

**DR BEYERS NAUDE LOCAL MUNICIPALITY  
PREVENTION OF PUBLIC NUISANCES AND KEEPING OF ANIMALS  
BY-LAW**

Under of section 156 of the Constitution of the Republic of South Africa, 1996, the Dr Beyers Naude Local Municipality, enacts as follows:-

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### 1. Definitions

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

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

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

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

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

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

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

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

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

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

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

(a) acting in such position; and

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

**“owner”** –

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

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

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

“pet parlour” means an establishment where pets are groomed;

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

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

“premises” means –

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

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

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

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

(a) is vested in the municipality;

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

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

“responsible authority” means the Dr Beyers Naude Local Municipality or any national or provincial department that may in terms of its powers and functions impose conditions or restrictions in respect of the keeping of animals;

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

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

## **2. Application of by-law**

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

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

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

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

## **CHAPTER I GENERAL PROVISIONS RELATING TO PUBLIC NUISANCES**

### **3. Behaviour and conduct**

(1) No person may –

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

person responsible for the nuisance or the owner or occupier of the premises whether or not such owner or occupier is responsible therefore.

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

## **CHAPTER 11 GENERAL PROVISIONS RELATING TO KEEPING OF ANIMALS**

### **4. Permission to keep animals**

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

### **5. Plans for structures and management**

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

### **6. Consideration of application and imposition of conditions**

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

- (d) any other information relating tot the application, refuse to grant consent or grant consent.
- (2) Where consent is refused, the municipality must furnish the applicant with the reasons for such refusal and at the same time advise him or her of the right of appeal in terms of section 27.
- (3) Where consent is granted, the municipality may impose conditions.

**7. Visibility of structures on premises**

- (1) All structures in which animals are kept must be suitably screened from any street.
- (2) A person who fails to comply with subsection (1) commits an offence.

**8. Wavering of requirements and withdrawal of authorisations**

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

**9. Validity of authorisations**

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

**10. Duties of owner or keeper of animal**

- (1) The owner or keeper of an animal –
  - (a) may not cause or allow an animal to interfere with the comfort, convenience, peace or quiet of other people;
  - (b) must provide such animal with shelter, water and proper food ; and
  - (c) must maintain the premises on which an animal is kept in good repair and in a neat condition in order to prevent the occurrence of a public nuisance.
- (2) A person who contravenes a provision of subsection (1) commits an offence.

**11. Animals kept in unsatisfactory manner**

- (1) Whenever animals kept on any premises are a public nuisance, the municipality may by written notice require the owner or occupier of such premises to remove the cause of and to abate such nuisance.
- (2) The municipality may prescribe the steps that need to be taken or the work that must be done to remove the cause of and to abate any nuisance.
- (3) Any activities undertaken by the owner in terms of a notice contemplated in subsection (1) will be for such owner's own account.
- (4) If an owner fails to comply with a notice issued in terms of subsection (1) the municipality may take the steps required and recover the cost thereof from such owner.
- (5) A person who fails to comply with a notice contemplated in subsection (1) commits an offence.

**12. Destruction of animals**

- (1) The municipality may order the euthanization or destruction of an animal which is –
  - (a) dangerous or ferocious; or
  - (b) injured or diseased to such an extent that it would be humane to do so.
- (2) An animal to be destroyed in terms of subsection (1) must be euthanized by a registered veterinary surgeon or destroyed with such instruments or appliances and in such a manner as to inflict as little suffering as possible.
- (3) A person who fails to comply with an order contemplated in subsection (1) or who contravenes subsection (2) commits an offence.

**13. Hawking of animals**

- (1) No person may hawk an animal in a street or public place or from a movable structure or vehicle.
- (2) A person who contravenes subsection (1) commits an offence.

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

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

**14. Number of dogs and cats**

- (1) Subject to the provisions of section 15, no person may, without the permission of the municipality, keep on any premises –
  - (a) more than two dogs; and
  - (b) more than two cats.
- (2) An application for permission in terms of subsection (1) must be submitted on an application form obtainable from the municipality and must contain an exposition of the breed, gender and number of dogs or cats applied for.
- (3) A restriction imposed under section 17 on the number of animals that may be kept on premises does not apply for a period of 10 weeks after the birth of a litter from an animal kept in terms of a permit.
- (4) A person who contravenes subsection (1) commits an offence.

**15. Breeders of dogs and cats**

- (1) A breeder of dogs or cats who wishes to keep more than two dogs or cats who wishes to keep more than two cats must obtain permission from the municipality.
- (2) The municipality may require the submission of plans and specifications of structures in which it is proposed to keep the dogs or cats as well as a site plan indicating all existing or proposed structures and fences on the premises.
- (3) A person who fails to obtain the permission of the municipality as required in subsection (1) commits an offence.

**16. Breeders of pets**

- (1) A person who breeds pets must obtain the approval of the municipality.
- (2) The provisions of section 15(2),(3) and (4) are with the necessary adjustment applicable to an application in terms subsection (1).
- (3) A person who contravenes subsection (1) commits an offence.

**17. Conditions and restrictions**

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

**18. Withdrawal of permission**

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

**19. Dogs or cats in public places**

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

*Part 2 – Specific provisions relating to dogs*

**20. Control of dogs**

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



- (2) The municipality may seize and impound a dog which is found in a street or public place in contravention with the provisions of this by-law.
- (3) A dog impounded in terms of subsection 2 may be released to the owner upon payment of a fee determined by the municipality.
- (4) A person who contravenes a provision of subsection (1) commits an offence.

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

**21. Permission to operate**

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

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CO-OPERATION BETWEEN MUNICIPALITIES**

**22. Service delivery agreements**

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

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

**23. Failure or omission by District Municipality**

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

**CHAPTER VII  
GENERAL PROVISIONS**

**24. Right of entry and inspection**

- (1) Any duly authorised employee of the municipality is authorised to inspect any premises within the municipal area in order to determine whether there is compliance with the provisions of this by-law.
- (2) When entering premises in terms of subsection (1), the employee must on request by any person, identify him- or herself by producing written proof of authorisation.

- (3) The authorised employee may be accompanied by a person reasonably required to assist in conducting the inspection.
- (4) Any person who fails to give or refuses access to any authorised, or obstructs or hinders him or her in the execution of his or her duties under this by-law, or who fails or refuses to give information that he or she may lawfully be required to give to such employee, or who gives false or misleading information knowing it to be false or misleading, commits an offence.

**25. Service of documents and process**

- (1) Whenever a notice, order, demand or other document is authorised or required to be served on a person in terms of this by-law, it shall be deemed to have been effectively and sufficiently served on such person –
  - (a) when it has been delivered to him personally;
  - (b) when it has been left at his place of residence or business in the Republic with a person apparently over the age of sixteen years;
  - (c) when it has been posted by registered or certified mail to his last known residential or businesses address in the Republic and an acknowledgment of the posting thereof is produced;
  - (d) if his address in the Republic is unknown, when it has been served on his agent or representative in the Republic in the manner provided by paragraph (a), (b) or (c); or
  - (e) if his address and agent in the Republic are unknown, when it has been posted in a conspicuous place on the immovable property (if any) to which it relates.
- (2) When any notice, order, demand or other document is authorised or required to be served on a person, it is not necessary to name him or her but it will be sufficient if he or she is described as the owner, occupier or holder of a right.

**26. Transitional provisions**

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

**27. Appeal**

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

**28. Penalties**

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

**29. Exemptions**

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

**30. Liaison forums in community**

- (1) The municipality may establish one or more liaison forums in a community for the purposes of –
  - (a) creating conditions for a local community to participate in the affairs of the municipality; and
  - (b) promoting a safe and healthy environment;
- (2) A liaison forum may consist of –
  - (a) a member of members of an interest group, or an affected person;
  - (b) a designated official or officials of the municipality; and
  - (c) a councillor.
- (3)
  - (a) the municipality may, when considering an application for an approval, or exemption certificate in terms of this by-law, request the input of a liaison forum.
  - (b) a liaison forum or any person or persons contemplated in subsection (2) may, on own initiative submit an input to the municipality for consideration.

**31. Repeal of by-laws**

The following by-laws are hereby repealed:

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

**32. Short title and commencement**

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

**DR BEYERS NAUDE LOCAL MUNICIPALITY  
PUBLIC AMENITIES BY-LAW**

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996, the Dr Beyers Naude Local Municipality enacts as follows:-

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## 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;

**“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 Dr Beyers Naude 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 Dr Beyers Naude Local 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;

**“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;

**“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 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 carcass which has been plucked or hunted only if the official has –
  - (i) inspected such flora or carcass;
  - (ii) considered it necessary or desirable, measured the dimensions or mass, or taken a sample of such flora or carcass; and
  - (iii) in writing authorised the permit holder to remove such flora or carcass; 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;
  - (xxviii) 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 sub section (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.

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 the 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-boats 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;
  - (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”.

## **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 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.

## **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 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;
- (d) spear fish 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 of 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. 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 Sarah Baartman 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.

### **34. 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.

**DR BEYERS NAUDE LOCAL MUNICIPALITY  
IMPOUNDMENT OF ANIMALS BY-LAW**

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996, the Dr Beyers Naude Local Municipality, enacts as follows:-

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**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 Dr Beyers Naude 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 or injury of any impounded animal, the pound master shall enter in his pound register a description of such animal and the cause of its death or injury.

## **11. Inspection of and extracts from pound register**

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

## **12. Submission of pound register entries after pound sales**

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

**13. Inspection of pound register at place of sale**

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

**14. Pound master's fees**

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

**15. Fees payable**

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

**16. Notice of sale**

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

**17. Auctioneer**

- (1) Every sale of impounded stock must –
  - (a) be conducted by the pound master or some other person duly authorised thereto by the municipality; and

- (b) commence at the time and date mentioned in the notice in terms of section 16(a).
- (2) No person conducting a pound sale may have any direct or indirect interest in any purchase at any sale so held by him or her.

**18. Sale of animals**

At every such sale-

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

**19. Illegal impounding and penalties**

Any person who illegally impounds any animal commits an offence.

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

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

**21. Use, detention and ill-treatment of animals**

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

**22. Appeal**

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

**23. Offences and penalties**

Any person who -

- (a) contravenes or fails to comply with a provision of this by-law;

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

**24. Revocation of by-laws**

The following by-laws are hereby repealed:

- (a) Any by-law previously promulgated by the municipality or any of the disestablished municipalities now incorporated into the municipality, in so far as it relates to any matter provided for in this by-law; and
- (b) Any by-law previously promulgated by the Sarah Baartman 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.

## **DR BEYERS NAUDE LOCAL MUNICIPALITY COMMONAGE BY-LAW**

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996, the Dr Beyers Naude Local Municipality, enacts as follows:-

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### **1. Definitions**

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

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

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

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

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

“**prescribed**” means prescribed by the municipality;

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

**2. Purpose of by-law**

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

**3. Establishment of camps for grazing**

(1) The municipality may reserve and fence off a portion of the commonage and establish camps for the grazing of the stock of the residents.

(2) The municipality may set apart portions of the commonage for the grazing of small stock and large stock.

(3) The municipality may erect paddocks or enclosures for animals of residents.

**4. Closing of camps**

(1) The municipality may, whenever it deems it necessary for a purpose such as, but not limited to, maintenance or allowing a meadow to regenerate grass growth, close and prohibit the grazing of a camp on the commonage, during certain periods of the year.

(2) No person may allow his or her animal to graze in a camp which has been closed by the municipality for whatever purpose or reason.

(3) The municipality may impound an animal found in a camp which has been closed in terms of subsection (1).

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

**5. Approval to graze animals**

(1) No person may keep or depasture any animal in a camp on a commonage without first having obtained written approval from the municipality.

(2) A person who wishes to obtain approval must submit the prescribed form to the municipality which may, after considering the following factors, grant approval:

(a) the total number of animals already accommodated in the camps;

(b) the number of animals, and the kind of animal, which he or she wishes to have accommodated in a camp;

(c) the condition of the meadows (pastures), and if any further animals can be accommodated; and

(d) any other factor which the municipality deems necessary.

(3) The right of depasturing is personal only, and no person is entitled to transfer or cede his or her right to another.

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

**6. Confinement of stock to camps**

(1) A person depasturing on commonage must confine the stock to the camp set apart by the municipality.

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

**7. Numbers and condition of animals**

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

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

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

(4) A person who –

(a) keeps more than the determined number of animals as contemplated in subsection (1) on a commonage;

(b) who fails to keep an animal in a healthy condition as contemplated in subsection (2);

(c) fails to file a declaration as contemplated in subsection (3); or

(d) provides false information to the municipality, commits an offence.

#### **8. Branding of stock**

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

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

#### **9. Grazing fees**

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

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

#### **10. Infected or contagious animals**

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

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

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

#### **11. Carcasses of animals**

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

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

#### **12. Prohibited conduct**

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

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



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

### **13. Exemptions**

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

### **14. Liaison forums in the community**

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

- (a) creating conditions for a local community to participate in the affairs of the municipality;
  - (b) encouraging a local community to participate in the affairs of the municipality; and
  - (c) promoting the achievement of a properly controlled and administered commonage.
- (2) A liaison forum may consist of –
- (a) a member or members of an interest group, or an affected person;
  - (b) a member or members of a community in whose immediate area a commonage has been established;
  - (c) a designated official or officials of the municipality; and
  - (d) a councillor.
- (3) (a) The municipality may, when considering an application for an approval, or exemption certificate in terms of this by-law, request the input of a liaison forum.
- (b) A liaison forum or any person or persons contemplated in subsection (2) may, on their own initiative give input to the municipality for consideration.

#### **15. Agreements**

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

#### **16. Authentication and service of notices and other documents**

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

(4) When any notice or other document is served on the owner, occupier, or holder of any property, or right in any property, it is sufficient if that person is described in the notice or other document as the owner, occupier, or holder of the property or right in question, and it is not necessary to name that person.

**17. Appeal**

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

**18. Penalties**

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

**19. Revocation of by-laws**

The following by-laws are hereby repealed:

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

**20. Short title and commencement**

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

## **DR BEYERS NAUDE LOCAL 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 Dr Beyers Naude Local Municipality, enacts as follows:-

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  15. Revocation of by-laws
  16. Short title and commencement
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#### **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 Dr Beyers Naude 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 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 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 Sarah Baartman 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 Dr Beyers Naude Municipal Fences and Fencing By-law 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:**

.....

## **DR BEYERS NAUDE LOCAL MUNICIPALITY STREET TRADING BY-LAW**

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

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1. Definitions
2. Principles and objectives
3. Application

### **CHAPTER 1: GENERAL PROVISIONS APPLICABLE TO STREET TRADING**

4. Restricted and prohibited areas
5. Places where street trading is prohibited
6. Duties of street trader
7. Prohibited conduct
8. Removal and impoundment
9. Disposal of impounded goods

### **CHAPTER 2: MISCELLANEOUS PROVISIONS**

10. Penalty
11. Responsible person
12. Appeal
13. Liaison forums in community
14. Revocation of by-laws
15. Short title and commencement

#### **1. Definitions**

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

“**Act**” means the Businesses Act, 1991 (Act 71 of 1991), and includes the regulations promulgated under the Act;

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

“**garden**” means a garden to which the public has a right to access;

“**goods**” means any movable property;

“**intersection**” means an intersection as defined in the regulations promulgated in terms of the National Road Traffic Act, 1996 (Act 93 of 1996);

“**litter**” means any object or matter which is discarded by a person;

“**motor vehicle**” means a motor vehicle as defined in section 1 of the National Road Traffic Act, 1996 (Act 93 of 1996);

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

“**municipal manager**” is the person appointed by the municipality in terms of Section 82 of the Municipal Structures Act, 1998 and includes any person:

- (a) acting in such position; and
- (b) to whom the municipal manager has delegated any power, function or responsibility in as far as it concerns the execution of those powers, functions or duties.

**“official”** means a designated officer who is authorized by the municipality to perform and exercise any or all of the functions and powers contemplated in this by-law;

**“park”** means a park to which the public has a right to access;

**“premises”** includes any land, building, structure, part of a building or of a structure, or any vehicle, conveyance, vessel or aircraft;

**“prescribed”** means prescribed by the municipality by resolution;

**“property”**, in relation to a street trader, means goods in which a street trader trades, and includes any article, container, vehicle or structure used or intended to be used in connection with street trading by the street trader;

**“public amenity”** means –

(a) any land, square, camping site, caravan park, beach, swimming pool, public open space, public resort, recreation site, river, dam, nature reserve, zoo-logical, botanical or other garden, or hiking trail, including any portion thereof and any facility or apparatus therein or thereon, which is the property of, or is possessed, controlled or leased by the municipality and to which the general public has access, whether on payment of admission of fees or not, but excluding a public road or street;

(b) a building, structure, hall room or office, including any part thereof or any facility or apparatus therein, which is the property of, or is possessed, controlled or leased by the municipality and to which the general public has access, whether on payment of admission of fees or not; and

(c) a public amenity contemplated in paragraphs (a) and (b) if it is lawfully controlled or managed in terms of an agreement between a person and the municipality;

**“public road”** means a public road as defined in section 1 of the National Road Traffic Act, 1996 (Act 93 of 1996);

**“roadway”** means a roadway as defined in section 1 of the National Road Traffic Act, 1996 (Act 93 of 1996);

**“sell”** includes barter, exchange, hire out, display, expose, offer or prepare for sale, store with a view to sell, or provide a service for reward, and “sale” or “selling” has a corresponding meaning;

**“sidewalk”** means a sidewalk as defined in section 1 of the National Road Traffic Act, 1996 (Act 93 of 1996);

**“street furniture”** means any furniture installed by the municipality on the street for public use;

**“street trader”** means a person who, as hawker, vendor or pedlar as contemplated in the Businesses Act, 1991 (Act 71 of 1991), carries on the business of the selling of any goods or the supplying of or offering to supply any service for reward in a public road or public amenity;

**“street trading”** means the carrying on of the business as a street trader;

**“verge”** means a verge as defined in section 1 of the National Road Traffic Act, 1996 (Act 93 of 1996), and

any words or expressions to which a meaning has been assigned in the Businesses Act, 1991, (Act 71 of 1991) have a corresponding meaning in this by-law.

- (2) A single act of selling or offering or rendering of services in a public road or public amenity constitutes street trading.

(3) A reference to a person carrying on the business of street trader includes the employee of the person.

## **2. Principles and objectives**

The Municipality, acting in terms of section 6A(1)(a)(i) of the Businesses Act, 1991 (Act 71 of 1991), and –

- (a) having regard to the principles set out in the Act and in the Constitution;
- (b) taking into consideration the need of the residents to actively participate in economic activities; and
- (c) taking into consideration the need to maintain a clean and healthy environment, in this by-law provides mechanisms, procedures and rules to manage street trading.

## **3. Application**

This by-law apply to all persons who carry on the business of street trading within the area of jurisdiction of the Dr Beyers Naude Local Municipality.

### **CHAPTER 1: GENERAL PROVISIONS APPLICABLE TO STREET TRADING**

## **4. Restricted and prohibited areas**

(1) The municipality may, in terms of section 6A(2)(a) of the Act and subject to the provisions of paragraphs (b) up to and including (j), declare any place in its area of jurisdiction to be an area in which street trading is restricted or prohibited.

(2) The municipality must by public notice and by erected sign indicate such areas, and the notice and sign must indicate –

- (a) the restriction of prohibition against street trading;
- (b) if street trading is restricted –
  - (i) the boundaries of the area or stand set aside for restricted street trading;
  - (ii) the hours when street trading is restricted or prohibited; and
  - (iii) the goods or services in respect of which street trading is restricted or prohibited; and
- (c) that the area has been let or otherwise allocated.

(3) The municipality may change the areas contemplated in subsection (1) if the needs and circumstances of residents and street traders demand such reconsideration.

(4) A person who carries on the business of a street trader in contravention of a notice contemplated in subsection (2) commits an offence.

## **5. Places where street trading is prohibited**

(1) Unless the municipality has so permitted in terms of an agreement or by means of the display of a sign, no person may carry on the business of a street trader in any of the following places:

- (a) In a garden or a park to which the public has a right of access; or
- (b) on a verge contiguous to –

- (i) a building belonging to, or occupied solely by, the State or the municipality;
  - (ii) a church or other place of worship; or
  - (iii) a building declared to be a public monument under the National Heritage Resources Act, 1999.
- (2) No person may carry on the business of a street trader in any of the following places:
- (a) in a place declared by the municipality under section 6A(2)(a) of the Act as a place in which street trading is prohibited;
  - (b) at a place where street trading obstructs the use of the sidewalk by pedestrians or interferes with the ability of persons using the sidewalk to view the goods displayed behind a shop display window or obscures such goods from view.
  - (c) within 5 metres of an intersection as defined in Regulation 322 of National Road Traffic Act, 1996;
  - (d) at a place where street trading obstructs –
    - (i) a fire hydrant;
    - (ii) the entrance to, or exit from, a building;
    - (iii) vehicular traffic;
    - (iv) access to a pedestrian crossing, a parking or loading bay or any other facility for vehicular or pedestrian traffic;
    - (v) access to, or the use, of street furniture or any other facility designed for the use of the general public;
    - (vi) or obscures a road traffic sign that is displayed in terms of the National Road Traffic Act, 1996; or
    - (vii) or obscures a marking, notice or sign displayed or made in terms of this by-law;
  - (e) that half of a public road contiguous to a building which is used for residential purposes, if the owner or person who is in control or any occupier of the building objects thereto; or
  - (f) on a portion of a sidewalk or public amenity in contravention of a notice or sign erected or displayed by the municipality for the purposes of this by-law.
- (3) A person to whom an area or stand has been let or allocated under paragraph (c) of section 6A(3) of the Act must –
- (a) comply with conditions of the lease of allocation; and
  - (b) be in possession of written proof that municipality has let or allocated the area or stand to him or her.
- (4) A person who contravenes a provision of this section commits an offence.

## **6. Duties of street trader**

- (1) A street trader must –
- (a) when he or she concludes business for the day, remove his or her property, except any structure permitted by the municipality, to a place which is not part of a public road or public amenity;



- (b) when requested by an official of the municipality or a by a person who has been authorized to provide municipal services, move his or her property so as to permit the official or other person to carry out any work in relation to a public road, public amenity or service;
- (c) keep the area or stand occupied by him or her in a clean and sanitary condition;
- (d) ensure that the area is free of litter, and must, when he or she concludes business for the day, dispose of litter generated by his or her business –
  - (i) at the dumping sites of the municipality; or
  - (ii) in receptacles provided by the municipality for the public;
- (e) on request by an official of the municipality, move his or her property so as to permit the cleansing of the area where he or she is trading;
- (f) regarding the size and location of the area or stand occupied by him or her, –
  - (i) ensure that the area which he or she uses does not exceed 6 m<sup>2</sup> in size and not exceed 3 metres in length;
  - (ii) ensure that a space of not less than 1,5 metres is left between the wall of the shop (contiguous to which he or she conducts his or her business) and himself or herself; and
  - (iii) leave a space of not less than 0,5 metre from the kerb of the roadway.

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

## **7. Prohibited conduct**

(1) A street trader –

- (a) may not sleep or overnight at the area where he or she is trading, or at the area where another street trader is trading;
- (b) may not place or stack his or her property in such a manner that it –
  - (i) constitutes a danger to any person or property; or
  - (ii) is likely to injure any person or cause damage to any property;
- (c) may not dispose of litter in a manhole, storm water drain or other place not intended for the disposal of litter;
- (d) may not release onto a public road or public amenity or into a storm water drain or fat, oil or grease in the course of conducting his or her business;
- (e) may not allow smoke, fumes, noise, smells, or other substance arising from his or her activities to cause a nuisance or pollution of any kind;
- (f) may not erect a structure for the purpose of providing shelter;
- (g) may not place his or her property in a public road or public amenity;
- (h) who conducts his or her business from a vehicle, may not park the vehicle or trailer in such a manner as to obstruct pedestrian or vehicular traffic and must ensure that he or she complies with the provisions of the National Road Traffic Act, 1996;
- (i) may not place, on a public road or public amenity, his or her property that cannot be easily removed to a place of safety, which may not be a public road or public amenity, at the end of the day's business;

- (j) may not display his or her goods or other property on or in a building, without the consent of the owner, lawful occupier or person in control of such building or property;
  - (k) may not attach an object by any means to a building, structure, sidewalk, tree, parking meter, lamp, pole, electricity pole, telephone booth, post box, traffic sign, bench or any other street furniture in or on a public road or public amenity;
  - (l) may not carry on his or her business in such a manner as to –
    - (i) create a nuisance;
    - (ii) damage or deface the surface of a public road or public amenity or public or private property; or
    - (iii) create a traffic hazard;
  - (m) may not make an open fire that poses a health or environment hazard to any person or property or to street furniture;
  - (n) may not, other than in a refuse receptacle approved or supplied by the municipality, accumulate, dump, store or deposit any litter on –
    - (i) any land or premises;
    - (ii) any public road or public amenity or;
    - (iii) any public or private property;
  - (o) may not store his or her property in a manhole, storm water drain, public toilet, bus shelter or in a tree; and
  - (p) may not carry on such business in a place or area in contravention of any prohibition or restriction approved by the municipality in terms of section 6A(2)(a) of the Act.
- (2) A person who contravenes a provision of subsection (1) commits an offence.

## **8. Removal and impoundment**

- (1) An official who reasonably suspects that property is being used or intended to be used in, or in connection with, street trading, whether or not the property is in possession or under the control of any person may, subject to subsection (2), remove and impound the property which he or she finds at a place where street trading is restricted or prohibited and which constitutes an infringement of any such restriction or prohibition.
- (2) An official who acts under subsection (1) must, except in the case of goods that have been left or abandoned, issue to the street trader a receipt for the property so removed and impounded and the receipt must contain the following particulars:
  - (a) the address where the impounded property will be kept and the period it will be kept;
  - (b) the conditions for the release of the impounded property; and
  - (c) that unclaimed property will be sold by public auction.
- (3) If any impounded property is attached to immovable property or a structure, and the impounded property is under the apparent control of a person present at that place, an official may order the person to remove the impounded property.
- (4) When a person fails to comply with an order to remove the impounded property, an official may take such steps as may be necessary to remove the impounded property.
- (5) A person who hinders or obstructs an official in the performance of his or her duties under this section, or who refuses or fails to remove the object when ordered to do so by an official, commits an offence.

## **9. Disposal of impounded goods**

(1) Any perishable goods removed and impounded in terms of section 8(1) may at any time after the impoundment thereof be sold or destroyed by the municipality and in the case of a sale of such goods, the proceeds thereof, less any expenses incurred by the municipality in connection with the removal and impoundment thereof, shall upon presentation of the receipt contemplated by section 8(2)(a), be paid to the person who was the owner thereof when it was impounded. If such owner fails to claim the said proceeds within three months of the date on which it was sold, the proceeds may be forfeited to the municipality.

(2) The owner of any goods other than perishable goods already dealt with by the municipality in terms of subsection (1) who wishes to claim the return thereof must, within a period of one month of the date of the impoundment thereof, apply to the municipality and must present the receipt contemplated in section 8(2)(a), failing which the goods may be sold by the municipality, and in the event of a sale thereof the provisions of subsection (1) relating to the proceeds of a sale likewise apply to the proceeds of the sale.

(3) If the owner of any goods impounded in terms of section 8(a) claims the return of the goods from the municipality and he or she is unable or refuses to refund any expenses incurred by the municipality in connection with the removal and impoundment, the goods may be sold by the municipality and the proceeds of any sale thereof, less any expenses shall be paid to him or her..

(4) In the event of the proceeds of any sale of goods contemplated by this section not being sufficient to defray any expenses incurred by the municipality, the owner thereof shall in terms of section 8(3)(a) remain liable for the difference.

## **CHAPTER 2: MISCELLANEOUS PROVISIONS**

### **10. Penalty**

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

### **11. Responsible person**

When an employee of a person who performs an act which contravenes a provision of this by-law, the employer is deemed to have committed the contravention himself or herself, unless he or she proves that –

- (a) he or she did not permit such act;
- (b) he or she took all reasonable steps to prevent the performance of the act; and
- (c) it was not in the scope of the authority or the course of employment of the employee to perform an act which contravenes this by-law.

### **12. Appeal**

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

**13. Liaison forums in community**

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

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

(2) A liaison forum may consist of –

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

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

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

**14. Revocation of by-laws**

The following by-laws are hereby repealed:

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

**15. Short title and commencement**

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

**DR BEYERS NAUDE LOCAL MUNICIPALITY  
OUTDOOR ADVERTISING AND SIGNAGE BY-LAW**

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996, the Dr Beyers Naude Local Municipality, enacts as follows:-

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## 1. Definitions

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

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

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

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

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

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

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

“**billboard**” means any screen or board which stands free and is larger than 4,5 m<sup>2</sup> in total area; which is supported by, or consists of, a structure used, for the purpose of posting, displaying or exhibiting a sign;

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

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

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

“**commercial advertising**” means any words, letters, logos, figures, symbols, pictures relating to the name of a business, trade, partnership, individual, or any information, recommendation or exhortation in respect of any particular goods manufactured or sold, or any particular services rendered or offered, or any event for commerce or entertainment, including sporting events;

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

“**common boundary façade**” means any façade of a building which is built abutting a rear or

side boundary of an erf and which façade is blank, that is, having no architectural features, which includes windows;

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

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

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

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

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

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

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

“**Environmental Impact Assessment**” (EIA) means an assessment carried out in accordance with the Municipality’s guidelines for outdoor advertising;

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

“**existing sign**” means any sign previously approved by the Municipality;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**“organ of state”** means:

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

(b) any other functionary or institution –

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

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

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

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

**“person”** includes:

(a) any organ of state;

(b) any company incorporated or registered as such under any law; and

(c) any body of persons, whether incorporated or not, functioning as a single entity for whatever purpose;

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“**street name signs**” means pole-mounted, double-sided, internally illuminated or unilluminated signs displayed in combination with names of streets, not exceeding 1 m<sup>2</sup>;

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

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

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

“**third-party advertising**” means the advertising of goods or services that are not made,

procured, sold or delivered from the property on which the sign or sign advertising of those goods or services is fixed or placed, and includes advertising which is not locality bound.

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

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

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

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

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

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

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

“**verandah**” includes a cantilevered canopy and sunblind;

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

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

## **2. Principles and objectives**

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

### **CHAPTER 1**

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

### **3. Submission of applications**

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

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

- (a) a site plan, drawn to a scale of not less than 1:200, showing-
    - (i) the site on which the sign is to be erected or displayed;
    - (ii) the position of the sign and the building, if any, to which it is to be attached;
    - (iii) every existing building and signs on the site;
    - (iv) existing and proposed landscaping, traffic signals and road traffic signs;
    - (v) the position, with dimensions, of the sign or signs in relation to the boundaries of the site;
    - (vi) the location of the streets abutting the site; and
    - (vii) existing approved zoning conditions ;
  - (b) a drawing, on a scale of not less than 1:20, which complies with the requirements of the National Building and Regulations Standards Act, 1977 (Act 103 of 1977), showing-
    - (i) the appearance of the sign and all relevant construction detail;
    - (ii) the materials of which the sign is to be constructed; and
    - (iii) the colours to be used, and whether or not the sign is to be illuminated;
  - (c) in the case of an illuminated sign, the drawing must indicate whether or not the sign is an electronic sign and if so, full details in respect of the requirements set in sections 7 and 8 must be furnished.
  - (d) if a sign is to be attached to or displayed on the wall or façade of a building, the Municipality may require the submission of an additional drawing showing an elevation of the building in colour, the details and position of the proposed sign and the details and the position of every existing sign on the building drawn to a scale of not less than 1:100, or the Municipality may require a coloured print of or an artist's photographic or computer generated impression of the building with the details of the proposed sign superimposed on such graphic and drawn as nearly as is practicable to the same scale as that of the graphic;
  - (e) if the applicant is not the registered owner of the property on which the sign will be erected, the applicant must obtain the signature of the registered owner of the land or building on which the sign is to be erected, indicating that person's knowledge of and consent to the application; and
  - (f) upon the request of the Municipality such additional drawings, calculations and other information as is necessary to enable the Municipality to establish the adequacy of the proposed means of securing, fixing or supporting any proposed sign, sign or billboard and its ability to resist all loads and forces to which the sign, advertising or billboard may be exposed and the sufficiency of the margin of safety against failure.
- (3) The Municipality may require the submission of any or all of the following studies or assessments-
- (a) an Environmental Impact Assessment (either the 1st stage thereof; being the completion of an Environmental Checklist or in its entirety),
  - (b) a Heritage Impact Assessment; and
  - (c) a Traffic Impact Assessment.
- (4) If a community or portion thereof or a person will be affected by the proposed sign, it may require a public participation process prior to considering the approval, which public participation process must comply with the Municipality's policy on public participation.
- (5) The Municipality may require a signage master plan in respect of any development where the erection of numerous signs is proposed or the rationalisation of previously approved signs is required so as to allow it to consider a consistent design master plan prior to assessment of any individual sign.

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

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

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

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

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

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

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

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

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

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

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

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

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

**CHAPTER 2**

**STANDARD CONDITIONS FOR APPROVAL, REQUIREMENTS, AND APPROVAL**

**6. Standard conditions for approval**

(1) All signs must be properly constructed of the requisite strength and must comply with the requirements of the National Building Regulations and Standards Act, 1977 (Act 103 of 1977), as amended.

(2) The applicant to whom approval has been granted and the owner of the property or building to which a sign is attached shall be jointly and severally liable for the maintenance thereof.

(3) Where any sign becomes torn or damaged or otherwise falls into a state of disrepair, the

applicant or the owner of the fixture or property which or to which a sign is attached must within 7 working days of a notice in writing to do so, repair it.

(4) All signs and their support structures must be constructed of incombustible, durable materials suited to the function, nature and permanence of the sign.

(5) All glass used in a sign, other than glass used in illumination, must be safety glass of at least 3 mm thick.

(6) Glass panels used in a sign must not exceed 0,9 m<sup>2</sup> in area, each panel being securely fixed in the body of the sign, structure or device independently of all other panels.

(7) Every sign and its support structure must be kept in a state of good repair.

(8) No sign may obstruct the opening and closing of any window or opening provided for ventilation of a building or obstruct any stairway or doorway or other means of exit from the building or prevent movement of people from one part of a roof to another.

(9) No advertising structure may be closer to overhead electrical equipment than the minimum distance prescribed.

#### **7. Electrical requirements**

(1) All signs needing an electrical connection must preferably be supplied from the existing electrical supply on the erf where it is to be erected. If this is not possible, application for a metered electricity supply must be made to the relevant authority.

(2) Every sign in connection with which electricity is used, must be provided with suitable capacitors to prevent interference with radio and television reception.

(3) Each power cable and conduit containing electrical conductors in respect of a sign must be so positioned and fixed so that it is safe, unseen, inaccessible and child tamper proof and animal proof.

(4) Each interior high-voltage installation that runs unattended (such as a window display) and each exterior high-voltage installation must have a fireman's switch in accordance with the requirements as stipulated in sections 6.7.2 and 7.5 of SANS 0142 1993 promulgated in terms of the Occupational Health and Safety Act.

#### **8. Illumination requirements**

(1) The Municipality may approve an illuminated sign, provided that the provisions of this By-Law are complied with and that such illumination does not constitute a road safety hazard or cause undue light spillage.

(2) Signs may not be illuminated if no sign content is displayed.

(3) Requirement for internal illumination and electronic signs:

(a) internally illuminated and electronic signs containing third party advertising may only be displayed in areas of partial and minimum control and must be less than 2,1 m<sup>2</sup>. This size condition may be waived, up to a maximum size of 4,5 m<sup>2</sup> in any such area upon receipt of an Environmental and Heritage Impact Assessment showing no detrimental impact will be caused by the proposed display, or to any larger size specified by the Municipality in an area designated by the Municipality as a district in which illuminated or electronic signs are to be encouraged;

(b) electronic signs may not have subliminal flashes; and

(c) prior to erection, the Municipality may require a Traffic Impact Assessment, Environmental and Heritage Impact Assessment to be conducted, the results of which must indicate that no detrimental impact on traffic is envisaged. In addition the Municipality may require subsequent traffic monitoring of any internally illuminated or electronic sign.

- (4) Requirements for external illumination:
  - (a) The light source emanating from floodlights may not be visible to traffic traveling in either direction;
  - (b) flood lights may not be positioned so as to create any undue light spillage beyond the surface area of the sign; and
  - (c) Approved way leaves must be obtained from the electricity department prior to any excavations for the installation of signs. This also applies for signs to be erected in the vicinity of overhead power lines.

## **9. Road traffic safety requirements**

- (1) Signs may not be erected in an area where they are an unacceptable distraction for drivers..
- (2) Electronic signs may not be permitted if they are visible from class 2 or 3 roads, a gateway route or a scenic drive unless expressly approved in writing by the municipality.
- (3) Advertising on bridges, towers, telecommunication masts, pylons or street poles will not be permitted.
- (4) The graphic content of signs may not have the potential to be visually interpreted as a road traffic sign, due to any factor, including but not limited to the following:
  - (a) any stylised or pictorial presentation of a road traffic sign or traffic signal;
  - (b) any word, symbol, logo or other device used on a road traffic sign;
  - (c) use of combinations of colors specified for road traffic signs, in a manner likely to lead to confusion; and
  - (d) any reflectorised paint or material.
- (5) Signs may not be erected in an area where the traffic volume, the average following headway or accident history requires a higher than average degree of awareness from drivers.
- (6) Signs may not be attached to or obscure a road traffic sign or traffic signal specifically provided for in the South African Road Traffic Signs Manual or the South African Development Community Road Traffic Signs Manual.
- (7) Signs may not be erected within the road reserve of any public road unless expressly approved by the municipality.
- (8) When located at signalised traffic intersections, signs may not have the colours red or yellow or green as main colours and may not obscure or interfere with any road traffic sign or traffic signal.
- (9) Electronic signs will not be permitted within 80 metres of the perimeter of a signalised traffic intersection.
- (10) Flashing or running messages or variable transition messages that have a message change interval of greater than 0,3 seconds or have transition effects between message changes will not be permitted if viewable from a public road.
- (11) Static display, simple transition signs must display a complete frame for an information cycle length of not less than 60 seconds when visible from a signalised traffic intersection and 30 seconds at other locations.
- (12) All signs larger than 4,5 m<sup>2</sup> erected adjacent to a public road or in a railway reserve intended to advertise to persons using class 2 and 3 roads must be spaced a minimum specified distance from any other sign or road traffic sign, such distance measured parallel to the centre line of the roadway, in accordance with the measurements set out in Table 1 below:

**TABLE 1:  
LINEAR SPACING BETWEEN SIGNS**

TABLE 1. LINEAR SPACING BETWEEN SIGNS

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

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

#### **10. Legal requirements**

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

#### **11. Approval**

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

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

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

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

(5) All decisions by the Municipality regarding applications made in terms of this By-Law must be in writing and will be provided to applicants within 60 calendar days of date of submission of a complete application, alternatively, if so required by the Municipality, within 60 calendar days of its receipt of any additional information or assessments provided to the Municipality.

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



## CHAPTER 3 GENERAL PROVISIONS

### 12. Appeal

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

### 13. Signs for which Municipality's approval not required

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

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

#### (3) *Development Boards.*

- (a) development boards must be removed when the building operations are complete or if the building operations are discontinued, or when the provisions of the services, the doing of the work, or the supply of the goods to which the sign relate has ceased.
- (b) the Municipality may order the removal of a sign within a specified period if the building operations have been substantially completed or discontinued or an Occupancy Certificate has been issued by the Municipality, or the provision of the services, the doing of the work or the supply of the goods to which it relates, has ceased.
- (c) if the premises on which building operations are in progress, are to be used wholly for residential purposes, only one development board may be displayed and such development board may not exceed 3 m<sup>2</sup> in total area.
- (d) if the premises are not to be used wholly for residential purposes, no more than two development boards may be displayed and the aggregate area of both development boards may not exceed 5 m<sup>2</sup> in total;
- (e) if the signage, whether on freestanding boards, or flexible building covering material, include any other form of Third Party advertising, such sign must then comply with the provisions of Schedule 8 hereto and Municipal approval for the display thereof must first be obtained.

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

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

#### (5) *On Premises Business Signs.*

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

#### (6) *Window Signs.*

These include any locality bound signs which are temporarily or permanently painted on or

attached to the window glass of a building used for commercial, office, industrial or entertainment purposes, or any other temporary or permanent sign which is displayed within 2 metres of any window or external opening through which it can be seen from outside such a building; provided that no window sign may exceed 4,5 m<sup>2</sup> in an area of maximum control.

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

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

(8) *Signs on Sports Fields.*

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

(9) *Security Signs.*

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

- (a) only one such sign is displayed on any public road or each street frontage of such premises; and
  - (b) the said sign displays only the name, logo, address and telephone number of a security company contracted to protect the premises on which the sign is displayed.
- (10) *Sponsored, Commercially sponsored and Non-Profit Body Signs: less than 4,5 m<sup>2</sup>.*
- (a) any such sign whether erected by or in connection with a non profit body or not, not exceeding 4,5 m<sup>2</sup> in total area on condition that-
    - (i) no more than 5% of the total surface area of the sign is used for third party advertising;
    - (ii) the sign is not illuminated; and
    - (iii) that only one such sign may be permitted per erf.
  - (b) signs which comply with the provisions of subsection (a) may, when erected on municipal land, only be erected once agreement has been concluded with the Municipality, wherein the extent of the community or public benefit and the terms of the erection of the sign has been agreed.
  - (c) all other sponsored signs are dealt with in Schedules 16 and 17.

(11) *Advertising on Flags*

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

(12) *Advertising on Vehicles*

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

#### **14. Disfigurement**

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

#### **15. Damage to municipal property**

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

## **16. Entry and inspections**

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

## **17. Offences**

Any person who –

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

## **18. Presumptions**

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

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

## **19. Enforcement and removal of signs**

- (1) If any sign displayed is in contravention of this By-Law, the Municipality may serve a notice on the owner or lessee of the sign, or the land owner on whose land the sign is erected or displayed, or the person whose product or services are advertised, calling upon such person to remove the sign or carry out such alteration thereto or to do such work as may be specified in such request or notice, within the time specified therein.
- (2) A notice served in terms of subsection (1) may be amended by the Municipality upon agreement with the person so served, or failing such agreement, by the service of a further notice.
- (3) Should the Municipality's directives, as set out in the notice, not be complied with within the time period specified therein, the Municipality may, without further notice to the person upon whom the notice was served, remove or alter the sign or do such work as may be specified in such notice.
- (4) Any costs incurred by the Municipality in removing signs, or in doing alterations or

other works required in terms of a notice, may be recovered from the person on whom the notice was served.

(5) Notwithstanding any other provision in this By-Law, if a sign is, or is reasonably considered to be a danger to life or property, the Municipality itself may, without prior notice arrange for the removal of such sign.

(6) Any costs incurred by the Municipality for the removal of such sign may be recovered from the owner or lessee of the sign, or the land owner on whose land the sign was erected, or the person whose product or services were advertised, jointly and severally.

(7) Unlawful signs removed by the Municipality may be reclaimed from the Municipality on payment of any costs incurred by the Municipality in the removal of the said sign, as well as payment of the costs of the storage of such sign.

(8) Any unlawful signs removed by the Municipality and not reclaimed within two months of the date of removal may be disposed of by the Municipality to defray its removal or storage costs.

## **20. Service of notices**

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

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

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

(3) Service of a copy is deemed to be service of the original.

(4) When any notice or other document is served on the owner, occupier, or holder of any property, or right in any property, it is sufficient if that person is described in the notice or other document as the owner, occupier, or holder of the property or right in question, and it is not necessary to name that person.

## **21. Liaison forums in community**

(1) The municipality may establish liaison forums in a community for the purposes of -

- (a) encouraging a local community to participate in the implementation, development and enforcement of this by-law; and
- (b) promoting local economic development and the conservation of visual, tourist, environmental and heritage characteristics of the Dr Beyers Naude Local Municipal area;

- (2) The forums contemplated in sub-section (1) may consist of-
  - (a) a member or members of an interest group or an affected person or community;
  - (b) a designated official or officials of the municipality; and
  - (c) a councillor from the relevant council committee.
- (3) The municipality may, in the implementation and enforcement of this by-law, -
  - (a) request the input of a forum;
  - (b) employ any skills or capacity that may exist in such a forum.
- (4) A forum, or a person or persons contemplated in sub-section 2, may, on own initiative, submit an input to the municipality for consideration.

## **22. Magistrate's court jurisdiction**

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

## **23. Transitional arrangements**

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

## **24. Repeal of by-laws**

The following by-laws are hereby repealed:

- (a) Any by-law previously promulgated by the municipality or any of the disestablished municipalities now incorporated into the municipality, in so far as it relates to any matter provided for in this by-law; and
- (b) Any by-law previously promulgated by the Sarah Baartman 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-laws may be cited as the Outdoor Advertising and Signage By-law and commences on the date of publication thereof in the Provincial Gazette.

**ANNEXURE 1**

**AREAS OF CONTROL**

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

Wetlands	Municipal parks	Scenic features	Specific areas or sites designated as partial control by way of a map prepared by the Municipality	
Scenic Drives	Urban edge zones as defined in the Urban Edge Policy	Scenic drives		
Greening of city network	Agricultural and horticultural areas and adjacent road and rail reserves	Gateways		
Specific areas or sites designated as maximum natural by way of a map prepared by the Municipality	Specific areas or sites designated as maximum rural by way of a map prepared by the Municipality	Public Open Spaces		
		Private Open Spaces		
		Urban small holdings		
		Intensive urban agriculture areas		
		Subsistence urban agriculture areas		
		1:100 Year flood plains		
		River corridors		
		Wetlands		
		Community facilities (excluding sports facilities and stadia)		

		Core flora conservation sites as identified by the National Botanical Institute		
		Special Business zones		
		Residential components of mixed use buildings		
		Specific areas or sites designated as maximum urban by way of a map prepared by the Municipality		

**SCHEDULE 2**

**BILLBOARDS**

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

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



have replaced the advertising opportunity that existed on the left hand side of the road.

- (k) Have a minimum letter or number height of 285mm.
2. The information content of a proposed advertisement will be measured in "bits". In calculating the information content of a proposed advertisement, the bit weights shown in the table below must be used.
  3. The total bits in a proposed advertisement may not exceed 15.
  4. No tri face signs are allowed.

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

### SCHEDULE 3

#### LOCALITY BOUND FREESTANDING AND COMPOSITE SIGNS

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

1. Locality bound freestanding signs may only be permitted in the following instances:
  - (a) where business premises are set back 15 metres or more from the boundary of the road reserve; or
  - (b) where it is not reasonably possible to affix appropriate signs to a building; or
  - (c) where such a sign is necessary to allow the public to locate the entrance to business premises; or
  - (d) where the existence of a freestanding composite sign may prevent the proliferation of signs.
2. Locality bound freestanding composite signs may not exceed 4.5 metres in height and in addition may not exceed 4.5m<sup>2</sup> in total area. This provision may be waived to a maximum height of 7.5 metres and a maximum total area of 10m<sup>2</sup> per side, having regard to the following factors:
  - (a) if such increase reduces the number of individual signs facing any one street boundary of the site, thereby minimising the visual impact on the surrounding environment;
  - (b) if more than two significant roads approach the site in question;
  - (c) the number of businesses which will be advertising on such sign;

- (d) the number of approach or exit routes to the site in question;
  - (e) the applicable zoning of the area surrounding the site in question.
3. Service Station freestanding signs must be locality bound and may only be erected or displayed at service stations adjacent to and directly accessible from the public road at which such a sign is directed and only one Service Station freestanding facility sign per street boundary may be permitted.
  4. Service station freestanding signs may not exceed 7.5 metres in height and may not consist of more than eight advertising panels of 4.5m<sup>2</sup> each in total area. The provisions of this section may be waived to a maximum height of 16 metres and eight advertising panels not exceeding 6m<sup>2</sup> each in total area having regard to the factors mentioned in item 2 above. In areas of maximum control the maximum height is 4.5 metres and an area of 7.0m<sup>2</sup> on each side.

#### **SCHEDULE 4**

#### **SIGNS ATTACHED TO WALLS OF BUILDINGS: FLAT AND PROJECTING SIGNS**

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

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

## SCHEDULE 5

### SKY SIGNS

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

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

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

## SCHEDULE 6

### ROOF SIGNS

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

1. The total area of any roof sign affixed flush onto or painted onto a roof of a building may not exceed one-quarter of the overall area of the roof to which it is affixed or painted.
2. When attached to the bottom edge of a roof or vertically midway on the roof of a building, such sign may not exceed 1 metre in height and its total area may not exceed 25% of the roof area to which it is affixed.

3. It shall be permissible to affix a roof sign along the edge of a roof of a building, if such sign is composed of a single line of individual, cut-out letters, without visible bracing or support but may not be erected along more than two edges of such roof and may not exceed 3.6m<sup>2</sup> in total area (6 x 0.6m); with a maximum height of 1 metre.

#### **SCHEDULE 7**

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

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

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

#### **SCHEDULE 8**

#### **SIGNS ON BOUNDARY WALLS AND FENCES AND ON CONSTRUCTION SITE HOARDINGS**

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

1. In urban areas of maximum and partial control, the Municipality may approve an application to affix a locality bound sign against a boundary wall only if the sign is indented into the wall or composed of individual, unilluminated cut-out letters or symbols fixed flat on such wall not projecting more than 50mm from the face of such wall.
2. In areas of minimum control, the Municipality may approve-
  - (a) an application to affix a locality bound sign flat onto a boundary wall only if it

- does not project more than 50mm from the face of such wall; and
      - (b) an application to affix a locality bound flat sign with a maximum size of 0.5m<sup>2</sup> onto the permanent fence of an erf.
- 3. Third party and locality bound advertising on construction site hoardings and fences must comply with the following conditions:
  - (a) any one sign may not exceed a vertical dimension of 3 metres and total area of 18m<sup>2</sup> and in the case of construction site cladding, the graphic must comply with the requirements of the Advertising Standards Association of South Africa.
  - (b) any such sign may not project more than 100mm in front of the hoarding or fence to which it is affixed;
  - (c) it may not be illuminated in areas of maximum and partial control; and
  - (d) advertising will not be allowed on construction site hoardings and fences within the cone of vision of motorists at signalised traffic intersections.

## SCHEDULE 9

### HEADLINE POSTERS

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

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

conditions.

12. Any poster not removed on a daily basis or a poster relating to a "special event" by due date referred to in item 7(b) may be removed by the Municipality.
13. The display of unauthorised posters is illegal and the Municipality may also remove such posters.
14. The Municipality may determine the costs involved for the removal of unauthorised posters..
15. Application must be made on an annual basis by each newspaper group for permission to display such signs subject to an annual fee per newspaper group.
16. A deposit per newspaper group who wishes to display posters must be paid annually against which a charge for the removal of any poster which contravenes the By-law will be levied. In the event of the above deposit being exhausted, permission to display such poster may be withdrawn until a further deposit is submitted to the Municipality.

### **SCHEDULE 10**

#### **ADVERTISING ON BANNERS, FLAGS AND BALLOONS**

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

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

## **SCHEDULE 11**

### **POSTERS**

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

The name of the host organisation, the date and venue must appear on the posters in letters not less than 50 mm in height.

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

## **SCHEDULE 12**

### **ESTATE AGENT SIGNS**

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

1. "Show House" signs may be displayed only from 12h00 on Friday to 20h00 on Sundays.
2. Estate Agent signs may not be affixed to trees, traffic signals, street poles or other poles which carry road traffic signs, walls, fences, rocks, other natural features or landscaped areas, street furniture, or other Municipal property, unless such other display is authorized by the

Municipality in writing.

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



## **SCHEDULE 13**

### **LOOSE PORTABLE SIGNS**

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

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

## **SCHEDULE 14**

### **AERIAL SIGNS**

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

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

## **SCHEDULE 15**

### **TRANSIT ADVERTISING**

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

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

## **SCHEDULE 16**

### **SIGNS ON MUNICIPAL LAND OR BUILDINGS**

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

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

    - (i) community needs or goals must be identified or adopted by the Municipality and if such needs can be addressed either entirely or in part by the granting of concessions to particular persons for the erection of commercially sponsored signs, the Municipality may call for public input on such community needs or goals and the related advertising opportunity.
    - (ii) in order to identify such community needs or goals, the municipality and other interested authorities must consult prior to proposals being invited, so as to establish conditions, criteria and constraints in respect of such advertising.
    - (iii) the Municipality's Supply Chain Management Policy will apply.
    - (iv) that any proposal be evaluated on the following factors:
      - (aa) the adherence to the principles of this By-law;
      - (bb) the design contribution;
      - (cc) the best community benefit offered;

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

## SCHEDULE 17

### SIGNS ERECTED BY OR FOR THE BENEFIT OF NON-PROFIT BODIES

1. Notwithstanding the area of control within which it is proposed to erect a sign by or for the benefit of a non-profit body, and subject to compliance with all other provisions of this By-law, the Municipality may consider such a sign for approval subject to the following:
  - (a) written details from the host non-profit body regarding the nature and extent of the support to be received from the erection or display of the sign must be delivered to the Municipality together with the other information set out in section 3 of this By-law;
  - (b) the extent of involvement of previously disadvantaged communities, small businesses, job creation and empowerment will be considered in any proposal;
  - (c) that any proposal be evaluated on the following factors;

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

## **DR BEYERS NAUDE LOCAL 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 Dr Beyers Naude Local Municipality, enacts as follows:-

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#### **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 Dr Beyers Naude 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 the 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)<sup>1</sup> of the Act and item 3(2)<sup>2</sup> of the Regulations, and may submit proposals to the Board regarding an application for registration in terms of section 20 of the Act.

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<sup>1</sup> 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."

<sup>2</sup> 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	<b>Monday to Saturday</b> 08h30 – 20h00 <b>Sunday</b> 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.	Restaurant, Hotel,  Nightclub, sports club, poolbar, pub and grub,	<b>Monday to Thursday</b> 10h00 – 24h00 <b>Friday – Saturday</b> 10h00 – 02h00 <b>Sunday</b> 10h00 – 20h00  <b>Monday to Thursday</b> 10h00 – 24h00 <b>Friday – Saturday</b> 10h00 – 02h00 <b>Sunday</b> 10h00 – 20h00
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	<b><u>OFF- CONSUMPTION</u></b> <b>Monday to Saturday</b> 08h30 – 20h00 <b>Sunday</b> 09h00 – 13h00  <b><u>ON- CONSUMPTION</u></b> <b>Sunday - Thursday</b> 08h00 – 21h00 <b>Friday - Saturday</b> 08h00 – 02h00
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(d) of the Act for micro manufacturing.	Wholesale warehouse and micro manufacturing	<b>Monday to Saturday</b> 08h00 – 17h00 <b>Sunday</b> 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:

.....  
.....  
.....