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# LOCAL AUTHORITY NOTICE

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### EMALAHLENI LOCAL MUNICIPAL COUNCIL

#### **EMALAHLENI NATURE RESERVE BY-LAWS**

The Emalahleni Local Municipality hereby in terms of Section 13 of the Local Government Municipal Systems Act 2000 published the By-laws set forth hereinafter, which he has approved in terms of Section 12 of the mentioned act.

#### 1. DEFINITIONS

In these By-laws unless the context otherwise indicates:

**“Birds”**, means any birds, whether of the aquatic type or any other birds, which are kept and protected by the Council in the reserve or which may be present therein;

**“Council”**, means the Emalahleni Local Municipality;

**“Game”**, means any wild animals which are kept and protected by the Council in the nature reserve or which may be present therein;

**“Reserve”**, means the eMalahleni Nature Reserve situated on Portions 2,8 and 11 of the farm Doornpoort 312 JS, District of Emalahleni;

**“Officer”** means an authorized Council officer.

**“Reception area”** includes the following:

- barbecue facilities
- kitchen with refrigerator and stove
- hall (outdoor classroom)

#### 2. ENTRANCE TO RESERVE

(1) Except with the special permission of the Council, no person other than an authorized officer of the Council, shall –

- (a) enter the reserve at any other place than the entrance gate of the reserve;
- (b) enter the reserve without payment of the entrance fees as determine by Council from time to time;
- (c) enter or leave or be within or travel inside the reserve at or during times, other than those as determined by Council from time to time;

Provide that any person, who is inside any rest camp within the reserve outside the times laid down, shall not be deemed to be contravening the provisions of this section.

- (2) The Council may limit the number of vehicles desirous of entering the reserve simultaneously.
- (3) The Municipal Manager or his delegatee/s in the form of either the Head of Department or the Section Head Environmental Management can decide on amount of vehicles to enter after written application by applicant

**3. WRITTEN VOUCHER NECESSARY FOR ENTERING**

- (1) Notwithstanding anything to the contrary contained in these By-laws, the driver of every vehicle entering the reserve shall be issued with a written voucher of admission on payment of the prescribed entrance fees.
- (2) Every driver of a vehicle entering the reserve shall produce the written voucher authorising him to be inside the reserve to an authorized officer of the Council, if requested to do so.

**4. ONLY OPEN PORTIONS AND ROADS MAY BE USED**

- (1) The Council may in its absolute discretion decide from time to time to close temporarily the reserve in its entirety or any portion thereof or any road or portion thereof or any rest camp.
- (2) Any such portion of the reserve or a road or a rest camp in the reserve, which has been closed as aforesaid in subsection (1) above, shall not be accessible to visitors to the reserve, except for an authorized officer of the Council.

**5. SPECIAL CONDITIONS TO BE OBSERVED**

Any person to whom special permission of any nature whatsoever has been granted to enter the reserve, shall, as per the provisions of these By-laws, observe all instructions which the Council may deem necessary to issue in connection with such permission.

**6. EXEMPTION FROM PAYMENT OF ENTRANCE FEES**

- (1) Members of any authorized nature conservation organization and its affiliates or individuals recognized by Emalahleni Local Municipality who are in possession of membership cards may not pay entrance fees if they enter the nature reserve to execute duties which will promote the good operation and maintenance of the nature reserve and which will enable its continued existence.
- (2) Any authorized person who has been granted permission by the Municipal Manager or his/her delegatee to perform a specific task on behalf of Council may not pay entrance fees to enter the nature reserve e.g. an electrician doing work for council in the reserve.
- (3) Any authorized person who has been granted special permission which in the opinion of the Municipal Manager or his/her delegatee qualifies for a free entrance to the nature reserve, such as research studies, policing, parks board, etc.
- (4) Emalahleni Local Municipality wishes to promote Environmental awareness. Pursuant to this the Municipality will allow the Education Centre in the Nature Reserve to be used on a regular basis by any authorised nature conservation organization or individuals recognised by Council. Council will deal with it in terms of a separate written Council Policy thoroughly consulted and drawn up between the relevant interested and affected parties as a Public Private Participation (PPP) initiative and debated by Council.

Permission granted in the above circumstances in the opinion of the Municipal Manager or his/her delegatee (in the form of the Head of the Department or Section Head Environmental Management) shall be subject to instructions or conditions, which are deemed necessary to issue in connection with such permission.

**7. RESTRICTIONS ON AND CONCESSIONS TO PERSONS WITHIN THE NATURE RESERVE**

Save with the express written permission of the Council, no person other than an authorized officer of the council shall;

- (a) enter the reserve or travel therein except by means of a motor vehicle or such other vehicle as may be prescribed by the Council;
- (b) enter any portion of the reserve closed to the public or drive any motor vehicle in any place other than on a road open to visitors;
- (c) drive a motor vehicle in the reserve at a speed in excess of 25 km/h;
- (d) discard or leave a burning or smouldering object anywhere in the reserve;
- (e) bring into, or use in the reserve any fire-arm, bow and arrow, catapult or airgun;
- (f) bring or permit any animal or plant to be brought into the reserve;
- (g) remove feed, injure or disturb any animal in the reserve;
- (h) damage or remove any plant or object in or from the reserve.
- (i) light a fire in the reserve other than in a rest camp or in other designated places;
- (j) leave or alight from a motor vehicle in the reserve other than at the designated places;
- (k) be or remain in the reserve other than in a rest camp or at a place other than that designated by the Council.
- (l) stay overnight at any place other than in a rest camp or at a place other than that designated by the Council;
- (m) stay overnight in a rest camp without payment of the fees determined by the Council from time to time;
- (n) stay overnight in the reserve before he has reported to the authorized officer in charge of the ~~eMalanjeni~~ Nature Reserve: Provided that he shall not stay overnight in such rest camp unless accommodation or a camping site has been made available to him;
- (o) hold or give any public entertainment or collect any money from the public in the reserve;
- (p) exhibit any advertisement or notice in the reserve;
- (q) affix to any tree or any object not belonging to him any name, letter, figure, symbol, mark or picture.

**PROHIBITED CONDUCT**

**8. NO PERSON SHALL:**

- (a) damage or endanger any property of the Council within the reserve;
- (b) at any time use within the reserve any radio set or gramophone or any musical instrument in a manner, or unnecessarily cause any noise, which may likely be a disturbance to any other person and/or animals in the nature reserve;
- (c) discard within the reserve any article, rubbish, refuse, empty containers or foodstuffs of whatever nature, except in such receptacles and containers as may be provided by the Council for that purpose;
- (d) ignore or disregard within the reserve any reasonable instruction by an authorized Council officer or any instruction contained in a public notice;
- (e) do anything within the reserve, which may be a nuisance or hindrance to or interfere with the public, bring into, keep or permit to roam within the reserve any animal or pet.

**9. OFFENDERS MAY BE REQUIRED TO LEAVE THE NATURE RESERVE**

- (1) Any person who commits or who may have committed any offence in the reserve or may be under the influence of alcohol or an intoxicating agent, or who acts or may have acted in an improper manner which may give or might have given substantial offence to other persons in the reserve, may be requested by an authorized officer of the Council to leave the reserve, and the said person shall thereupon leave the reserve within a specified time and by the shortest route open to the public.
- (2) If any person as defined in subsection (1) is the holder of any written voucher authorising him to enter the reserve, he shall on demand hand over the said document to the authorized Council officer concerned who shall cancel the same by means of an endorsement thereon, stating the place and date of such cancellation.
- (3) No person ordered to leave the reserve as aforementioned shall re-enter the reserve during the twelve months following the date of cancellation, unless the Council should cancel the order in question or specifically authorized the person concerned to re-enter the reserve.
- (4) Affected persons got the right to appeal to the Municipal Manager in writing to lift the ban to re-enter the reserve.
- (5) An authorized officer of the Council shall be empowered to arrest any person who commits or may have committed any serious crime within the reserve and to detain such person for handing over to the South African Police Services.

**10. THE COUNCIL MAY EXERCISE CONTROL OVER ANIMALS AND PLANTS**

Subject to the provisions of Local Government Municipal Systems Act 2000 and the Mpumalanga Nature Conservation Act (10/1998), as amended, the council may;

- (1) hunt, destroy, catch or remove any game, bird, reptile, animal or any other fauna and flora within the reserve; and
- (2) dispose of any animal or vegetation in the reserve in such a manner as may be resolved by the Council from time to time.

**11. COMPLIANCE WITH LAWFUL INSTRUCTIONS**

All persons within the reserve shall comply with lawful instructions issued by the council

**12. MOTOR VEHICLES TO BE ROADWORTHY**

All vehicles entering the reserve shall be roadworthy. No un-roadworthy vehicles shall be allowed in the nature reserve. Un-roadworthy vehicles would be towed out of the reserve with costs to the owner of the vehicle.

**13. DRIVING IN THE NATURE RESERVE**

Motor vehicles driving in the reserve need to adhere to the National Road Traffic Act, Act 93 of 1996 including abiding to the rule of the road, giving driving signs, not driving in a reckless and dangerous manner and driving at a speed limit of 30km per hour.

**14. DUTY OF DRIVER IN THE EVENT OF AN ACCIDENT**

The driver of any motor vehicle in the reserve shall, whenever such vehicle may be involved in or contribute to any accident in which any other person or animal may have been killed or injured, in the case of a human being, immediately stop his motor vehicle, render any possible assistance and thereafter immediately report the incident to the nearest official of the Council or the South African Police Service and, in the case of an animal he shall merely report the incident immediately as aforesaid.

**15. ENTERING RESERVE AT OWN RISK**

Visitors to the reserve shall enter the reserve at their own and sole risk and the Council shall not be liable for any loss, injury or damage which visitors may suffer.

**16. HIRING OUT OF ENVIRONMENTAL EDUCATION CENTRE AS A RECEPTION AREA**

- (1) The Council may hire out the Environmental Education Centre as a reception area at the tariffs as determine by Council from time to time. No more than 20 people at a time are allowed to attend a function in the reserve at night-time.
- (2) All bona fide persons attending a function, for which the Environmental Education Centre is hired, whether they are organizers or guests, shall be allowed free of charge to the reserve for the period of the function. For this purpose and to control admission to function in the reserve, the Municipal Manager or his / her delegatee shall furnish each hirer of the reception area with 10 printed tickets, which the hirer may then issue to his guests and more specifically to the drivers of a maximum of 10 motor vehicles.
- (3) The admission to the reserve of a hirer of the Environmental Education Centre reception area and his guests shall be limited to the attendance of the function for which the entrance was granted, free of charge, and does not authorize any such person to travel in the reserve before or after the function.
- (4) No person attending a function, whether as organizer or guest, shall be permitted to drive around a motor vehicle in the reserve after sunset.
- (5) The hirer of the Environmental Education Centre reception area shall supply the following accessories:
  - (a) Fire wood
  - (b) Labour
  - (c) All pots, pans, kettles, plates, cups, saucers, cutlery and other kitchen utensils which may be necessary for the preparation and serving of food.
  - (d) Such other equipment as he / she prefers.
- (6) The hall (outdoor classroom) shall not be used for any dancing purpose.
- (7) Any person hiring the Environmental Education Centre reception area shall at the termination of the period of lease, leave the reception area in a clean and tidy condition, provided that should the hirer fail to do so, the Council may undertake the cleaning and tidying and recover the cost from the hirer.
- (8) The Environmental Education Centre reception area shall be hired on the explicit understanding that the Council shall not be liable for any damage to or loss of property or injury or death of a person as a result of any action caused in any way whatsoever.

- (9) No person shall cut or break off any tree or branches of trees for the purpose of firewood or any other purpose whatsoever.
- (10) The Environmental Education Centre reception area shall be hired on the explicit understanding that the hirer shall be liable for any loss, or damage of whatsoever nature to the area, furniture, grates, equipment or any other buildings or property of the Council on the relevant premises caused during the period for which the premises are hired by any person who has been admitted to the hired premises or seeking admission thereto, whether such person be lawfully on or about the premises or trespassing thereon. All losses, breakages or damages shall be deemed to have been caused during the period of hiring of the reception area unless any damage or breakages are brought to the notice of the Sectional Head: Environmental Management Section and in writing before the reception area is to be used. In the event of any dispute or court proceedings between the Council and the hirer, a certificate signed by the Municipal Manager or an official nominated by him (e.g. Head of the Department or Section Head Environmental Management) in respect of any loss or damage caused, shall be regarded as sufficient proof of such loss or damage.
- (11) Notwithstanding the provisions of section 18(2), the Municipal Manager may upon written application authorize free admission to the Environmental Education Centre.

19. **HIRING OUT OF PICNIC SPOT, SHELTERS AND OTHER FACILITIES FOR OVERNIGHT PURPOSES.**

- (1) The hiring out of the facilities shall per occasion not exceed a period of five days.
- (2) Hirers of overnight facilities shall not be allowed to enter or to leave the reserve other than during the official hours of admission.
- (3) Hirers shall be limited to the immediate area of the facilities, after hours, when the entrance gate is closed.
- (4) Any person hiring the facilities shall at the termination of the period of lease leave the picnic spot, shelters and surrounding area in a clean and tidy condition. Should the areas be left untidy, Council may undertake the cleaning and tidying and recover the cost from the hirer.
- (5) The facilities shall be hired out on the explicit understanding that the Council shall not be liable for any damage to or loss of property or injury or death of a person as a result of any action caused in any way whatsoever.
- (6) No person shall break off or damage any trees or branches of trees for the purpose of firewood.
- (7) The picnic spot and shelters shall be hired out on the explicit understanding that the hirer shall be liable for any loss or damage of whatsoever nature to the shelter, the hall and other facilities and equipment caused by any person who has been admitted to the hired facilities or seeking admission thereto. All losses, breakages or damages shall be deemed to have been caused during the period of hiring the facilities, unless the hirer has notified the Sectional Head: Environmental Management Section in writing thereof before the facilities are to be used. In the event of any dispute or court proceedings between the Council and the hirer, a certificate signed by the Municipal Manager or an official nominated by him (e.g. Head of the Department or Section Head Environmental Management) in respect of any loss or damage.

- (8) The hirer of overnight facilities shall not be allowed to give any form of entertainment to friends at picnic spots, shelters or other facilities.

**20. GUIDED DAY & NIGHT DRIVES AND WALKING-TOURS**

- (1) Day & night drives shall be allowed for groups not exceeding maximum passengers in game driving vehicles to undertake sightseeing tours conducted by officers of the Council (e.g. Nature Conservation Officer), on dates and times as approved by the Municipal Manager or his/her delegatee (e.g. Head of the Department or Section Head Environmental Management). Any person participating in a game driving vehicle tour shall comply with the provisions of these By-laws and shall subject himself to the authority of the officer conducting the tour. A game driving vehicle tour (eg. say conducted by the Nature Conservation Officer) shall last for approximately two hours.
- (2) Guided walking-tours for groups with a minimum of five persons and a maximum of ten persons shall be conducted by the Nature Conservation Officer on dates and times as approved by the Municipal Manager or his/her delegatee. Any person participating in a walking-tour shall comply with the provisions of these By-laws and shall subject himself to the authority of the Nature Conservation Officer.

**21. HIRE OUT OF THE ENVIRONMENTAL EDUCATION CENTRE**

- (1) Any person desiring to hire facilities at the Environmental Education Centre shall apply to the Municipal Manager or his/her delegatee in writing and complete the application form for this purpose.
- (2) The hirer of facilities at the Environmental Education Centre shall not enter the facilities (and the keys thereof shall not be issued over to the hirer) unless the charges as determined by Council from time to time, have been paid.
- (3) The hirer shall comply with all the provisions of these By-laws and shall not allow any default thereof.
- (4) No furniture or articles of any description which are the property of the Council, shall be removed from the Environmental Education Centre and the hirer shall make good to the replacement value of such articles any loss of or damage whatsoever to the Environmental Education Centre, furniture fittings or any other property of the Council that has occurred during the period of hiring.
- (5) The Council accepts no responsibility whatsoever in respect of any damage to or loss of any property, article or thing whatsoever placed or left in or near the Environmental Education Centre by the hirer or any other person entering the Environmental Education Centre or make use of the equipment in the Environmental Education Centre hired and the hirer hereby indemnifies and hold harmless the Council against any claim made by any person or persons on any grounds whatsoever, nor shall the Council be liable for any loss to the hirer in consequence of any accident, breakdown, failure or defect in respect of any appliance, lighting, equipment or arrangement thereof in the Environmental Education Centre hired or any other appliances or arrangement howsoever caused.
- (6) The right is reserved to an authorized officer of the Council (e.g. Nature Conservation Officer or Peace Officer) to enter the overnight facilities at the Environmental Education Centre at a reasonable time.

- (7) In the event of the hirer desiring to cancel a reservation of overnight facilities or the reception area of the Environmental Education Centre, the following shall apply:
- (a) 30 days and longer prior to the reserved commencement of hire – refund of rent minus 15%.
  - (b) Between 10 and 29 days prior to the reserved commencement of hire – refund of 50% of the rent.
  - (c) Within 9 days prior to the reserved commencement of hire – forfeiture of all rent paid.
- (8) Accommodation in overnight facilities is available from 15h00 on the day of arrival and overnight facilities shall be vacated before 10h00 on the day of departure.
22. The Council reserves the right from time to time to fix the terms and conditions in terms whereof persons may be allowed to make use of any facilities in the eMalahleni Nature Reserve provided by the Council for the use of the public or any portion thereof.
23. **HIRE OUT OF TENT STANDS AT THE PICNIC SPOTS**
- (1) Any person desiring to hire a tent stand shall apply in writing to the Municipal Manager or his/her delegatee and complete the application form for this purpose.
  - (2) The hirer of the tent stand at the picnic spots shall not occupy the stand unless the charges as determine by Council from time to time are fully paid.
  - (3) The hirer shall comply with all the provisions of these By-laws and shall not allow any default thereof.
  - (4) The Council accepts no responsibility whatsoever in respect of any damage to or loss of any property, article or thing whatsoever placed or left on the site and/or in the reserve by the hirer or any other person and the hirer indemnifies and hold harmless the Council against any claim made by any person or persons on any grounds whatsoever, nor shall the Council be liable for any loss to the hirer in respect of any accident, breakdown, failure or defect in respect of any appliance, lighting or other article howsoever caused.
  - (5) If the hirer of a tent stand cancels the reservation within seven days prior to the reserved commencement of hire, he shall forfeit the entire rental paid and if he cancels it ten days or longer prior to the reserved commencement, he shall forfeit 50% of the rental.
  - (6) Day visitors at tent camps shall pay the prescribed entrance fees and are subject to all the conditions as stipulated in these By-laws.
  - (7) The hire of a tent stand permits entrance to the nature reserve within the prescribed hours and subject to all the conditions as stipulated in these By-laws.
  - (8) No person shall break off or damage any trees, branches of trees or any other plant for any purpose whatsoever.
  - (9) Fires shall be made at barbecue facilities erected in the tent park only and no open fires shall be left unattended.
  - (10) Only six persons per tent stand shall be permitted to stay overnight and to be on a permanent basis during the period of hire in the tent park.

- (11) No pets and/or motorcycles / 4-track motorbikes / quad bikes shall be permitted in the reserve and tent park.
- (12) A tent stand shall be hired for a maximum unbroken period of five days only.
- (13) No second vehicle shall be parked at the hired tent stand, but only at indicated parking places, provided the prescribed entrance fees are paid once in respect of such second vehicle.
- (14) The barbecue facilities at the Environmental Education Centre as well as the kitchen and hall of the Environmental Education Centre area are of limits for tent campers and shall only be used by prior reservation and payment of the prescribed fees.

**24. APPOINTMENT OF HONORARY GAME RANGERS/ FIELD GUIDES/TOURIST GUIDES**

The Council may in its absolute discretion decide from time to time to appoint experienced Honorary Game Ranger(s) Field Guide(s) & Tourist Guide(s) with no cost to Council for the eMalahleni Witbank Nature Reserve to assist the Nature Conservation Officer, according to a written Council Policy debated by Council in this regard, after thorough consultation with interested and affected parties as a Public Private Participation initiative and observance of the written agreement between the Emalahleni Local Municipality, Wildlife and Environmental Society (WESSA), Friends of the eMalahleni Nature Reserve (FWNR) and several Hunters Associations.

Also taking in consideration and/or implementing the following legislation, conventions and strategies e.g. the Bill of Rights, Criminal Procedure Act (1977), Mpumalanga Nature Conservation Act 10 of 1998, Game Theft Act (1975), National Environmental Management Act (NEMA) 107 of 1998, National Environmental Management Biodiversity Act 10 of 2004, National Environmental Protected Areas Act 57 of 2003, National Heritage Resources ACT 25 of 1999, National Heritage Council Act 11 of 1999, National Water Act (NWA) 36 of 1998, Conservation of Agricultural Resources Act (CARA) 43 of 1983, National Veld and Forest Fire Act 101 of 1998, Fertilizers, Farm Feeds and Stock Remedies Act 36 of 1947, Environmental Conservation Act 73 of 1989, Occupational Health and Safety Act 85 of 1993, Disaster Management Act 57 of 2002, Hazardous Substances Act 15 of 1973, National Environmental Management Air Quality Act 39 of 2004, Local Government Municipal Systems Act 2000, but also the Convention on Biological Diversity, NEPAD Environmental Action Plan, National Biodiversity Strategy and Action Plan (2004), Regional Biodiversity Strategy and Action Plan, Southern African Developing Countries Protocol on Wildlife Conservation and Law Enforcement in the Southern African Development Community, Convention Concerning the Protection of the World Cultural and Natural Heritage (World Heritage Convention, 1975) and the Land Use Management Bill, as it deem fit.

**25. WRITTEN NOTICES, FINES AND SENTENCES APPLICABLE TO MISCONDUCT IN EMALAHLENI NATURE RESERVE**

The Council may in its absolute discretion decide from time to time to compile/amend/execute and issue written notices, regarding fines and sentences for any misconduct in the eMalahleni Nature Reserve with due observance of the Mpumalanga Nature Conservation Act (10/1998) and Criminal Procedure Act (1977).

**26. OFFENCES AND PENALTIES**

- 1) Any person who -

- a) contravenes or fails to comply with any provisions of these By-laws; or
- b) fails to comply with any notice issued in terms of or for the purposes of these By-laws; or
- c) fails to comply with any lawful instruction given in terms of or for the purposes of these By-laws; or
- d) obstructs or hinders any authorized representative or employee (e.g. Nature Conservation Officer or Peace Officer) of the Council in the execution of his or her duties under these By-laws,

is guilty of an offence and liable on conviction to a fine not exceeding R1 500-00 or in default of payment to imprisonment for a period not exceeding six months and in the case of a continuing offence, to a further fine not exceeding R50-00 for each day that the offence is committed, or in default of payment to imprisonment not exceeding one day, for every day during the continuance of such offence after a written notice has been issued by the Council and served on the person concerned requiring the discontinuance of such offence.

## 27. SERVING OF NOTICES

- 1) A notice, order or other document is regarded as having been properly served if -
  - a) it has been delivered to the person concerned personally;
  - b) it has been sent by registered post or speed post to the person to whom it is addressed at his or her last known address;
  - c) it is served on a person apparently not less than 16 years of age and apparently in charge of the premises at the addressee's last known address;
  - d) if the address of the person concerned in the Republic of South Africa is unknown, if it has been served on the person's agent or representative in the Republic of South Africa in the manner provided for in paragraph (a), (b) or (c); or
  - e) if the address of the person concerned and of his or her agent or representative in the Republic of South Africa is unknown, if it has been posted in a conspicuous place on the premises to which it relates.
- 2) A notice, order or other document, which may in terms of these By-laws be served on the owner or occupier of premises, may be addressed to the owner or occupier of the specified premises and need not bear the name of the owner or occupier.

## 28. APPLICATION OF THE BY-LAWS

These By-laws shall apply in the jurisdiction of the ~~Emalahleni~~ Local Municipality.

## 29. SHORT TITLE

These By-laws are called the ~~eMalahleni~~ *Nature Reserve By-laws, 2008*.