1996, section 6 of the Property Rates Act, 2004 (Act 6 of 2004), and section 75 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), the Kouga Municipality, enacts as follows:-

TABLE OF CONTENTS

1. Definitions

CHAPTER 1: CUSTOMER CARE PRINCIPLES, OBJECTIVES AND IMPLEMENTATION, AND DIFFERENTIATION

2. Customer care principles, and objectives
3. Municipal manager responsible officer
4. Differentiation between customers and exemption

CHAPTER 2: SUPPLY OF MUNICIPAL SERVICES

Part 1: Application for supply and service agreements, deposits, billing and payment, and termination of service agreements

5. Application for supply of municipal services and service agreements
6. Deposits
7. Billing and payment
8. Termination of service agreement

Part 2: Non-payment of municipal accounts

9. Arrangements for payments
10. Interest on overdue municipal accounts
11. Debt collection mechanisms

Part 3: Metering equipment and metering of services

12. General provisions
13. Metering equipment and measuring of consumption
14. Resale of water or electricity

Part 4: Indigence relief measures

15. Requirements for indigence relief
16. Credit given

CHAPTER 3: TARIFFS

Part 1: General principles, calculation of tariffs for major services

17. General principles
18. Calculation of tariffs for major services

Part 2: Structure of tariffs for major services, minor tariffs

19. Structure of tariffs
20. Electricity
21. Water
22. Refuse removal
23. Sewerage
24. Minor tariffs

CHAPTER 4: RATES

25. Imposition of rates
26. Rebates on rates
27. Adjustment of rates
28. Frequency of valuations

CHAPTER 5: ENFORCEMENT

29. Municipality's powers to restrict or disconnect supply of services
30. Tampering, unauthorised connections and reconnections, and improper use
31. Clearance certificate
32. Tenders and grants-in-aid
33. Power of council to recover costs
34. Prima facie evidence
35. Abandonment of bad debts, and full and final settlement of account
36. Power of entry and inspection
37. Authentication and service of orders, notices and other documents

CHAPTER 6: MISCELLANEOUS PROVISIONS

38. Right of appeal
39. Offences and penalties
40. Repeal of by-laws
41. Short title and commencement

1. Definitions

For the purposes of this by-law, unless the context otherwise indicates –

"account holder" means any person who is due to receive a municipal account, which includes a user of pre-paid electricity or water;

"annual budget" means the budget approved by the municipal council for any particular financial year, and includes any adjustments to such budget;

"applicant" means a person who applies for the supply of municipal services;

"availability charge" means a fixed monthly or annual charge levied against the account holder which is based on the cost for providing a municipal service to the premises of the account holder;

"billing" means invoicing on a municipal account to an account holder of an amount or amounts payable for rates, metered services, other municipal charges, levies, fees, fines, taxes, or any other amount or amounts payable arising from any other liability or obligation;

"consumer" means the occupier of any premises to which the municipality has agreed to supply or is actually supplying municipal services, or if there is no occupier, then any person who has entered into a service agreement with the municipality for the supply of municipal services to such premises, or, if there be no such person, then the owner of the premises, and **"domestic consumer"** or **"domestic user"** of municipal services means the person or household to which municipal services are rendered in respect of residential property;

"consumer price index" means the consumer price index (CPIX) as determined and gazetted by the South Bureau of Statistics;

"Council" means the Council of the Kouga Municipality (or any service provider to the municipality);

"credit control" means all the functions relating to the collection of revenue;

"customer management" means the focusing on the account holder's needs in a responsive and proactive way to encourage payment and thereby limiting the need for enforcement;

"customer service centre" means and serves as –

- (a) an office where an applicant may apply for services and enter into a service agreement with the municipality;
- (b) an office where an account holder may settle an account or may make pre-payment for services;

(c) a credit screening point where the credit assessment of an applicant can be processed; or

(d) an office where an account holder may query or verify accounts and metered consumption, and may communicate grievances, inquiries, recommendations and other relevant issues to the municipality and from where the response from the municipality can be conveyed to the account holder;

"due date" means the date specified as such on a municipal account for any charges payable and which is the last day allowed for the payment of such charges;

"interest" means an amount calculated at a rate determined by the municipality on a municipal account in arrears;

"land reform beneficiary", in relation to a property, means a person who –

(a) acquired the property through the provision of the Land and Assistance Act, 1993 (Act 126 of 1993);

(b) acquired the property through the provision of the Restitution of Land Rights Act, 1994 (Act 22 of 1994);

(c) holds the property subject to the Communal Property Associations Act, 1996 (Act 29 of 1996); or

(d) holds or acquires the property in terms of such other land tenure reform legislation as may be enacted;

"local community" or **"community"**, in relation to the municipality, means that body of persons comprising the residents of the municipality, the ratepayers of the municipality, any civic, non-governmental, private sector or labour organisations or bodies involved in local affairs within the municipality, and visitors and other people residing outside the municipality who, because of their presence in the municipality, make use of services or facilities provided by the municipality;

"major services" means those services contemplated in section 17(5);

"market value" in relation to a property means the value of the property as determined in accordance with section 46 of the Property Rates Act, 2004 (Act 6 of 2004);

"minor tariffs" means all tariffs, charges, fees, rentals or fines levied or imposed by the municipality in respect of services, other than major services provided, and includes services incidental to the provision of the major services.

"month" means one of 12 months of a calendar year;

"municipal account" means an account rendered on which is billed an amount or amounts payable to the municipality for rates, metered services, other municipal charges, levies, fees, fines, interest, taxes or any other amount or amounts payable arising from any other liability or obligation;

"municipal entity" means-

(a) a private company referred to in section 86B (1) (a) of the Municipal systems Act, Act 32 of 2000;

(b) a service utility; or

(c) a multi-jurisdictional service utility;

"municipality" means the Municipality of Kouga, 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, municipality or, 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.

"municipal property" includes a property owned by a municipal entity;

"multiple purposes", in relation to a property, means the use of a property for more than one purpose;

"municipal service" means a service that a municipality in terms of its powers and functions provides or may provide to or for the benefit of the local community irrespective of whether-

- (a) such a service is provided, or to be provided, by the municipality through an internal mechanism contemplated in section 76 of the Municipal Systems Act, 2000 or by engaging an external mechanism contemplated in the said section 76; and
- (b) fees, charges or tariffs are levied in respect of such a service or not;

"municipal tariff" means a tariff for services which the municipality sets for the provision of a service to the local community, such as a tariff set for major services or a minor tariff, and includes a surcharge on such service;

"occupier" means any person who occupies any premises or part thereof without regard to the title under which the person occupies, and includes -

- (a) any person in actual occupation of those premises;
- (b) any person legally entitled to occupy those premises;
- (c) in the case of those premises being subdivided and let to lodgers or various tenants, the person receiving the rent payable by such lodgers or tenants whether on the person's own account or as agent for any person entitled thereto or interested therein;
- (d) any person having the charge or management of those premises, and includes the agent of any such person when the person is absent from the Republic of South Africa or his or her whereabouts are unknown; and
- (e) the owner of those premises;

"officer" means an employee of the municipality or any other person who is specifically authorised thereto by the municipality to perform any act, function or duty in terms of, or exercise any power under this by-law;

"organ of state" means an organ of state as defined in section 239 of the Constitution;

"owner" means -

- (a) a person in whom the legal title to a premises is vested;
- (b) in a case where the person in whom the legal title is vested is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration of and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;
- (c) in the case where the municipality is unable to determine the identity of the person in whom the legal title is vested, the person who is entitled to the benefit of such premises or a building thereon;
- (d) in the case of premises for which a lease of 30 years or more has been entered into, the lessee thereof;
- (e) in relation to -

- (i) a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act 95 of 1986), and without restricting the above, the developer or the body corporate in respect of the common property; or
 - (ii) a section as defined in such Act, the person in whose name such section is registered under a sectional title deed and includes the lawfully appointed agent of such a person;
 - (f) any legal person including, but not limited to –
 - (i) a company registered in terms of the Companies Act, 1973 (Act 61 of 1973), Trust inter vivos, Trust mortis causa, a Closed Corporation registered in terms of the Closed Corporation's Act, 1984 (Act 69 of 1984), a voluntary association;
 - (ii) any Department of State;
 - (iii) any council or Board established in terms of any legislation applicable to the Republic of South Africa; and
 - (iv) any Embassy or other foreign entity; and
 - (g) a lessee of municipal property who is deemed to be the owner for the purposes of rendering a municipal account;
- “owner”**, in relation to –
- (a) a property referred to in paragraph (a) of the definition of “property”, means a person in whose name ownership of the property is registered;
 - (b) a right referred to in paragraph (b) of the definition of “property”, means a person in whose name the right is registered;
 - (c) a land tenure right referred to in paragraph (c) of the definition of “property”, means a person in whose name the right is registered or to whom it was granted in terms of legislation; and
 - (d) public service infrastructure referred to in paragraph (d) of the definition of “property”, means the organ of state which owns or controls that public service infrastructure as envisaged in the definition of “publicly controlled”, however, the municipality may, for the purposes of the Property Rates Act, 2004 (Act 6 of 2004), regard as the owner of a property –
 - (i) in the case of a property in a trust, but excluding state trust land, a trustee;
 - (ii) in the case of a property in a deceased estate, an executor or administrator;
 - (iii) in the case of a property in an insolvent estate or in liquidation, a trustee or liquidator;
 - (iv) in the case of a property in the estate of a person under judicial management, a judicial manager;
 - (v) in the case of a property in the estate of a person under curatorship, a curator;
 - (vi) in the case of a property that is subject to a usufruct or other personal servitude, a person in whose name a usufruct or other personal servitude is registered;
 - (vii) in the case of a property that is registered in the name of the municipality and is leased by it, a lessee; and
 - (viii) in the case of a property sold by the municipality and of which possession was given to the buyer pending registration of ownership in the name of such buyer, a buyer;
- “permitted use”**, in relation to a property, means the limited purposes for which the property may be used in terms of any restrictions imposed by a condition of title, a provision of the municipality's town planning or land use scheme, or any legislation applicable to any specific property or properties, or any alleviation of any such restrictions;
- “person”** includes a legal person and an organ of state;

"preferred customer" means a person who may be granted special concessions by the municipality;

"premises" means any piece of land, the external surface boundaries of which are delineated on –

- (a) a general plan or diagram registered in terms of Land Survey, Act of 1927 (Act 9 of 1927), or in terms of the Deeds Registry, Act of 1937 (Act 47 of 1937); or
- (b) a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act 93 of 1986), which is situated within the area of jurisdiction of the municipality;
- (c) and includes any other land and any building or structure above or below the surface of any land;

"property" means –

- (a) immovable property registered in the name of a person, including in the case of a sectional title scheme a sectional title unit registered in the name of a person;
- (b) a right registered against immovable property in the name of the person, but excluding a mortgage bond registered against the property;
- (c) a land tenure right registered in the name of a person or granted to a person in terms of legislation, such as a "land reform beneficiary"; and
- (d) public service infrastructure;

"publicly controlled" means owned by or otherwise under the control of an organ of state, including a public entity listed in the Public Finance Management Act, 1999 (Act 1 of 1999), a municipality, or a municipal entity;

"public service infrastructure" means publicly controlled infrastructure of the following kinds:

- (a) national, provincial or other public roads on which goods, services or labour move across a municipal boundary;
- (b) water or sewer pipes, ducts or other conduits, dams, water supply reservoirs, water treatment plants or water pumps forming part of a water or sewer scheme servicing the public;
- (c) power stations, power sub-stations or power lines forming part of an electricity scheme serving the public;
- (d) gas or liquid fuel plants or refineries or pipelines for gas or liquid fuel forming part of the scheme for transporting such fuels;
- (e) railway lines forming part of a national railway system;
- (f) communication towers, masts, exchanges and lines forming part of a communication system serving the public;
- (g) runways or aprons at national or provincial airports;
- (h) breakwaters, seawalls, channels, basins, quay walls, jetties, roads, railway or infrastructure used for the provision of water, lights, power, sewerage or similar services of ports, or navigational aids comprising lighthouses, radio navigational aids, buoys, beacons or any other device or system used to assist the safe and efficient navigation of vessels;
- (i) any other publicly controlled infrastructure as may be prescribed by law; and
- (j) rights of way, easements or servitudes in connection with infrastructure mentioned in paragraphs (a) to (i);

"rate" means a municipal rate on property as envisaged in section 229(1)(a) of the Constitution;

"rateable property" means property on which the municipality may in terms of section 2 of the Property Rates Act, 2004, levy a rate, but excludes property fully excluded from the levying of rates in terms of section 17 of that Act, but includes any rights registered against such property, with the exception of a mortgage bond;

"ratepayer" means a person who is liable to the municipality for the payment of rates on property in the municipality, any other tax, duty or levy imposed by the municipality, or fees for services provided either by the municipality or in terms of a service delivery agreement, or a combination of the above;

"rebate", in relation to a rate payable on a property, means a discount granted in terms of section 15 of the Property Rates Act, 2004 on the amount of the rate payable on the property;

"residential property" means a property included in the valuation roll as residential in terms of section 48(2)(b) of the Property Rates Act, 2004;

"revenue" means all monies due to the municipality and to which the municipality has the right to exact and to enforce payment of, irrespective of the reason for or the origin of its factuality;

"sectional title scheme" means a scheme as defined in section 1 of the Sectional Titles Act, 1986 (Act 95 of 1986);

"sectional title unit" means a unit as defined in section 1 of the Sectional Titles Act, 1986 (Act 95 of 1986);

"state trust land" means land owned by the state and held in trust for persons communally inhabiting the land in terms of a traditional system of land tenure, over which land tenure rights have been registered or granted, or which is earmarked for disposal in terms of the Restitution of Land Rights, 1994 (Act 22 of 1994);

"tampering" means any unauthorised interference with the municipality's supply, seals and metering equipment and "tamper" has a corresponding meaning;

"target" means realistic targets which may be set by the municipality ; and

"tariffs for major services" means tariffs set for the supply and consumption or usage of major services;

"unreliable customer" includes an account holder, who according to his or her payment record fails to settle his or her municipal account by the due date or who is in arrears with payments due to council or who tampers or interferes with metering equipment, seals or the supply of municipal services.

CHAPTER 1

CUSTOMER CARE PRINCIPLES, OBJECTIVES AND IMPLEMENTATION, AND DIFFERENTIATION

2. Customer care principles, and objectives

(1) The municipality aims –

- (a) to move progressively towards the social and economic upliftment of the community in harmony with its natural environment;
- (b) to provide basic services that are affordable to all its people, and specifically to the poor and disadvantaged, provided that, where applicable, service fees, rates, metered services, other municipal charges, levies, fees, fines, interest, taxes or any other amount or amounts payable, arising from any other liability or obligation, are paid for;
- (c) to engage the active participation of the community in the municipality's affairs, in particular in planning, service delivery and performance management;
- (d) to provide efficient, effective and transparent administration that conforms to constitutional principles;

- (e) to ensure that the municipality is financially and economically viable; and
 - (f) to create a harmonious relationship between the municipality and the community through the acknowledgement of reciprocal rights and duties;
- (2) The municipality by this by-law, designs, regulates on and implements a customer care and management system as contemplated in section 95 of the Municipal Systems Act.

3. **Municipal manager responsible officer**

The Municipal Manager –

- (a) is responsible to the Executive Mayor for the implementation and enforcement of the provisions of this by-law;
- (b) must, for the purposes of paragraph (a) take the necessary steps to implement and enforce the provisions of this by-law;
- (c) is accountable to the Executive Mayor for the agreed performance targets as approved by the municipality and the Executive Mayor, and for these purposes must –
 - (i) report to the Executive Mayor on matters relating to this by-law, including but not limited to –
 - (aa) the effectiveness of administrative mechanisms, resources processes and procedures to collect money that is due and payable to the municipality;
 - (bb) billing information, including the number of account holders, accruals, cash-flow, and customer management;
 - (cc) the satisfaction levels of account holders regarding services rendered; and
 - (dd) the effectiveness of the municipality's indigence relief measures; and
 - (ii) encourage and bear on account holders, where needed, to settle outstanding accounts within the ambit of this by-law; and
 - (iii) with the consent of an account holder, enter into an agreement with the account holder's employer to deduct from the salary or wages of the account holder –
 - (aa) any outstanding amounts as may be agreed; or
 - (bb) such regular monthly amounts as may be agreed, and may provide special incentives for employers to enter into such agreements, and employees to consent to such agreements.

4. **Differentiation between customers and exemption**

- (1) In accordance with the principles embodied in the Constitution and the provisions of sections 6 and 8 of the Property Rates Act, 2004, and sections 74(3) and 75 of the Local Government: Municipal Systems Act, 2000, the municipality may differentiate between different categories of users and consumers in regard to the tariffs which it levies, categories of ratepayers, account holders, customers, debtors, taxes, services, service standards and other matters, however, such differentiation must at all times be reasonable, and must be fully disclosed in each annual budget.
- (2) The municipality may, in writing exempt an account holder, category of account holders, or other persons from complying with a provision of this by-law, subject to any conditions it may impose, if the application or operation of that

provision would be unreasonable, however the municipality or its authorised agent may not grant exemption from any section of this by-law that may result in –

- (a) the wastage or excessive consumption of water or electricity;
 - (b) the evasion or avoidance of water or electricity restrictions;
 - (c) significant negative effects on public health, safety or the environment;
 - (d) the non-payment for services;
 - (e) the installation of pipes and fittings which are not acceptable in terms of the municipality's prescribed standard; or
 - (f) any Act, or any regulation made under it, not being complied with.
- (3) The municipality or its authorised agent may at any time after giving written notice of at least 30 days, withdraw any exemption given under subsection (2).

CHAPTER 2 SUPPLY OF MUNICIPAL SERVICES

Part 1

Application for supply and service agreements, credit screening, deposits, billing and payment, and termination of service agreements

5. Application for supply of municipal services and service agreements

- (1) Any application for any supply of services to any premises must be made at the municipal offices at least four working days, or such lesser period as may be accepted by the municipality, prior to the service being required and must comply with the conditions determined by the Municipal Manager.
- (2) After the commencement of this by-law only the owner of a property or his or her duly authorised agent on his or her behalf may apply for municipal services to be supplied to a property.
- (3) No services shall be supplied unless and until application has been made by the owner and a service agreement in the format prescribed by the municipality has been entered into and a deposit provided for in section 6 has been paid.

6. Deposits

- (1) On approval of the application and before the service is made available, the municipality may require the applicant –

- (a) to deposit for municipal services with the municipality a sum of money;
- (b) to provide any other form of security; or
- (c) to agree to special conditions regarding payment of the municipal account,

and monies so deposited with the municipality serve as security.

- (2) The Municipal Manager reserves the right to review the sum of money deposited or the amount for which additional security is required.
- (3) The Municipal Manager may, in respect of preferred customers, consider relaxation of the conditions pertaining to deposits as set out in subsections (1) and (2).
- (4) On termination of the supply of services, the amount of such deposit, less any payments due to the municipality, must be refunded to an account holder.

7. Billing and payment

- (1) The account holder must pay all amounts due to the municipality as reflected in the municipal account, and the onus is on the account holder to verify the accuracy of such account.
- (2) An account holder must pay for metered services, and must pay the rates, other municipal charges, levies, fees, fines, interest, taxes or any other liability or obligation from the date of origin of such municipal charges until the written termination of the services.
- (3) An account holder –
 - (a) must, where possible, be rendered one account, on which the due date for settlement of the total amount owing is reflected, subject to the provisions of subsection (14); and
 - (b) must be billed monthly in cycles of approximately 30 days.
- (4) Payment must be received on or before the close of business on the due date.
- (5) Payment made via electronic media or any of the service providers appointed by the municipality to receive payments on its behalf, should be made at least four working days before the due date to enable the payment to be processed, and interest accrues should the municipality receive payment after the due date.
- (6) Where the account holder effects payment of an account via a service provider four working days or more before the due date and such service provider fails to furnish the municipality with the relevant payment details, such service provider may be held liable for all charges incurred by the municipality to recover an arrear amount erroneously reflected on the account of the account holder, as well as for interest charges.
- (7) The municipality may estimate the quantity of metered services supplied in respect of a period or periods within the interval between actual successive readings of the meters, which intervals may not exceed 4 months, and may render an account to an account holder for the quantity of metered services so estimated.
- (8) If an account holder is dissatisfied with an account rendered for metered services supplied by the municipality, such account holder may, prior to the due date stipulated therein object to the account, setting out reasons for such dissatisfaction.
- (9) Should any dispute arise as to the amount owing by an account holder, and subject to the provisions of section 102 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), the account holder must notwithstanding such dispute proceed to make regular payments by the due date based on the calculation of the average municipal account for the preceding three months prior to the arising of the dispute and taking into account interest as well as the annual amendments of tariffs of the municipality.
- (10) An error or omission in any account or failure to render an account does not relieve the account holder of the obligation to pay by the due date.
- (11) If an account holder uses water or electricity for a category of use other than that for which it is supplied by the municipality and is in consequence not charged for water or electricity so used, or is charged for the water or electricity at a rate lower than that at which the account holder should be charged, the account holder is liable for the amount due to the municipality in accordance with the prescribed charges in respect of –
 - (a) the quantity of water or electricity which the account holder has used and for which the account holder has not been charged; or
 - (b) the difference between the cost of the water or electricity used by the

account holder at the rate at which the account holder has been charged and the cost of the water or electricity at the rate at which the account holder should have been charged.

(12) An account holder is not entitled to a reduction of the amount payable for metered services which are lost due to a fault in the meter, until such time as the provisions of section 13(8)(c) have been met.

(13) The municipality may –

- (a) consolidate any separate accounts of an account holder liable for payment to the Municipality; and
- (b) credit any payment by an account holder against any debt of that account holder.

(14) The owner of property may enter into an agreement with the municipality in terms of which payment for rates is made annually, in which case payment must be made on or before the date determined by the municipality.

8. Termination of service agreement

(1) Termination of the service agreement must be in writing to the other party of the intention to do so.

(2) Where a property is sold, an owner may terminate a service agreement by giving the municipality not less than four working days' notice in writing.

(3) The municipality may, by notice in writing of not less than 14 working days, advise an account holder of the termination of the agreement for a supply of municipal services if –

- (a) the account holder has committed a breach of this by-law and has failed to rectify such breach; or
- (b) the municipality cannot continue to supply the account holder with municipal services, as in terms of an arrangement with another authority supplying municipal services such authority must in future supply municipal services to the account holder.

Part 2

Non-payment of municipal accounts

9. Arrangements for payments

(1) Should an account holder, before any of the steps have been taken in terms of section 11, not be able to pay the municipal account in full, the account holder may approach the municipality with the aim of making short-term arrangements to settle the account.

(2) Should an account holder, after any of the steps have been taken in terms of section 13, experience difficulties in paying the municipal account, the account holder may approach the municipality with the aim of making arrangements to settle the account, and the account holder must enter into a written agreement with the municipality to repay to the municipality the outstanding and due amount under the conditions and on a basis determined, by the Municipal Manager,.

(3) The written agreement must be signed on behalf of the municipality by a duly authorised officer.

(4) In the instance where arrangements for payment have been made the municipality may –

- (a) review the deposit;
- (b) require of an account holder to pay by means of a stop order or debit order;
- (c) require of an account holder to convert to a pre-paid metering system; or
- (d) require any other form of security, including personal suretyship by the directors or members of a company, closed corporation, trust or body corporate.

10. Interest on overdue municipal accounts

- (1) The municipality may, charge or recover interest at a rate determined by it in respect of any arrear amounts due and payable.
- (2) Irrespective of the reason for non-payment, or where an arrangement has been made in terms of section 9, interest accrues if an account is unpaid.
- (3) Interest is calculated monthly according to the interest rate approved by the municipality, and a portion of a month is regarded as a month.
- (4) Interest is payable if payment is not received at an office of the municipality or to the credit of the bank account of the municipality at the close of business on the due date.

11. Debt collection mechanisms

- (1) Where appropriate, the Municipality must at all times attempt to advise an account holder of an impending disconnection or restriction of a supply, and the following mechanisms may be applied should an account holder fail to settle a municipal account by the due date:
 - (a) delivering or mailing of a final demand and explaining to the account holder the status of the account and the consequences of not paying or concluding an arrangement;
 - (b) informing the account holder verbally, in writing, telephonically, or by electronic means of the overdue amount and the impending disconnection or restriction of services
 - (c) disconnecting or restricting the supply of municipal services to the premises and the serving of a disconnection or restriction notice on the account holder; or
 - (d) debiting the municipal account of the account holder with all relevant fees or penalties approved by the municipality.
- (2) Where the metered supply had been disconnected or restricted, and should the account holder still fail to pay the account, the premises may be revisited at regular intervals to ensure that the metered supply remains disconnected or restricted, and if it is found that the supply which had been disconnected or restricted previously has been restored –
 - (a) the municipality has the right to take whatever action is required in terms of section 30, and the account holder is responsible for the relevant fees or charges or damages caused;
 - (b) the municipality may refuse to supply services for a period determined by the municipality ; and
 - (c) in the instance of the use of a pre-paid meter, the municipality may cease further vending of pre-paid services.

- (3) Where a duly authorised officer of the municipality has visited the premises for the purpose of disconnecting or restricting the supply and was obstructed or prevented from effecting such disconnection or restriction, an amount equal to the prescribed fee for a reconnection becomes payable for each visit necessary for the purpose of such disconnection or restriction, subject to a maximum of two such visits during which disconnection or restriction could not be effected.
- (4) The municipality may use any one or more of the following mechanisms to secure full payment of any amounts owing to it:
- (a) requiring of the account holder to convert to another metering system;
 - (b) allocating a portion of any pre-paid payment to other debts;
 - (c) publishing a list of account holders who remain in default;
 - (d) withholding payment of a grant-in-aid and subject to the provisions of section 32, excluding the account holder from the tender process;
 - (e) withholding payment on contracts for settlement of the municipal account;
 - (f) reviewing and altering the conditions of the service agreement;
 - (g) instituting legal proceedings for the recovery of the debt;
 - (h) classifying the account holder as an unreliable customer;
 - (i) using the services of external debt collection specialists or agencies;
 - (j) insisting on conversion to pre-paid metering at the cost of the account holder; or
 - (k) employing any other methods authorised by the municipality from time to time to recover arrear amounts.
- (5) The cost of collection, where applicable, is for the account holder's account.
- (6) Subject to the provisions of sections 28 and 29 of the Property Rates Act, 2004 Act 6 of 2004), the right to deny, restrict, disconnect or terminate services due to the non-payment for any rates, metered services, other municipal charges, levies, fees, fines, interest, taxes or any other amount or amounts payable arising from any other liability or obligation prevails notwithstanding the fact that –
- (a) payment was intended for any specific service; or
 - (b) the person who entered into a service agreement for supply of services with the municipality and the owner are different entities or persons, as the case may be.

Part 3

Metering equipment and metering of services

12. General provisions

The municipality may introduce various metering equipment and may encourage an account holder to convert to a system which will benefit the municipality and account holders.

13. Metering equipment and measuring of consumption

- (1) The municipality must, at the consumer's cost in the form of a direct charge or prescribed fee, provide, install and maintain appropriately rated metering equipment at the point of metering for measuring metered services.
- (2) The municipality reserves the right to meter the supply to a block of shops, flats, tenement-houses and similar buildings for the building as a whole, or for an individual unit, or for a group of units.

- (3) Where any building referred to in subsection (2) is metered by the municipality as a whole -
- (a) the owner may, at own cost, provide and install appropriate sub-metering equipment for each shop, flat and tenement; or
 - (b) the municipality may require the installation, at the account holder's expense, of a meter for each unit of any premises in separate occupation for the purpose of determining the quantity of metered services supplied to each such unit.
- (4) Where the electricity used by consumers is charged at different tariffs, the consumption must be metered separately for each tariff.
- (5) Where sub-metering equipment is installed, accommodation separate from the municipality's metering equipment must be provided where appropriate.
- (6) Except in the case of pre-payment meters, the quantity of metered services used by a consumer during any metering period is ascertained by reading the appropriate meter or meters supplied and installed by the municipality at the beginning and end of such metering period, except where the metering equipment is found to be defective.
- (7) For the purpose of calculating the amount due and payable for the quantity of metered services consumed, the same amount of metered services is deemed to be consumed during every period of 24 hours between readings.
- (8) The following apply to the accuracy of metering:
- (a) a meter is conclusively presumed to be registering accurately if its error, when tested in the manner prescribed in subsection (13), is found to be within the limits of error as provided for in the applicable standard specifications;
 - (b) the municipality has the right to test its metering equipment, and if it is established by test or otherwise that such metering equipment is defective, the Municipality must -
 - (i) in case of a credit meter, adjust the account rendered; or
 - (ii) in the case of prepayment meters:
 - (aa) render an account where the meter has been under-registering; or
 - (bb) issue a free token where the meter has been over-registering; and
 - (c) the consumer is entitled to have the metering equipment tested by the municipality on payment of the prescribed fee, and if the metering equipment is found not to comply with the system accuracy requirements as provided for in the applicable standard specifications, an adjustment in accordance with the provisions of paragraph (b) and subsection (7) must be made and the aforesaid fee must be refunded.
- (9) No alterations, repairs, additions or connections of any description may be made on the supply side of the point of metering unless specifically approved in writing by the Municipal Manager.
- (10) Prior to the municipality making any upward adjustment to an account in terms of subsection (8)(b), the municipality must -
- (a) notify the consumer in writing of the monetary value of the adjustment to be made and the reasons therefor;
 - (b) in such notification provide sufficient particulars to enable the consumer to submit representations thereon; and

- (c) call upon the consumer in such notice to present it with reasons in writing, if any, within 21 days or such longer period as the municipality may permit, why the account should not be adjusted as notified, and should the consumer fail to provide any representation during the period the municipality is entitled to adjust the account as notified in paragraph (a).
- (11) The Municipality must consider any representation provided by the consumer in terms of subsection (10) and may adjust the account appropriately.
- (12) If the Municipal Manager decides that such representation does not establish a case warranting an amendment to the monetary value established in terms of subsection (15), the municipality is entitled to adjust the account as notified in terms of subsection (10)(a), and the consumer has the right to appeal the decision of the official in terms of section 62 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000).
- (13) Meters are tested in the manner provided for in the applicable standard specifications.
- (14) When an adjustment is made to the consumption registered on a meter in terms of subsection (8)(b) or (8)(c), such adjustment is based either on the percentage error of the meter as determined by the test referred to in subsection (13), or upon a calculation by the Municipality from consumption data in its possession, and where applicable, due allowance must be made, where possible, for seasonal or other variations which may affect consumption.
- (15) When an adjustment is made as contemplated in subsection (14), the adjustment may not exceed a period of six months preceding the date on which the metering equipment was found to be inaccurate, however the application of this subsection does not bar a consumer from claiming back overpayment for any longer period where the consumer is able to prove the claim in the normal legal process.
- (16) The municipality may dispense with the use of a meter in case of –
 - (a) an automatic sprinkler fire installation; or
 - (b) special circumstances that may justify such dispensation.
- (17) The municipality may by notice –
 - (a) prohibit or restrict the consumption of metered services –
 - (i) for specified or non-specified purposes;
 - (ii) during specified hours of the day or on specified days or otherwise than during specified hours of the day or on specified days; and
 - (iii) in a specified or non-specified manner; and
 - (b) determine and impose –
 - (i) limits on the quantity of metered services which may be consumed over a specified period;
 - (ii) charges additional to those prescribed in respect of the supply of metered services in excess of a limit contemplated in subparagraph (i); and
 - (iii) a general surcharge on the prescribed charges in respect of the supply of metered services; and
 - (c) impose restrictions or prohibitions on the use or manner of use or disposition of an appliance by means of which metered services is used or consumed, or on the connection of such appliance.

(18) The municipality may limit the application of the provisions of a notice contemplated by subsection (17) to specified areas and classes of account holders, premises and activities, and may provide for the Municipality to permit deviations and exemptions from, and the relaxation of any of the provisions.

(19) To ensure compliance with a notice published in terms of subsection (17), the municipality may take, or by written notice require an account holder at the account holder's expense to take, such measures, including the installation of measuring devices and devices for restricting the flow of metered services as may be necessary.

(20) In addition to the person by whose act or omission a contravention of or failure to comply with the terms of a notice published in terms of subsection (17) is actually committed, an account holder in respect of the premises to which metered services are supplied is presumed also to have committed the contravention or to have so failed to comply, unless evidence is adduced that the account holder had taken all reasonable steps to prevent such a contravention or failure to comply by any other person, however, the fact that the account holder issued instructions to the other person shall not of itself be accepted as sufficient proof that the account holder took all such reasonable steps.

(21) The provisions of this section also apply in respect of metered services supplied directly by the municipality to account holders outside its area of jurisdiction, notwithstanding anything to the contrary in the conditions governing such supply, unless otherwise specified in the notice published in terms of subsection (17).

(22) If action is necessary as a matter of urgency to prevent waste of metered services, refuse or sewerage, damage to property, danger to life, or pollution of water, the municipality may –

(a) without prior notice disconnect the supply of metered services to any premises; and

(b) enter upon such premises and do emergency work, as it may deem necessary, and in addition by written notice require the account holder to do within a specified period such further work as the municipality may deem necessary;

(23) The municipality may recover from the account holder the cost of any work undertaken in terms of subsection (22)(b) where such work was undertaken because of an unlawful act or omission by the account holder.

(24) Before any metered or pre-paid metered supplies which have been disconnected or restricted for non-payment is restored, an account holder must pay all fees and charges as determined by the municipality.

(25) The municipality may, at the written request of an account holder and on the dates requested by the account holder –

(a) disconnect the supply of metered services to the account holder's premises; and

(b) upon payment of the prescribed charge for restoration, restore the supply of such services..

(26) After disconnection for non-payment of an account or a contravention of any provision of this by-law, the prescribed fees must be paid before reconnection is made.

(27) The following apply to the reading of credit meters:

(a) unless otherwise prescribed, credit meters are normally read at intervals of approximately one month and the fixed or minimum charges due in terms of the tariff are assessed accordingly and the municipality is not obliged to effect any adjustments to such charges;

- (b) if for any reason the credit meter cannot be read, the municipality may render an estimated account, and estimated consumption must be adjusted in a subsequent account in accordance with the consumption actually consumed;
 - (c) when an account holder vacates a property and a final reading of the meter is not possible, an estimation of the consumption may be made and the final account rendered accordingly;
 - (d) if a special reading of the meter is desired by a consumer, this may be obtained upon payment of the prescribed fee; and
 - (e) if any calculating, reading or metering error is discovered in respect of any account rendered to a consumer –
 - (i) the error must be corrected in subsequent accounts;
 - (ii) any such correction applies only in respect of accounts for a period of six months preceding the date on which the error in the accounts was discovered,
 - (iii) the correction is based on the actual tariffs applicable during the period; and
 - (iv) the application of this section does not prevent a consumer from claiming back overpayment for any longer period where the consumer is able to prove the claim in the normal legal process.
- (28) The following apply to prepayment metering:
- (a) no refund of the amount tendered for the purchase of electricity or water credit is given at the point of sale after initiation of the process by which the pre-payment meter token is produced; provided that this section will only apply to Standard Transfer Specification equipment (STS tokens);
 - (b) copies of previously issued tokens for the transfer of credit to the pre-payment meter may be issued at the request of the consumer;
 - (c) when an account holder vacates any premises where a pre-payment meter is installed, no refund for the credit remaining in the meter is made to the owner by the municipality;
 - (d) the municipality is not liable for the re-instatement of credit in a prepayment meter lost due to tampering with, or the incorrect use or the abuse of, pre-payment meters or tokens;
 - (e) where an account holder is indebted to the municipality for any rates, metered services, other municipal charges, levies, fees, fines, interest, taxes or any other amount or amounts payable arising from any other liability or obligation, the municipality may deduct a percentage from the amount tendered to offset the amount owing to the municipality; and
 - (f) the municipality may appoint vendors for the sale of credit for prepayment meters and does not guarantee the continued operation of any vendor.

14. Resale of water or electricity

- (1) No account holder who is supplied with metered services in terms of this by-law may sell or supply water or electricity to any other person or persons for such use upon any premises other than those in respect of which such agreement is made, or

permit or offer such resale or supply to be made, unless prior permission from the municipality has been obtained.

(2) If the municipality grants the permission referred to in subsection (1), it may stipulate the maximum price at which the water or electricity may be sold and impose such other conditions as it may deem fit.

(3) Permission referred to in subsection (1) may be withdrawn at any time.

(4) Where water or electricity is resold for use on the same premises, such resale must be in accordance with the tariff and subject to such conditions as the municipality may impose.

Part 4 **Indigence relief measures**

15. Requirements for indigence relief

(1) To qualify for indigence relief, the following requirements must be met:

- (a) The applicant must be an account holder;
- (b) the applicant must, before a date determined by the municipality, apply annually, or at such intervals as determined by the municipality, to be granted the status as a poor household, and for these purposes must -
 - (i) complete and sign the prescribed forms; and
 - (ii) provide any other documentation as may be required by the municipality;
- (c) the applicant may not be the owner of more than one property and he or she must occupy the property; and
- (d) the collective household income may not exceed the amount determined by the municipality in terms of subsection (2).

(2) For the purposes of determining the collective household income as contemplated in subsection (1)(d), the municipality may stipulate an amount, or may determine a maximum amount based on any one or more of the following:

- (a) consumption of water;
- (b) consumption of electricity; or
- (c) the municipal valuation of the property, which valuation may not exceed the value determined by the municipality.

(3) In the case of a tenant -

- (a) the tenant must apply in person and may qualify for electricity, water and refuse and sewage charges only, for which charges he or she must receive a municipal account; and
- (b) the person receiving the rent payable by the tenant whether on the person's own account or as agent for any other person entitled thereto or interested therein, is responsible for rates.

(4) In the instance where the account holder is deceased, the existing and future accounts of the household must be accepted under the indigence relief measures, on condition that only the surviving spouse or dependent children may apply or benefit.

16. Credit given

(1) Households which qualify for indigence relief measures may receive a credit for some or all of the following as determined by the municipality:

- (a) a quantity of electricity plus basic fee;
- (b) a quantity of water plus basic fee;
- (c) refuse removal charges;

- (d) sewerage charges;
 - (e) rates; or
 - (f) any other service fees, taxes or charges over and above the rendered services.
- (2) The municipality has the right to review an application for indigence relief on a regular basis and to visit the property mentioned in section 15(1)(c) at any reasonable time for the purposes of verifying the information given in an application.
- (3) The normal rates, fees and charges and the requirement to pay an account will apply should a household account exceed the credit limits approved by the municipality.
- (4) Where it has been established that indigence relief has been granted on the basis of false or fraudulent information supplied, the municipality may withdraw such relief with immediate effect.

CHAPTER 3 TARIFFS

Part 1

General principles, calculation of tariffs for major services

17. General principles

- (1) The municipality adopts, subject to subsection (14), sections 20(3)(d) and (e) and 21(5)(d), a two-part tariff structure consisting of a fixed availability charge coupled with a charge based on consumption.
- (2) In setting its annual tariffs the municipality must at all times take due cognisance of the –
- (a) tariffs applicable elsewhere in the economic region; and
 - (b) impact which its own tariffs may have on local economic development.
- (3) With the exception of the indigence relief measures approved by the municipality, service tariffs imposed by the municipality should be viewed as user charges and not as taxes, and the ability of the relevant consumer or user of the services to which such tariffs relate, to pay for such services, should not be considered as a relevant criterion.
- (4) The municipality must ensure that its tariffs are uniformly and fairly applied throughout the municipal area.
- (5) Tariffs for the following services rendered by the municipality, must as far as possible recover the expenses associated with the rendering of each service concerned, and, where feasible, generate a surplus as determined in each annual budget:
- (a) supply of electricity;
 - (b) supply of water;
 - (c) sanitation services, including sewerage and waste water disposal services; and
 - (d) refuse (solids waste) removal services.
- (6) The tariff, which a particular consumer or user pays, must be directly related to the standard of service received and the quantity of the particular service used or consumed.

- (7) The municipality must annually review its indigence relief measures, as contemplated in sections 15 and 16, and must set out the –
- (a) municipality's cost recovery policy in respect of the tariffs which it levies on registered indigents; and
 - (b) the implications of such policy for the tariffs which it imposes on other users and consumers in the municipal region.
- (8) (a) The municipality's tariff policy must be transparent.
(b) The extent to which there is cross-subsidisation between categories of consumers or users must be evident to all consumers or users of the service in question.
- (9) The municipality undertakes to –
- (a) ensure that its tariffs are explained to and understood by all consumers and users affected by this by-law;
 - (b) render its services cost effectively in order to ensure the best possible cost of service delivery.
- (10) In the case of the directly measurable services, namely electricity and water, the consumption of such services must be properly metered by the municipality, and meters must be read, wherever circumstances reasonably permit, on a monthly basis, and the charges levied on consumers must be proportionate to the quantity of the service which they consume.
- (11) In considering the costing of its water, electricity and sewerage services, the municipality must take due cognisance of the high capital cost of establishing and expanding such services, and of the resultant high fixed costs, as opposed to variable costs of operating these services.
- (12) (a) The municipality's tariffs for electricity services are determined to ensure that those consumers who are mainly responsible for peak demand, and therefore for the incurring by the municipality of the associated demand charges from Eskom, have to bear the costs associated with these charges.
(b) For the purposes of paragraph (a), the municipality must install demand meters to measure the maximum demand of such consumers during certain periods.
(c) Such consumers must pay the relevant demand charge as well as a service charge directly related to their actual consumption of electricity during the relevant metering period.

18. Calculation of tariffs for major services

In order to calculate the tariffs which must be charged for the supply of the services contemplated in section 17(5), the municipality must identify all the costs of operation of the undertakings concerned, including specifically the following:

- (a) cost of bulk purchases in the case of water and electricity;
- (b) distribution costs;
- (c) distribution losses in the case of electricity and water;
- (d) depreciation expenses;
- (e) maintenance of infrastructure and other fixed assets;
- (f) administration and service costs, including –
 - (i) service charges levied by other departments such as finance, human resources and legal services;
 - (ii) reasonable general overheads, such as the costs associated with the office of the municipal manager;

- (iii) adequate contributions to the provisions for bad debts and obsolescence of stock; and
- (iv) all other ordinary operating expenses associated with the service concerned including, in the case of the electricity service, the cost of providing street lighting in the municipal area; and
- (g) the cost of indigence relief measures.

Part 2

Structure of tariffs for major services, minor tariffs

19. Structure of tariffs

- (1) The municipality may—
 - (a) determine the kilowatt-hours of electricity per month and the kilolitres of water which will be provided free of charge to a consumer who have registered as an indigent in terms of section 15(1)(b); and
 - (b) consider relief in respect of the tariffs for sewerage and refuse removal for such registered indigent to the extent that the council deems such relief affordable in terms of each annual budget, however, such relief may not be less than a discount as determined by the municipality.
- (2) The tariff for a pre-paid meter is the same as the ordinary consumption tariff levied on the category concerned, (economic consumers with conventional meters plus an availability charge), and in respect of sub-economic consumers (Government Subsidised Housing), a higher tariff and no availability charge apply.

20. Electricity

- (1) The various categories of electricity consumers, as set out in subsection (3), are charged at the applicable tariffs, as approved by the municipality in each annual budget.
- (2) Tariff adjustments are effective in respect of July accounts each year.
- (3) Categories of consumers and charges are as follows:
 - (a) with the exception of a registered indigent, a consumer must be billed for all the electricity consumed at the tariff applicable to the category in which the particular consumer falls.
 - (b) the tariff for domestic consumption of electricity may not exceed such percentage, per kilowatt-hours, as determined by the municipality, of the tariff applicable to other consumers, and all other consumers, including businesses, industries and institutional consumers, must pay the same tariff per kilowatt-hour.
 - (c) A domestic electricity consumer of the municipality who is registered as an indigent with the municipality must receive free the amount of kilowatt-hours of electricity as determined in terms of section 19(1).
 - (d) a domestic electricity consumer other than a registered indigent and sub-economic (Government subsidised Housing) consumer must additionally be billed an availability charge per meter installed.
 - (e) a commercial, industrial and other non-domestic property must additionally be billed a monthly availability charge per meter installed and, where applicable, a demand charge appropriate to its respective levels of consumption.

21. Water

- (1) The categories of water consumers as set out in subsection (5), are charged at the applicable tariffs, as approved by the municipality in each annual budget.
- (2) Tariff adjustments are effective in respect of July accounts each year.
- (3) The tariff levied for domestic consumption of water escalates according to the volume of water consumed, and will be based on a monthly consumption as determined by the municipality.
- (4) The tariff for non-domestic water consumption is based on a single tariff per kilolitre consumed, irrespective of the volume of consumption concerned.
- (5) Categories of consumers and charges are as follows:
 - (a) a domestic water consumer registered as an indigent with the municipality must receive free the first six kilolitre of water consumed per month, thereafter a tariff as determined by the municipality is applicable on metered water consumption.
 - (b) all other domestic consumers are charged for actual water consumption at a stepped tariff per kilolitre as determined by the the municipality.
 - (c) the tariff applicable to domestic consumption of water may not exceed such percentage per kilolitre as determined by the municipality, of the tariff applicable to other consumers and all other consumers, including businesses, industries and institutional consumers, must pay the tariff as contemplated in subsection (4).
 - (d) an availability charge per water meter, as determined by the municipality, is charged on a water consumer.

22. Refuse removal

- (1) The categories of refuse removal users as set out in subsection (3) are charged at the applicable tariffs, as approved by the municipality in each annual budget.
- (2) Tariff adjustments are effective in respect of July accounts each year.
- (3) A separate fixed monthly refuse removal charge applies to each of the following categories of users, based on the costs of the service concerned:
 - (i) domestic and other users, where refuse is removed by the municipality once weekly; and
 - (ii) business and other users, where refuse is removed by the municipality twice weekly;
 - (iii) business and other users, where refuse is removed by the municipality thrice weekly; and
 - (iv) business and other bulk consumers.
- (4) A registered indigent may receive a discount on this charge as the municipality deems affordable when approving each annual budget, which discount may not be less than the percentage, as determined by the municipality, of the monthly amount billed as a refuse removal charge.

23. Sewerage

- (1) The categories of sewerage users as set out in subsection (3) are charged per month at the applicable tariff as approved by the municipality in each annual budget.
- (2) Tariff adjustments are effective in respect of July accounts each year.
- (3) Categories of users and charges are:
 - (a) an availability charge is charged per month or annually for an undeveloped erf, irrespective of its permitted or intended use.
 - (b) a fixed monthly charge based on the costs of the service, is charged

for bucket removal for a domestic user, however, a registered indigent may receive such discount on this charge as the municipality deems affordable when approving each annual budget, which discount may not be less than the percentage, as determined by the municipality, of the monthly amount billed for this service.

- (c) a fixed monthly charge based on the costs of the service is charged for a domestic user, however, a registered indigent may receive such discount on this charge as the municipality deems affordable when approving each annual budget, which discount may not be less than the percentage, as determined by the municipality, of the monthly amount billed for this service.
- (d) a fixed monthly charge based on the costs of the service per sewer point or toilet is charged to all businesses, industries and institutional users.
- (e) an effluent fee is payable by a factory and another industrial user where the wastewater emanating from such user requires special purification measures by the municipality, and the fee is based on the toxic content of the wastewater concerned and the costs of the purification.
- (f) a charge, based on the costs of the service to empty a septic tank, will be levied for each visit to empty a septic tank on the premises of a person requiring such service.
- (g) a sewerage levy is charged on all properties (economic) not being charged an availability or sewer fee.

24. Minor tariffs

- (1) All minor tariffs are standardised within the municipal region.
- (2) All minor tariffs are approved by the municipality in each annual budget and are, when deemed appropriate by the municipality, subsidised by property rates and general revenues, particularly when the –
 - (a) tariffs prove uneconomical when charged to cover the cost of the service concerned;
 - (b) cost cannot accurately be determined; or
 - (c) tariff is designed purely to regulate rather than finance the use of the particular service or amenity.
- (3) Unless there are compelling reasons why such adjustment should not be effected, all minor tariffs over which the municipality has full control, and which are not directly related to the cost of a particular service, are adjusted annually at least in accordance with the prevailing consumer price index.
- (4) The following services are subsidised services, and the tariffs levied cover 50%, or as near as possible to 50%, of the annual operating expenses budgeted for the service concerned:
 - (a) burial services and the provision of cemeteries; and
 - (b) the provision of municipal sports facilities for use against a fee.
- (5) The following services are considered as being community services, and no tariffs are levied for their use:
 - (a) a municipal swimming pool;
 - (b) a municipal museum and art gallery;
 - (c) the disposal of garden refuse at the municipal disposal site;
 - (d) a municipal reference library;

- (e) a municipal lending library, except for fines determined;
- (f) a municipal botanical garden, other park or open space;
- (6) The following services are considered as being economic services, and the tariffs levied cover 100%, or as near as possible to 100%, of the budgeted annual operating expenses of the service concerned:
 - (a) The maintenance of graves, gardens of remembrance and crematoria against payment of a fee;
 - (b) the availability of a house against payment of a housing rental;
 - (c) subject to subsection (9), the use of a municipal hall and other premises against payment of a fee;
 - (d) the supply of a building plan against payment of a fee;
 - (e) the selling of –
 - (i) plastic refuse bags;
 - (ii) the selling of refuse bins; or
 - (iii) livestock and plants;
 - (f) the cleaning of stands against payment of a fee;
 - (g) the connection of electricity, water and sewerage against payment of a connection fee;
 - (h) the photostating of copies against payment of a fee; and
 - (i) the issuing of a clearance certificate against payment of a fee.
- (7) The following charges and tariffs are considered as regulatory or punitive, and are determined as appropriate in each annual budget:
 - (a) fines for lost or overdue library books;
 - (b) advertising sign fees;
 - (c) pound fees;
 - (d) disconnection and reconnection fees of electricity and water;
 - (e) penalty and other charges imposed in terms of Chapters 1 and 2; and
 - (f) penalty charges for the submission of dishonoured, stale, post-dated or otherwise unacceptable cheques.
- (8) The lease of a municipal property must be dealt with in terms of the Municipality's Supply Chain Management Regulations or Policy;
- (9) If the municipal manager is satisfied, in the case of a rental for the use of a municipal hall and premises, that the hall or premises is required for non-profit making purposes and for the provision of a service to the community, the municipal manager may waive the applicable rental.
- (10) The municipal manager must determine whether an indemnity or guarantee is to be lodged, or whether a deposit has to be paid, for the rental of a municipal hall, premises or sports field, and in so determining must be guided by the likelihood of the municipality's sustaining damages as a result of the use of the facilities concerned.
- (11) The costs of the democratic process in the municipality such as, but not limited to, all expenses associated with the political structures of the municipality, form part of the expenses to be financed from property rates and general revenues, and are not included in the costing of the major services of the municipality.

CHAPTER 4 RATES

25. Imposition of rates

- (1) The municipality must impose, as part of each annual operating budget component, a rate in the rand on the value of all rateable property as recorded in the municipality's valuation roll and supplementary valuation roll.
- (2) When imposing the rate for each financial year, the municipality must take proper cognisance of the –
 - (a) aggregate burden of rates and service charges on property owners in the various categories of property ownership; and
 - (b) extent to which this burden is or remains competitive with the comparable burden in other municipalities within the local economic region.

26. Rebates on rates

- (1) The municipality may grant rebates in recognition of the following factors:
 - (a) the inability of residential property owners to pass on the burden of rates, as opposed to the ability of the owners of business, commercial, industrial and certain other properties to recover such rates as part of the expenses associated with the goods or services which they produce;
 - (b) the need to accommodate indigents and less affluent pensioners;
 - (c) the services provided to the community by public service organisations;
 - (d) the value of agricultural activities to the local economy coupled with the limited municipal services extended to such activities, but also taking into account the municipal services provided to municipal residents who are employed in such activities;
 - (e) the need to preserve the cultural heritage of the local community;
 - (f) the need to encourage the expansion of public service infrastructure; and
 - (g) the indispensable contribution which property developers, especially in regard to commercial and industrial property development, make towards local economic development, and the continuing need to encourage such development.
- (2) The municipal manager must, subject to section 15(3) and 15(4) of the Property Rates Act, 2004 (Act 6 of 2004), ensure that rebates are indicated on the rates accounts submitted to each property.
- (3) The municipality may categorise properties and grant rebates as determined by it.
- (4) In determining whether a property forms part of a particular category contemplated in subsection (3), the municipality must have regard to the actual use to which the relevant property is put, and in the case of vacant land not specifically included in any of the categories, the permitted use of the property determines into which category it falls.
- (5) The rebates granted under subsection (3) apply in addition to the provisions of section 17(1)(h) of the Property Rates Act, 2004.
- (6) (a) Subject to the provisions of section 9 of the Property Rates Act, 2004, a property, other than one referred to in section 17(1)(h)(i) of that Act, is rated on the value assigned to each component, and receives the

- rebate applicable to such component.
- (b) where one component on average represents a higher percentage than that determined by the municipality, of the property's actual use, such property must be rated as though it were used for that use only.

27. Adjustment of rates

(1) Where the rates levied on a particular property have been incorrectly determined, whether because of –

- (a) an error or omission on the part of the municipality;
- (b) false information provided by the property owner concerned; or
- (c) a contravention of the permitted use to which the property concerned may be put,

the rates payable must be appropriately adjusted for the period extending from the date on which the error or omission is detected back to the date on which rates were first levied in terms of the current valuation roll.

(2) Where the error occurred as contemplated in subsection (1)(b) or (c), interest on the unpaid portion of the adjusted rates payable must be levied at the maximum rate permitted by prevailing legislation.

28. Frequency of valuations

Subject to the provisions of sections 32 and 77 of the Property Rates Act, 2004 (Act 6 of 2004), the municipality must prepare a new valuation roll every three years and supplementary valuation rolls every six months.

**CHAPTER 5
ENFORCEMENT**

29. Municipality's powers to restrict or disconnect supply of services

The municipality may, over and above the provisions of any other provisions in this by-law restrict or disconnect the supply of water and electricity, or discontinue any other service to any premises if –

- (a) an administration order is granted in terms of section 74 of the Magistrates Court Act, 1944 (Act 37 of 1944), in respect of an account holder; provided further that such services will only be suspended if the account holder fails to make regular payments in respect of the current services;
- (b) an account holder of any service fails to comply with a condition of supply imposed by the municipality;
- (c) an account holder obstructs the efficient supply of electricity, water or any other municipal services to another account holder;
- (d) an account holder supplies such municipal services to any person who is not entitled thereto or permits such service to continue;
- (e) an account holder causes a situation which is dangerous or a contravention of relevant legislation; or
- (f) an account holder is placed under provisional registration, liquidation or judicial management, or commits an act of insolvency in terms of the Insolvency Act, 1936 (Act 24 of 1936).

30. Tampering, unauthorised connections and reconnections, and improper use

- (1) The municipality reserves the right to monitor the service network for signs of tampering or irregularities.
- (2) No person may in any manner or for any reason tamper or interfere with any meter or metering equipment or service connection or service protective device or supply mains or any other equipment of the municipality.
- (3) Where evidence exists of an account holder or any person having contravened subsection (2), the municipality has the right to disconnect the supply immediately and without prior notice to the account holder, and the account holder is liable for all fees and charges levied by the Municipality for such disconnection.
- (4) Where an account holder or any person has contravened subsection (2) and such contravention has resulted in the meter recording less than the true consumption, the municipality has the right to recover from the account holder the full cost of his or her estimated consumption.

31. Clearance certificate

To effect the transfer of any immovable property from one registered owner to another, the Registrar of Deeds requires a clearance certificate, which certificate is obtainable from the municipal manager upon payment of the prescribed fee and subject to the conditions of section 118 of the Municipal Systems Act, 2000 (Act 32 of 2000) being met.

32. Tenders and grants-in-aid

- (1) Each tender submitted to the municipality must be accompanied by a certificate from the municipality stating that the proposed supplier/service provider is not indebted to the municipality for any arrear amount reflected on the municipal account.
- (2) Should a proposed supplier/service provider be so indebted, the municipality may disallow the tender.
- (3) The municipality may only consider a tender once the proposed supplier/service provider has made satisfactory arrangements to pay the outstanding amount by means of instalments, or has settled all arrear amounts in full.
- (4) The municipal manager or a duly authorised officer of the municipality must in the condition of contract, provide for the deduction from moneys owed to the supplier/service provider in order to settle any outstanding amount.
- (5) Payment of any grants-in-aid approved by the municipality may be withheld pending payment of any outstanding municipal account, or pending an agreement between the municipality and the receiver of a grant-in-aid in which satisfactory arrangements have been made regarding the settlement of the outstanding municipal account.

33. Power of council to recover costs

- (1) Where a bank dishonours any payment made to the municipality, the municipality may levy and recover all related costs and any administration fees against an account of the defaulting account holder and may disconnect or restrict the supplies to the premises of such account holder.
- (2) All legal costs, excluding attorney-and-client costs incurred in the recovery of amounts in arrears and payable in terms of the Magistrates Court Act, 1944 (Act 32 of 1944), must be levied against the arrears account of the account holder.

- (3) For any action taken in demanding payment from an account holder or reminding an account holder by means of telephone, fax, electronic mail, letter or otherwise that payments are due, a fee will be levied against the municipal account of the account holder in terms of the municipality's tariff policy.

34. Prima facie evidence

A certificate reflecting the amount due and payable to the municipality, signed by the municipal manager, is upon mere production thereof prima facie evidence of the indebtedness of the person mentioned in it.

35. Abandonment of bad debts, and full and final settlement of account

- (1) Before terminating the debt collection procedure in any individual instance, the municipal manager must –
- (a) ensure that all debt collection mechanisms as provided for in section 11 have been utilised where reasonable;
 - (b) maintain an audit trail; and
 - (c) document the reasons for terminating the debt collection procedure, including the cost of enforcement and necessary financial adjustments.
- (2) The municipal manager may consider an offer for full and final settlement, and must, if in the interests of the municipality, in writing consent to the acceptance of a lesser amount as full and final settlement of the amount due and payable.
- (3) Where the exact amount due and payable to the municipality has not been paid in full, any lesser amount tendered to and accepted by any municipal employee, except the municipal manager, shall not be deemed to be in full and final settlement of such an amount.

36. Power of entry and inspection

- (1) A duly authorised representative of the municipality may for any reason related to the implementation or enforcement of this by-law at all reasonable times or in emergency at any time, enter premises, request information and carry out such inspection as deemed necessary, and may for purposes of installing or repairing any meter or service connection for reticulation disconnect, stop or restrict the provision of any service.
- (2) If the municipality considers it necessary for work to be performed to enable an officer to perform a function referred to in subsection (1) properly and effectively, it may –
- (a) by written notice require an account holder to do, at own expense, specified work within a specified period; or
 - (b) if the situation is a matter of urgency, without prior notice do such work or cause it to be done at the expense of the account holder.
- (3) If the work referred to in subsection (2) is carried out for the sole purpose of establishing whether a contravention of this by-law has been committed and no such contravention has taken place, the municipality must bear the expense connected therewith together with that of restoring the premises to their former condition.

37. Authentication and service of orders, notices and other documents

- (1) An order, 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 an officer authorised by the municipality.

- (2) Any notice or other document that is served on a person by a duly authorised officer of the municipality 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 acknowledgement 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 placed 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 to a person apparently over the age of 16 years; or
 - (g) when it has been delivered, at the request of a person, to that person's electronic mail address.
- (3) When any notice or other document has to be served on the owner, an account holder 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, account holder or holder of the property or right in question, and it is not necessary to name that person.
- (4) Service of a copy is 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.

CHAPTER 6 MISCELLANEOUS PROVISIONS

38 Right of 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

39. Offences and penalties

A person 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 if he or she-

- (a) fails to give access required by an officer in terms of section 36;
- (b) obstructs or hinders an officer in the exercise of his or her powers or the performance of functions or duties under this by-law;
- (c) uses or interferes with the municipality's equipment for consumption of services supplied;

- (d) fails or refuses to give the municipality or an officer such information as the municipality or the officer may reasonably require for the purpose of exercising powers or functions under this by-law, or gives the municipality or the officer false or misleading information knowing it to be false or misleading;
- (e) fails to comply with the terms of a notice served upon him or her in terms of this by-law; or
- (f) tampers or breaks any seal on a meter or on any equipment belonging to the municipality, or for any reason causes a meter not to register the services used properly, and the person shall furthermore be charged for usage of electricity or water, as the case may be.

40. 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.

41. Short title and commencement

This by-law may be cited as the Customer Care and Revenue Management By-law and commences on the date of publication thereof in the Provincial Gazette.

No. 280

KOUGA MUNICIPALITY FENCES AND FENCING BY-LAW

In terms of and under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996, the Kouga Municipality, enacts as follows:-

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 Municipality of Kouga 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) erect a barbed-wire fence, railing, or other barrier with spikes or other sharp or pointed protrusions unless it is erected on top of a wall of not less than 2 metres in height.

(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 a fence covered with –
 - (i) canvas, reeds, grass or any combustible material, except poles or split poles, or approved wood, within 4,5 metres of any street; or
 - (ii) sheet iron, corrugated galvanised iron or any other sheeting along or within 4,5 metres 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) A person commits an offence if he or she contravenes a provision of subsections (1) and (6) or fails to produce a form at the request of an authorised official as contemplated in subsection (4).

(9) 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 person contemplated in sub section (2) 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 Kouga
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. 281

**KOUGA 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 Kouga 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 Kouga 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 interments 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 inter a corpse in 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;
 - (iii) 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. 282

KOUGA MUNICIPALITY IMPOUNDMENT OF ANIMALS BY-LAW

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

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 Municipality of Kouga 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;

"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) If any animal, bearing an identification mark as contemplated in the Animal Identification Act, 6 of 2002, is impounded, the pound master must follow the procedures set out in section 14 of the Animal Identification Regulations promulgated under GN R1683 dated 21 November 2003.
- (3) Where the owner of an impounded animal is not known to the pound master, or 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 of 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 of 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. 283

KOUGA MUNICIPALITY LIQUOR TRADING HOURS BY-LAW

Under the provisions of sections 22(2)(d) and 42(b) of the Eastern Cape Liquor Act, 2003 (Act 10 of 2003), the Kouga Municipality, enacts as follows:-

TABLE OF CONTENTS

1. Definitions
 2. Purpose of By-law
 3. Application of By-law
 4. Ward committee consultative meetings
 5. Hours of trading
 6. Selling of liquor at other times
 7. Liaison forums
 8. Exemptions
 9. Appeal
 10. Penalties
 11. Short title and commencement
- Schedules

1. Definitions

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

"**Act**" means the Eastern Cape Liquor Act, 2003 (Act 10 of 2003);

"**Liquor Board**" means the Eastern Cape Liquor Board established by section 4 of the Act;

"**municipality**" means the Municipality of Kouga 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;"

"**publish**" in respect of the provisions of section 5(1) means-

- (a) to publish a notice in the Provincial Gazette and local newspapers; and
- (b) to display the notice so published on the notice boards of the municipality;

"**registered premises**" means premises on or from which a trader conducts his or her business;

"**Regulations**" means the regulations, published as Notice No. 1143 of 8 April 2004, made under the Act;

"**trader**" means a person who is registered in terms of section 19 of the Act,

and any other word or expression to which a meaning has been assigned in the Act and the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), carries that meaning.

2. Purpose of By-law

The municipality adopts this by-law with the aim of regulating the hours during which liquor may be sold.

3. Application of By-law

This by-law apply to all premises situated within the municipality's jurisdiction on which liquor is traded.

4. Ward Committee consultative meetings

(1) A Ward Committee must, upon receipt of a notice of application for registration, in terms of section 22(2)(d)(1) of the Act hold a consultative meeting with the owners of immovable property in the immediate vicinity of premises that are sought to be registered to discuss and solicit their views with regard to the application that the applicant intends to lodge with the Liquor Board.

(2) The Ward Committee must compile a report and submit it to the municipality, stipulating the date, time, the names and the addresses of the people who attended the consultative meeting, indicate whether it objects to or recommends the application and what additional conditions it proposes, if any.

(3) The Municipality must consider a report submitted to it by a ward committee in terms of section 22(2)(d)¹ of the Act and item 3(2)² of the Regulations, and may submit proposals to the Board regarding an application for registration in terms of section 20 of the Act.

¹ Section 22(2)(d) of the Act reads as follows:

"An application for registration contemplated in subsection (1) must be made by submitting to the board –

(d) proof of service of the notice contemplated in the prescribed manner on the –

(i) ward committee which must on receipt of the notice consult the community of the area where the premises are situated and simultaneously submit a report to the board and the relevant municipal council; and

(ii) governing body of every education institution or place of worship within a radius prescribed by the MEC from the premises in respect of which the application is made."

² Item 3 of the Regulations reads as follows:

"(1) An applicant must within seven days of lodgement, serve a notice substantially in the form of Form 2 of Annexure 2 on the ward committee of the area where the premises are situated, every governing body of every educational institution and place of worship within a radius of 100 metres from the premises in respect of which the application for registration is made.

(2) A ward committee contemplated in sub-regulation (1) must, within thirty days of receipt of the notice, submit a report on the consultation with the community to the board and to the relevant municipal council."

(4) For the purpose of considering a report as contemplated in subsection (2), an official may undertake an investigation or request further information for consideration by the municipality.

5. Hours of trading

(1) The municipality may determine the hours during which liquor may be sold from registered premises for the different kinds of registrations, as contemplated in section 20 of the Act, and listed in Schedule 1.

(2) The hours determined in subsection 1 must be published.

(3) Subject to section 6, no trader may sell liquor to a person at a time other than those hours stipulated as trading hours under subsection (1).

(4) A trader who contravenes subsection (3) commits an offence.

6. Selling of liquor at other times

(1) The municipality may, on application, grant written consent to a trader to sell liquor at hours other than those stipulated in section 5(1), and a trader who wishes to sell liquor at such hours must, obtain the prior written consent of the municipality.

(2) A trader who wishes to obtain the consent referred to in subsection (1) must complete a form as contained in Schedule 2 and submit it to the office of the municipal manager.

(3) The municipality may, after consideration of the application, refuse or grant consent, and should the Municipality grant consent, it may impose conditions or restrictions and enter them in item C of the form contained in Schedule 2.

(4) A trader who has been granted consent in terms of subsection (3), must display, in a conspicuous place on the premises, a copy of the form on which the consent of the Municipality has been entered.

(5) A trader who contravenes subsection (1) or (4), or who sells liquor in contravention of a condition or restriction imposed in terms of subsection (3), or who displays a forged form, commits an offence.

7. Liaison Forums

(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 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 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.

8. 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.

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. Penalties

A person who has committed an offence in terms of this by-law is, on conviction, liable to the penalties prescribed in section 61(1)(b) and section 61(2) and (3) of the Act.

11. Short title and commencement

This by-law may be cited as the Liquor Trading Hours By-laws, and comes into operation upon publication in the Provincial Gazette.

SCHEDULE 1
(Section 5(1))

COLUMN 1 TYPE OF REGISTRATION	COLUMN 2 EXAMPLES OF OUTLETS OR ESTABLISHMENTS	COLUMN 3 APPROVED TRADING HOURS
Registration in terms of Section 20(a) of the Act for the retail sale of liquor for consumption off the premises where liquor is sold.	Retail warehouse, retail liquor or bottle store, shop, off-sales, house shop	Monday to Saturday 09h00 – 20h00 Sunday 09h00 – 13h00
Registration in terms of Section 20(b) of the Act for the retail sale of liquor for consumption on the premises where liquor is sold.	Nightclub, sports bar, sports club, poolbar, discotheque, jazz club, escort agency, pub and grub, pub, bar, casino, licensed restaurant, guest house, hotel, motel	Monday to Saturday 10h00 – 24h00 Sunday 10h00 – 22h00
Registration in terms of Section 20(c) of the Act for the retail sale of liquor for consumption on and off the premises where liquor is sold.	Tavern, shebeen	OFF-CONSUMPTION Monday to Saturday 09h00 – 20h00 Sunday 09h00 – 13h00 ON-CONSUMPTION Monday to Saturday 10h00 – 24h00 Sunday 10h00 – 22h00
Registration in terms of Section 20(d) of the Act for the retail sale and consumption of liquor at a special event	Concert, festival, sporting event and entertainment event	Trading hours to be determined by Municipality per event
Registration in terms of Section 20(e) of the Act for micro manufacturing.	Wholesale warehouse and micro manufacturing	Monday to Saturday 09h00 – 17h00 Sunday 09h00 – 13h00

SCHEDULE 2
(Section 6(2))

APPLICATION TO SELL LIQUOR OUTSIDE TRADING HOURS

A. APPLICANT

Name:

I.D. Number:

Address:

Telephone number:

B. PARTICULARS

Address (street name and number) of the premises on which the liquor will be sold or supplied:

Dates and hours on which liquor will be sold or supplied (Be specific, e.g. 14:00 to 23:00 on 3 June, 2005):

Reason why this application is made:

Anticipated volume of liquor that will be consumed:.....

Nature of liquor that will be sold or supplied:

Other particulars (as requested by the Council):

Signed Date
(Applicant)

C. CONSENT

Issuing local authority:

OFFICIAL

.....

DATE

.....

STAMP

.....

CONDITIONS AND RESTRICTIONS IN TERMS OF SECTION 5(3)

Times and date on which liquor may be supplied or sold:

Other conditions or restrictions:

.....

.....

.....

No. 284

**KOUGA MUNICIPALITY
PUBLIC AMENITIES BY-LAW**

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996, the Kouga 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: SPECIFIC PROVISIONS RELATING TO RIVERS AND DAMS
16. Registration of boat
17. The mooring of boats
18. Rules of travel
19. Operation of boats and other prohibitions
20. Jet propelled craft
21. Environment conservation
22. Skiing
23. Angling
24. General conduct on rivers and dams
25. Alcohol
- CHAPTER III: MISCELLANEOUS PROVISIONS
26. Powers of official and offences
27. Appeal
28. Penalties
29. Limitation of liability
30. Authentication and service of notices and other documents

31. Presumption
32. Liaison forums in community
33. Savings
34. Repeal of by-laws
35. 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;

"**approved launch site**" means a launch site approved by the municipality;

"**authorised officer**" means any person authorized by the municipality to perform the functions of an authorised officer under these Regulations, or a member of the South African Police;

"**boat**" means a vessel, craft, punt, canoe or inflatable boat which moves or is propelled by means of bars, poles, paddles, oars, sails or mechanical power and which is being used to carry persons on water;

"**boat on the river**" means a boat under way or drifting away from its mooring place on the shore, buoy or jetty;

"**boat providing living accommodation**" shall mean the type of boat commonly referred to as a "house boat" or a "caravan boat" or any other type of boat equipped in such a way as permits permanent residence thereon or residence thereon for extended or indefinite periods;

"**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;

"freestyle" means the performance with a personal watercraft, of tricks, stunts, wave jumping, wake jumping, spinning, doughnuts, etc.

"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 Kouga 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 Kouga 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;

"no-wake speed" means the speed that a boat travels with its engine at idle speed, without causing a wake or a waves in the water;

"no-wake zone" means that part of the river or dam that is zoned off, where boats may not travel above a "no-wake speed";

"operate" in respect of a boat, includes mooring in the river and ascending or descending from a boat;

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

"personal watercraft" means a vessel that uses an inboard motor powering a water jet pump as its primary source of propulsion, and is designed to be operated by a person or persons sitting, standing, or kneeling on, rather than being within the confines of a hull;

"person" includes an association or organisation;

"point tack" in respect of a sailing boat, means having the wind to port;

"port" in respect of a boat, means the left side of the boat looking forward;

"power driven" means propelled by reciprocating or rotary machinery using chemicals, electricity or heat as an energy source;

"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;

“registered boat” means a boat for which an identification number in terms of section 2 of this By-law has been issued;

“river” means that portion of a river within the area of jurisdiction of the municipality, defined as a “tidal lagoon” and “tidal river” in terms of the Sea-Shore Act, No 21 of 1935 and includes any inland river;

“sailing boat” or **“yacht”** includes every boat that is under sail and is not being propelled by machinery;

“skier” means a person engaged in the act of water-skiing;

“skipper” means, in relation to a vessel, the person having lawful command or charge of, or for the time being in charge of the vessel, as the case may be;

“ski-zone” means those parts of the river that are zoned off for skiing activities;

“starboard” in respect of a boat, means the right side of the boat looking forward;

“starboard tack” in respect of a sailing boat, means having the wind ro starboard;

“traversing” means the moving of personal watercraft from point A to point B in the most direct route at a speed relevant to the situation and proximity of other vessels, jetties and slipways;

“vessel” means any boat, hull or other object used or designed or adapted for use to float or travel on water;

“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.

“water-skiing” means the act of a person on dual skies, slalom ski, aqua boards, tube or any other device other than a person in another boat, being towed by a boat through, over or on the water.

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 or may not 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 air 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: SPECIFIC PROVISIONS RELATING TO THE USE OF BOATS ON RIVERS AND DAMS

16. Registration of boats

- (1) No person may operate on a river or dam any power-driven boat, or a sailing boat or any other boat with an overall length of 4 metres or more, excluding sailboards, canoes and paddle-ski's unless such boat has been registered with the municipality and has displayed thereon in the manner provided by this by-law, the identification number allotted by the municipality.
- (2) The municipality may grant the application for registration for any boat referred to in subsection.(1) subject to the conditions and the payment of fees as it may deem fit, and may vary or withdraw such conditions or withdraw the registration, if the municipality decides such variations or withdrawal of conditions or withdrawal of registration is in the public interest.
- (3) The registration of a boat is not transferable from one person to another or from one boat to another except where an owner of a registered boat in terms of this by-law transfers his registration to another boat belonging to him with the written permission of the municipality.

- (4) The registration will specify the name of the person or club to whom it is issued, the maximum number of persons permitted to be carried in the boats as per application, the type and overall length of the boat, the maximum power of the engine, and the identification number allocated to the boat.
- (5) The municipality may determine the total number of boats that may be registered in any one licensing period of 12 months.
- (6) The registration of a boat will be valid for a maximum period of one year.
- (7) The municipality may determine the fee payable in respect of the registration of boats from time to time.
- (8) The Municipality may determine a *pro rata* fee.
- (9) The registration of boats is in the discretion of the municipality and reasons may be requested if it fails to register a boat .
- (10) The municipality reserves the right to limit the number of registrations issued per person.
- (11) The registration for boats will as of the effective date of this by-law be granted firstly to those applicants whose applications are lodged with the municipality by effective date and in respect of subsequent licensing periods by 1 July in each year.
- (12) Registration will occur in the sequence in which they are received subject to the Municipality's right to refuse any application for registration on good cause.
- (13) The owner of a registered boat must, before the boat is operated on the river and at all times during the currency of the registration of the boat, have the identification number issued in respect of the boat, permanently affixed in figures of a size and colour determined by the municipality so that the number is clearly visible from each side of the boat.
- (14) The registration of a boat constitutes authority to use the boat on the river only and does not constitute authority for the boat to be taken through a river mouth past its narrowest point and out to sea.
- (15) The owner of a registered boat must at all times during the currency of the registration of the boat have the registration documents available for inspection.
- (16) A boat registration permit may be refused if the conditions of a previously issued boat registration permit had not been adhered to.

17. The mooring of boats

- (1) When not in use boats must be securely anchored or moored in an area approved by the Municipality so as not to endanger other boats on the river or along the shores of the river.
- (2) Boats floating loose may be taken in tow by the operator of any other boat or an authorised officer and moved to and secured in a place out of the way of other users of the river.

(3) Where a boat was floating loose on the river through negligence on the part of the owner or persons using the boat with his express or implied consent, the owner will be in breach of this by-law and will be liable to the municipality for any expense incurred where the removal to a safe place is effected by an authorised officer.

18. Rules of travel

(1) The skipper of a boat must adhere to a general safety rule of "keep right" while under way.

(2) Power-driven boats must steer clear of and give right of way to sailing boats and boats propelled by oars or paddles.

(3) When two sailing boats are approaching each other so as to involve risk of collision one of them shall keep out of the way of the other as follows:

- (a) a boat that is running free shall keep out of the way of a boat that is close-hauled;
- (b) a boat that is close-hauled on a port tack shall keep out of the way of a boat that is close-hauled on a star-board tack;
- (c) when both boats are running free, with the wind on the same side, the boat that is to windward shall keep out of the way of the boat that is to leeward; and
- (d) sailing boats and sail-boards shall not alter course immediately in front of any other boat.

(4) When two power-driven boats are meeting head on or nearly head on so as to involve risk of collision, the operator of each boat must alter course to star-board (right) so that each shall pass on the port (left) side of the other.

(5) The operator of a boat overtaking another boat must overtake the boat on the port (left) side and must keep his boat out of the way of the overtaken boat.

19. Operation of boats and prohibitions

(1) The owner of a registered power-driven boat may not allow any person under the age of 16 years to control or operate such boat.

(2) Notwithstanding the provisions of subsection (1), every owner of a power-driven boat must ensure that no person is permitted to control or operate such boat regardless of engine power if such person is not competent to handle it efficiently.

(3) No person may operate a boat if his vision both ahead and astern is obscured either by passengers or any other object.

(4) No person in charge of or steering a boat or an occupant thereof, may use such boat in a negligent or reckless manner or cause injury or damage or endanger any person or property.

- (5) No commercially registered boats or boats used for commercial purposes or boats exceeding 6,6 metres in overall length will be allowed on the river without the written permission of the municipality and such boats may not be taken upstream of any particular point as determined by the Municipality in such written permission.
- (6) No power-driven boat may travel faster than a "no-wake speed" when it passes closer than 10 metres to any other moving or stationary boat, jetty, slipway or person.
- (7) The skipper of a boat must ensure that the number of persons on board the boat when upon the river shall at no time exceed the maximum number stipulated by the municipality when registering the boat.
- (8) No boat shall disturb or endanger the safety of another boat with its wake.
- (9) After sunset and before sunrise –
- (a) no person shall operate a boat on the river without forward facing red port light forward facing green starboard light and white navigation light being switched on;
 - (b) no person shall anchor a boat on the river without at least having a single white light visible for 360 degrees, switched on;
 - (c) no person shall operate a canoe, paddle-ski or sailboard on the river without a light visible for 360 degrees switched on, and shall be carried by a person aboard the canoe, paddle-ski or sailboard;
 - (d) no person shall operate a boat on the river above a no-wake speed.
- (10) No person may operate a boat on a river unless it carries a suitable container for refuse, as well as oars, paddles or other means of propulsion and a suitable anchor with a sufficient anchor line.
- (11) Owners or users of registered boats must ensure that children under five years of age and anyone on the boat who cannot swim wear a suitable buoyancy aid while boating.
- (12) All powerboats and other engines operated on a river must be suitably silenced.
- (13) No person may operate a boat providing living accommodation on the river without the prior written permission of the municipality.
- (14) No powerboat, rowing or yachting regattas shall be permitted on the river without the prior written permission of the municipality.
- (15) The skipper of a boat may not leave or enter the river mouth without the occupants of the boat wearing suitable life jackets bearing the mark of the S.A.N.S.
- (16) No person may operate a boat in a "no-wake zone" at a speed which exceeds a "no-wake speed";
- (17) The batteries and petrol tanks of a powerboat must be in separate compartments;

(18) All power- driven craft must have a dry powder fire extinguisher per engine on board.

20. Jet propelled craft

(1) No person may use or operate a personal watercraft, jet-ski, wet-bike or any water craft propelled by means of a water-jet on a river or dam unless such craft has been registered with the municipality and has displayed thereon in the manner provided by this by-law the identification number allocated by the municipality.

(2) No person may operate a personal watercraft or any other jet-propelled craft on any section of a river or dam other than the section that has been demarcated for such activity.

(3) No person may operate a personal watercraft or any other jet-propelled craft in the river mouth other for than for the express purpose of gaining access to and from the sea.

(4) The owner of a personal watercraft or any other jet-propelled craft may not allow any person under the age of 16 years to operate his personal watercraft unless the person is in possession of a valid special racing licence or under the personal supervision of an adult who must be the owner of such personal watercraft.

(5) No person may operate a personal watercraft unless wearing a suitable life jacket, helmet and kill switch which must be attached to the operator.

(6) The owner of a registered personal watercraft or any other jet-propelled craft may not operate or allow any other person to operate his watercraft in a reckless, negligent or inconsiderate manner.

(7) The number of passengers, where applicable, may not exceed the safe-capacity load of the particular vessel.

(8) No person may re-fuel any craft on the water.

(9) No person may operate a personal watercraft or any other jet propelled craft on any mud banks, salt marshes or other ecologically sensitive areas.

(10) No person may operate a jet propelled craft or any other jet-propelled craft in water shallower than 50 centimetres except at designated launching sites.

(11) A personal watercraft, jet-ski, wet-bike or any watercraft propelled by means of a water-jet on a river may only be operated in areas on the river specifically demarcated or zoned for its use. Such zones or demarcated areas may include, but are not limited to, freestyle operation or traversing and must be signposted as such.

21. Environment conservation

- (1) No person may camp, picnic or light a fire below the high-water mark of a river.
- (2) No person may within the area defined as a river or dam disturb or attempt to disturb any bird or the nest thereof nor remove eggs from nests, nor disturb or attempt to disturb any animal or plant.
- (3) No person may wilfully or negligently pollute or foul a river or dam with fuel, oil, garbage, offal, bilge, sewerage, refuse or rubble of any kind whatsoever.
- (4) The municipality has the right to indicate by means of notice boards erected on the shore those areas of a river or dam where activities shall be limited, allowed, controlled or prohibited and no person, other than an authorised officer, may move, deface or otherwise interfere with such notice board, notice or marker placed by the municipality in terms of this by-law.

22. Skiing

- (1) No person may ski after sunset or before sunrise.
- (2) No boat towing a skier may pass closer than 10 metres to any other boat stationary or moving, a jetty or slipway except when dropping a skier.
- (3) The skipper of a boat may not follow closer than 100 metres in the wake of another boat towing a water skier.
- (4) No person may use a metal cable or steel wire to tow a skier behind a boat.
- (5) No skier may purposely drop or kick out a water ski, unless it is totally safe to do so and it does not constitute a danger to any other boat or person.
- (6) When a skier falls, the skipper of the boat must insure that a red flag of 300 mm x 300 mm is held up in the boat which was towing the skier and kept up until the skier boards the boat, or resumes skiing.
- (7) No person may pull a ski rope behind a boat when it is not being used for skiing activities.
- (8) When skiing, the towing boat must keep to the right and follow a circuit in an anti-clockwise direction and in a position halfway between the shore and the midpoint of the river.
- (9) The skipper of the boat may not allow any person to water-ski from the boat unless such person is wearing suitable personal buoyancy.
- (10) Every person who operates a power-driven boat or personal watercraft, while towing a person on water-ski's, surfboards, water sled or similar object, must during the period 15 December to 15 January, the Easter week-end and all public holidays have onboard another responsible person of at least 15 years of age who must keep a proper look-out, and who must be conversant with recognized hand signals.
- (11) The skipper of a boat must not allow any person to water-ski from the boat, outside of the demarcated skiing zones.

23. Angling

No person may –

- (a) fish from any bridge over a river;
- (b) impede any navigational channel in a river with a fishing line;
- (c) leave a fishing line in a river unattended in or near a navigation channel; or
- (d) scuba dive, spear fish or use fish nets other than a landing net or throw net in a river.

24. General conduct on rivers and dams

No person may –

- (a) use obscene, offensive or indecent language;
- (b) behave in an offensive, improper or disorderly manner;
- (c) wilfully or negligently cause discomfort or inconvenience to others;
- (d) disturb the peace or cause undue noise;
- (e) behave in a dangerous or reckless manner;

25. Alcohol

No person may operate or use a vessel on a river or dam, or may be in the driving seat of a power-driven boat or jet-propelled craft with its engine running, or may water ski, while his or her blood contains more than 0.05 grams of alcohol per 100 millilitres of blood or while under the influence of drugs.

CHAPTER III MISCELLANEOUS PROVISIONS

26. 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 of 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.

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 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.

29. 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.

30. 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.

31. 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.

32. 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.

33. Savings

The provisions of the By-law relating to the Control and Use of the Waterways and their Banks in the local area of St. Francis Bay, as published under PN 339 of 1987, are hereby adopted and incorporated into this by-law in so far as they are not inconsistent with the provisions of this by-law.

34. 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.

35. 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. 285

**KOUGA MUNICIPALITY
ROADS AND TRAFFIC BY-LAW**

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996, the Kouga 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

42. 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 Kouga;

"municipality" means the Municipality of Kouga 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 Kouga 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 effects 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 Kouga 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. 286

KOUGA MUNICIPALITY SPORTING FACILITIES BY-LAW

In terms of and under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996, the Kouga Municipality, enacts as follows:-

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 Municipality of Kouga 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 apply 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 by an organization or body, 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 or body 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;
 - (c) 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
 - (d) 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 comply with any conditions determined by the municipality in terms of section 4(4) and take all reasonable measures to ensure that its members and persons attending a sporting activity, as participants, visitors or spectators comply with section 7.

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.

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-law, and commences on the date of publication thereof in the Provincial Gazette.

No. 287

**KOUGA MUNICIPALITY
STORM WATER MANAGEMENT BY-LAW**

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

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. Storm water 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 Municipality of Kouga 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;

“**private storm water system**” means a storm water 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);

“**storm water**” means water resulting from natural rainfall or the accumulation thereof, and includes –

- (a) groundwater and spring water ordinarily conveyed by the storm water system; and
- (b) sea water within estuaries,

but excludes water in a drinking water or waste water reticulation system;

“**storm water 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 storm water;

"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 storm water management and activities which may have an adverse impact on the development, operation and maintenance of the storm water system.

3. Application of by-laws

This by-law –

- (a) binds an organ of state; and
- (b) applies to storm water 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 storm water system –
 - (i) anything other than storm water;
 - (ii) anything likely to damage the storm water system or interfere with the operation thereof;
 - (iii) anything likely to pollute the water in the storm water system;
 - (b) discharge from any place, or place onto any surface, any substance other than storm water, where that substance could reasonably be expected to find its way into the storm water system;
 - (c) undertake any action that is likely to destroy, damage, endanger or interfere with the storm water system or the operation thereof, which action includes, but is not limited to -
 - (i) obstructing or reducing the capacity of the storm water system;
 - (ii) opening a pipe, culvert or canal which forms part of the storm water 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 storm water system or the operation thereof;
 - (iv) draining, abstracting or diverting any water directly from the storm water system;
 - (v) filling, excavating, shaping, landscaping, opening up or removing the ground above, within, under or immediately next to any part of the storm water system;
 - (vi) changing the design or the use of, or otherwise modify any feature of the storm water 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. Storm water systems on private land

- (1) An owner of property on which a private storm water system is located —
 - (a) may not carry out any activity which may impair the effective functioning of the storm water system or which could reasonably be expected to impair the effective functioning of the storm water system; and
 - (b) must, at own cost, keep the storm water 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 storm water 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 storm water system.

(2) The municipality may, for the purpose of providing and maintaining infrastructure for a storm water system- -

- (a) construct, expand, alter, maintain or lay any drain, pipe or other structure related to the storm water 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 storm water 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 storm water 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 storm water 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 storm water on such property or to lay, at the cost of such owner, a storm water 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 storm water drain pipe or gutter over his or her property for the draining of concentrated storm water;
- (h) discharge storm water 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 storm water or to lay such storm water 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 Storm Water Management By-law and commences on the date of publication thereof in the Provincial Gazette.

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