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Closing times for **ORDINARY WEEKLY** 2019

EASTERN CAPE PROVINCIAL GAZETTE

*The closing time is **15:00** sharp on the following days:*

- **28 December 2018**, Friday for the issue of Monday **07 January 2019**
- **07 January**, Monday for the issue of Monday **14 January 2019**
- **14 January**, Monday for the issue of Monday **21 January 2019**
- **21 January**, Monday for the issue of Monday **28 January 2019**
- **28 January**, Monday for the issue of Monday **04 February 2019**
- **04 February**, Monday for the issue of Monday **11 February 2019**
- **11 February**, Monday for the issue of Monday **18 February 2019**
- **18 February**, Monday for the issue of Monday **25 February 2019**
- **25 February**, Monday for the issue of Monday **04 March 2019**
- **04 March**, Monday for the issue of Monday **11 March 2019**
- **11 March**, Monday for the issue of Monday **18 March 2019**
- **15 March**, Friday for the issue of Monday **25 March 2019**
- **25 March**, Monday for the issue of Monday **01 April 2019**
- **01 April**, Wednesday for the issue of Monday **08 April 2019**
- **08 April**, Monday for the issue of Monday **15 April 2019**
- **12 April**, Friday for the issue of Monday **22 April 2019**
- **18 April**, Thursday for the issue of Monday **29 April 2019**
- **26 April**, Friday for the issue of Monday **06 May 2019**
- **06 May**, Monday for the issue of Monday **13 May 2019**
- **13 May**, Monday for the issue of Monday **20 May 2019**
- **20 May**, Monday for the issue of Monday **27 May 2019**
- **27 May**, Monday for the issue of Monday **03 June 2019**
- **03 June**, Monday for the issue of Monday **10 June 2019**
- **10 June**, Monday for the issue of Monday **17 June 2019**
- **14 June**, Friday for the issue of Monday **24 June 2019**
- **24 June**, Monday for the issue of Monday **01 July 2019**
- **01 July**, Monday for the issue of Monday **08 July 2019**
- **08 July**, Monday for the issue of Monday **15 July 2019**
- **15 July**, Monday for the issue of Monday **22 July 2019**
- **22 July**, Monday for the issue of Monday **29 July 2019**
- **29 July**, Monday for the issue of Monday **05 August 2019**
- **02 August**, Friday for the issue of Monday **12 August 2019**
- **12 August**, Monday for the issue of Monday **19 August 2019**
- **19 August**, Monday for the issue of Monday **26 August 2019**
- **26 August**, Monday for the issue of Monday **02 September 2019**
- **02 September**, Monday for the issue of Monday **09 September 2019**
- **09 September**, Monday for the issue of Monday **16 September 2019**
- **16 September**, Monday for the issue of Monday **23 September 2019**
- **20 September**, Friday for the issue of Monday **30 September 2019**
- **30 September**, Monday for the issue of Monday **07 October 2019**
- **07 October**, Monday for the issue of Monday **14 October 2019**
- **14 October**, Monday for the issue of Monday **21 October 2019**
- **21 October**, Monday for the issue of Monday **28 October 2019**
- **28 October**, Monday for the issue of Monday **04 November 2019**
- **04 November**, Monday for the issue of Monday **11 November 2019**
- **11 November**, Monday for the issue of Monday **18 November 2019**
- **18 November**, Monday for the issue of Monday **25 November 2019**
- **25 November**, Monday for the issue of Monday **02 December 2019**
- **02 December**, Monday for the issue of Monday **09 December 2019**
- **09 December**, Monday for the issue of Monday **16 December 2019**
- **13 December**, Friday for the issue of Monday **23 December 2019**
- **19 December**, Thursday for the issue of Monday **30 December 2019**

PROVINCIAL NOTICES • PROVINSIALE KENNISGEWINGS

PROVINCIAL NOTICE 102 OF 2019

SENQU MUNICIPALITY MUNICIPAL NOTICE

BY-LAW ON BUILDING CONTROL

The Municipal Council of Senqu Local Municipality in the Schedule hereto publishes, in terms of section 13 of the Local Government Municipal Systems Act, 2000 (Act 32 of 2000) read with section 162 of the Constitution of the Republic of South Africa Act 1996 (Act 108 of 1996) the By-law on Building Control.

SCHEDULE

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CHAPTER 1

OBJECTIVES, DEFINITIONS AND APPLICABILITY OF BY-LAW

1 Objectives

(1) The objectives of this By-law are to:

- (a) give effect to the right contained in Part B of Schedule 4 of the Constitution;
- (b) provide, in conjunction with the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977), an effective legal and administrative framework, within which the Municipality can manage and regulate activities relating to building;

- (2) Any person exercising a power under this By-law must exercise such power in order to give effect to the objectives as set out in subsection (1) above.

2 Definitions

In this By-law all words and phrases, except the words and phrases defined in this By-law, have the same meaning as in the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977), the National Building Regulations made under the Act and the user's code of practice for the application of the National Building Regulations, namely SANS 10400/SABS 0400:1990, and, unless the context indicates otherwise -

"adequate" or "effective" means adequate or effective in the opinion of the Municipality and "approved" means approved by the Municipality, regard being had, in all cases, to all the circumstances of the particular case and to accepted principles of drainage installation and, in the case of any appliance, fitting or other object, to the purpose which it is intended to serve;

"anti-siphonage pipe" means any pipe or portion of a pipe provided for the protection by ventilation of the water seal or trap against unsealing by siphonage or backpressure;

"cleaning eye" means any access opening to the interior of a discharge pipe or trap provided for the purposes of internal draining and which remains permanently accessible after completion of the drainage installation;

"communication pipe" any pipe leading from a main to the premises of any consumer as far as the street boundary of such premises situated nearest to such main, or, in cases where the meter is installed inside the premises of any consumer in terms of this part of this By-law, as far as the inlet of the meter;

"compliance officer" means a person who is authorised to implement and enforce the provisions of this By-law by virtue of his or her -

- (a) declaration as a peace officer as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977);
- (b) appointment as a police officer as contemplated in the South African Police Service Act, 1995 (Act 68 of 1995);
- (c) a traffic officer appointed in terms of section 3 of the Road Traffic Act, No. 29 of 1989 or section 3A of the National Road Traffic Act No. 93 of 1996 as the case may be;
- (d) appointment as a law enforcement officer or traffic officer by the Municipality and declaration as peace officer as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977); or
- (e) appointment by the Municipality as a compliance officer or an inspector;

"connecting sewer" means that part of a sewerage system which is vested in the Municipality and by means of which a drain is connected to the Municipality's sewer;

"connection" means the point where a drain is connected to the connecting sewer;

"conservancy tank" means a tank which is used for the retention and temporary retention of the discharge from a drainage installation and which is emptied at intervals determined by the Municipality;

"consumer" means the occupier of any premises with whom or which the Municipality has contracted to supply water or the owner or any person who has entered into a contract with the Municipality for the supply of water or who is lawfully obtaining water from the Municipality;

"Council" means the Senqu municipal council, a municipal council referred to in section 157(1) of the Constitution;

"drain" means that portion of a drainage installation other than soil-water pipes, waste-water pipes, ventilation pipes and anti-siphonage pipes, which is vested in the owner of the premises and which has been laid in the ground and is used or intended to be used for conveying sewage to the connecting sewer or to a common drain or a conservancy tank or septic tank which is situated on the premises;

"drainage installation" means an installation vested in the owner of the premises and includes any drain, soil-water pipe, stack, waste-water pipe, ventilation pipe, anti-siphonage pipe, soil-water fitting, waste-water fitting, mechanical appliance or any other appliance or fitting or combination thereof for the collection and conveyance of sewage;

"drainage work" means the construction or reconstruction of or any alteration or addition to, or any work done in connection with a drainage installation but shall not include any work undertaken solely for purposes of repair or maintenance;

"form" means a form approved by the Municipality for the purposes of this By-law;

"gully" means a pipe fitting incorporating a trap into which waste water is discharged;

"industrial effluent" means any liquid, whether or not containing matter in solution or suspension, which is emitted in the course of or as a result of any trade or industrial operation, including any mining operation, and includes any liquid besides soil-water, waste-water or storm-water,

"main" means any pipe, aqueduct or other work under the exclusive control of the Municipality and used by it for the purpose of conveying water to consumers, but does not include any communication pipe, as herein defined.

"Municipality" means the Senqu Municipality and includes the Municipality, any executive councillor, or committee established by the Municipality, or any employee thereof, or duly authorised agent thereof acting in connection with this By-law by virtue of a power vested in the Municipality and delegated to such employee or agent;

"owner" in relation to immovable property means the person in whom is vested the legal title thereto and includes:

- (a) a person receiving the rent or profits of any land or property from any tenant or occupier thereof, or who would receive such rent or profits if such land or property were leased, whether for his/her own account or as agent for any person entitled thereto;
- (b) in case where the person in whom the legal title to premises is vested is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;
- (c) in relation to -
 - (i) a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act, 1986 [Act 95 of 1986], the developer or the body corporate in respect of the common property, or
 - (ii) a section as defined in such Act, the person in whose name such section is registered under a sectional title deed, and includes the lawfully appointed agent of such a person;

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

- (a) a general plan or diagram registered in term of the Land Survey Act, 1927 (Act 9 of 1927) or in terms of the Deeds Registries Act, 1937 (Act 47 of 1937), or
- (b) a sectional plan registered in term of the Sectional Titles Act, 1986 (Act 95 of 1986);

"purified effluent" means the water discharged from a water care works after purification, either into a water course or for purposes of re-use;

"sanitary fitting" or "sanitary appliance" means any soil-water fitting and any waste-water fitting;

"septic tank" means any tank designed to receive sewage and to effect the adequate decomposition of organic matter in sewage by bacterial action;

"sewage" means soil-water, waste-water or industrial effluent whether separately or together;

"sewer" means any pipe with fittings, vested in the Municipality and used or designed or intended for use for or in connection with the conveyance of sewage;

"soil-water" means any liquid containing human or animal excreta;

"soil-water fitting" means any fitting used for the reception and discharge of soil-water;

"soil-water pipe" means any pipe, other than a drain, used for the conveyance of soil-water with or without waste-water;

"stack" means the main vertical component of a drainage installation or any part thereof other than a ventilation pipe;

"stormwater" means any liquid resulting from natural precipitation or accumulation and includes rain-water, spring-water and ground-water;

"tariff" means any tariff, fee or charge determined for purposes of this By-law, by the Municipality in terms of the Senqu Municipality: Tariff By-law, 2017;

"trap" means a pipe fitting or portion of a sanitary appliance designed to retain a water seal in position;

"ventilation pipe" means any pipe or portion of a pipe not conveying any liquid and used to ventilate a drainage installation in order to prevent the destruction of water seals and which leads to the open air at its highest point;

"waste-water" means used water that has not been polluted by soil-water or industrial effluent, and does not include stormwater,

"waste-water fitting" means any fitting used for the reception and discharge of waste-water;

"waste-water pipe" means any pipe, other than a drain, used for the conveyance of water-waste only;

"water care works" means any water works for the purification treatment or disposal of effluent;

"water seal" means the water in a trap, which serves as a barrier against the flow of foul air or gas.

3 Applicability of By-law

- (1) This By-law is supplementary to and must be read with any applicable provisions of the National Building Regulations and Building Standards Act and the National Building Regulations made under that Act.
- (2) In the event of a conflict between this By-law and the National Building Regulations and Building Standards Act or the National Building Regulations, the provisions of the Act and the National Building Regulations shall prevail to the extent of the inconsistency.
- (3) In the event of any conflict with any other by-law which directly or indirectly, within the jurisdiction of the municipality, regulates building control, the provisions of this By-law shall prevail to the extent of the inconsistency.
- (4) This By-law shall apply to every building, sewerage installation and water installation, and, regarding sewerage and water installations in particular, to the operation and maintenance of any such installation in any new building or existing building with or without any alteration or addition to such an existing installation, whether or not required by the Municipality to be made or altered in terms of the National Building Regulations or this By-law.
- (5) Any building, sewerage installation and water installation may, at any time after its completion and commissioning, be subjected to such inspection, approval, tests and control as the Municipality may require or considers necessary.

CHAPTER 2

STREETS AND PAVEMENTS

4 Cat-heads, cranes and platforms

A cat-head, lifting crane, platform and other such apparatuses shall not overhang any street or sidewalk unless the contractor, owner or operator obtains the prior written consent of the Municipality.

5 Slab footway or pavement

- (1) The owner or occupier of an erf adjoining a street, may lay or fix slab footways or pavements on any street sidewalk or footway.
- (2) Paving or slabs shall be laid to the grade, line and cross-fall pointed out by the Municipality and shall conform to the following further requirements:
 - (a) For ordinary paving or slabs, the minimum cross-fall shall be 1:100 and the maximum cross-fall 1:25;
 - (b) non-skid paving or slabs of a type to be approved by the Municipality shall be used for cross-falls between 1:25 and 1:15: provided that the maximum cross-fall shall not exceed 1:15;
 - (c) longitudinal grades shall not be steeper than 1:25 for ordinary paving. Slabs and non-skid paving or slabs may be used for longitudinal grades between 1:25 and 1:15: provided that the maximum

longitudinal grade shall not exceed 1:15.

- (3) When carriage openings are formed in kerbs and cross footways or pavements, such openings shall be paved or slabbed.
- (4) The Municipality may, for purposes of this section, impose such conditions as it may deem necessary in the interests of public safety, the preservation of municipal property and for any such purpose necessitating the imposition of such conditions.

6 Planting on footway and sidewalk

- (1) The owner or occupier of an erf adjoining a street may, at his or her own cost, grade and plant with grass any land lying between the erf and that part of the street intended, laid out or made up for the use of vehicular traffic.
- (2) The owner or occupier of an erf aforesaid may plant with flowers or small shrubs, a strip of land not exceeding 1 m in width immediately adjoining the said erf.
- (3) The Municipality may impose such conditions as it deems necessary, regard being had to public safety, the preservation of municipal property and for any such purpose necessitating the imposition of such conditions.

7 Street gutter bridged

No person shall bridge over or enclose any gutter or stormwater drain under the control of the Municipality without the prior written consent of the Municipality.

CHAPTER 3

BUILDINGS

8 Encroachment

- (1) A cantilevered overhanging roof may be erected over the street boundary or building line, at a height of at least 2,75m above the finished ground level, measured from the finished ground level to the lowest point of the overhanging roof.
- (2) A foundation that is at least 0,75m under the ground level may exceed a street boundary or building line with a maximum of 0,5m.
- (3) A sunshade and overhead lamp may exceed a street boundary or building line: provided that there shall be a head clearance of at least 2lm, measured from the finished ground level to the lowest point of such sunshade or overhead lamp.
- (4) Eaves projections may exceed the street boundary or building line.

9 Restriction on the erection of buildings within the one-in-fifty-year flood line

- (1) No building shall without the prior permission of the Municipality be erected so that it is, at its nearest point, nearer to the centre of any natural watercourse than a line, as may be determined by the Municipality, indicating the maximum level likely to be reached on an average every fifty years by flood water in the said watercourse.
- (2) For the purpose of this section, a natural watercourse means a topographic land depression which collects and conveys surface stormwater in a definite direction, and includes any clearly defined natural channel, which conveys water in a definite course along a bed between visible banks, whether or not its conformation has been changed by artificial means and whether or not such channel is dry during any period of the year, and includes any river, spruit, and stream.

10 Relay of stormwater from a high-lying erf to a lower lying erf

If, in the opinion of the Municipality, it is impracticable for stormwater to be drained from any high-lying erf direct to a public street, the owner of any lower lying erf shall be obliged to accept and/or permit the passage of such stormwater and the owner of such high-lying erf, the stormwater from which is discharged over the lower lying

erf, shall be liable for a proportionate share of the cost of any pipe-line or drain which the owner of such lower lying erf may find necessary to construct for the purpose of conducting the water so discharged.

11 Enclosure

Where any erf is enclosed in whichever manner, such enclosure shall be designed, erected and maintained according to Schedule I, subject to any other provisions of this By-law.

CHAPTER 4

SEWERAGE

Part 1: General Provisions

12 Connection to sewer

- (1) No part of any drainage installation shall extend beyond the boundary of the piece of land on which the building or part thereof served by the drainage installation is erected: provided that, where it considers it necessary or expedient to do so, the Municipality may permit the owner to lay a drain at his/her own expense through an adjoining piece of land upon proof of the registration of an appropriate servitude or of a notarial deed of joint drainage, as the Municipality may require.
- (2) Subject to the provisions of subsection (4) and without prejudice to the provisions of the National Building Regulations regarding the inspection and testing of drainage installations, the owner of a premises shall, 14 days before the drainage installation on his or her premises will be ready for connection to a connecting sewer, advise the Municipality of his or her intention to so connect.
- (3) As soon as the Municipality has provided the connecting sewer, he or she shall connect the drain to it at his or her own expense.
- (4) Any alternative or additional connection required by the owner shall be subject to the approval of the Municipality and shall be effected at the owner's expense.
- (5) No person shall permit the entry of any substance whatsoever other than clean water for testing purposes into any drainage installation before the drainage installation has been connected to the sewer.
- (6) Save as may be otherwise authorised by the Municipality in writing, no person other than an official duly authorised to do so, shall lay and connect any connecting sewer to the sewer.
- (7) The conveyance of sewage from two or more premises by means of a common drain to a connecting sewer may be authorized by the Municipality.

13 Disconnection of drainage installations and conservancy or septic tank

- (1) If an existing conservancy tank or septic tank is no longer required for the storage or treatment of sewage, or if permission for such use is withdrawn, the owner shall cause it to be disconnected and either completely removed or completely filled with earth or other suitable material: provided that the Municipality may require such tank to be otherwise dealt with, or may permit it to be used for some other purpose subject to such conditions as the Municipality may consider necessary, regard being had to all the circumstances of the case.
- (2) After all the requirements of the National Building Regulations in regard to disconnection have been complied with and on request by the owner, the Municipality shall issue a certificate to the effect that the disconnection has been completed in terms of the National Building Regulations and that any sewerage charges raised in respect of the disconnected portion of the drainage installation shall cease to be raised with effect from the first day of the month following the issue of such certificate: provided that, until such certificate shall have been issued by the Municipality, any such charges shall continue to be raised.
- (3) When a drainage installation is disconnected from a sewer, the Municipality shall seal the opening so made and shall recover from the owner the cost of such work in terms of section 14(5).
- (4) Any person who, without the permission of the Municipality, breaks or removes or causes or permits the breakage or removal of any such seal referred to in subsection (3), shall be guilty of an offence.

- (5) Where a soil-water fitting has during the month been connected to or disconnected from a drainage installation which discharges into a sewer system, the applicable tariff, excluding the fixed tariff for every erf, stand, premises or other area, with or without improvements, which, in the opinion of the Municipality, can be connected to a sewer, shall be calculated as if such connection or disconnection had taken place on the first day of the month following the month in which such connection or disconnection was effected.

14 Drainage work which does not comply with requirements

- (1) Where any drainage installation has been constructed or any drainage work has been carried out which fails in any respect to comply with any of the provisions of the National Building Regulations or this By-law, the owner shall, on receipt of a written notice by the Municipality to do so and notwithstanding the fact that he or she may have received approval of plans in respect of the said installation or work in terms of the National Building Regulations or previous by-laws, carry out such repairs, replacements, maintenance work or alteration to the installation as and within the time which the said notice may specify.
- (2) When, in the opinion of the Municipality, a nuisance exists as a result of the emission of gas from any trap or sanitary fitting or any other part of a drainage installation, the Municipality may require the owner, at his/her own expense, to take such action as may be necessary to prevent the recurrence of the said nuisance.
- (3) Where any sewage, after being discharged into a drainage installation, enters or overflows any soil-water fitting or waste-water fitting connected to the same drainage installation and leaks from the drainage installation whether by reason of surcharge, back pressure or any other circumstance, the Municipality may, by notice in writing, require the owner to carry out within the period specified by such notice any work necessary to abate such entry, overflow or leakage of sewage and to prevent any recurrence thereof.
- (4) The Municipality may, instead of serving notice as aforesaid or where such notice has not been complied with within the time prescribed therein, without prejudice to its right also to prosecute the person or body to whom the notice was directed, because of an infringement of the National Building Regulations or this By-law, proceed itself to carry out any such alteration, removal or other work as it may deem necessary for compliance with the provisions of the National Building Regulations or this By-law and may recover the cost thereof from the owner by the ordinary process of law in terms of subsection (5).
- (5) Where any work other than that for which a fixed charge has been determined, is undertaken by the Municipality, the costs of which it is entitled in terms of this By-laws to recover from any person, there may be included in such costs such claim to be determined by the Municipality as will cover all expenditure reasonably incurred by the Municipality.

15 Maintenance

Where any part of a drainage installation is used by two or more owners or occupiers, they shall be jointly and severally liable in terms of this section for the maintenance and repair of such drainage installation.

16 Drainage and sewer blockage

- (1) No person shall cause or permit such an accumulation of grease, oil, fat, solid matter or any other substance in any trap, tank, pipe, drain or fitting as will cause its blockage or ineffective operation.
- (2) When the owner or occupier of a premises has reason to believe that a blockage has occurred in any drainage installation thereon, then he or she shall forthwith inform the Municipality of the blockage and take steps to have it cleared.
- (3) Where a blockage occurs in a drainage installation any work necessary for its removal shall, subject to the provisions of subsection (5), be undertaken by or under the supervision of a plumber or registered person as required in the National Building Regulations in regard to the control of plumbers and plumbing work.
- (4) Any plumber or registered person as aforesaid shall, before proceeding to remove any blockage from a drainage installation, notify the Municipality by telephone or otherwise of his/her intention to do so, and shall when he or she has done so, notify the Municipality of that fact and of the nature, location and cause of the said blockage.
- (5) The Municipality shall, whether or not it has been requested by the owner to do so, be entitled, at its own

discretion, to remove a blockage from a drainage installation and may recover the costs thereof from the owner in accordance with section 14(5).

- (6) Should the clearing by the Municipality of any blockage in a drainage installation necessitate the removal or disturbance of any paving, lawn or other artificial surfacing on any premises, the Municipality shall not be liable for the reinstatement thereof.
- (7) Should any drainage installation on any premises overflow as a result of an obstruction in the connecting sewer, and the Municipality is reasonably satisfied that such obstruction was caused by objects emanating from the drainage installation, the owner of the premises served by the drainage installation shall be liable for the cost of clearing the blockage and the Municipality may recover such cost from the owner in accordance with section 14(5).
- (8) Where a blockage has been removed from a drain or portion of a drain which serves two or more pieces of land, the charges for the clearing of such blockage shall be recoverable in the first place in equal portions from each of the owners thereof, who shall however, be jointly and severally liable for the whole charge.

17 Interference with or damage to sewer and water care works

Any damage caused to the Municipality's sewer or any part of its sewerage or water care works by or in consequence of the non-compliance with or contravention of any provision of the National Building Regulations or this By-law shall be rectified or repaired by the Municipality at the expense, to be assessed by it, of the person responsible for the said non-compliance or contravention or of causing or permitting same.

18 Entry onto premises

- (1) A compliance officer shall have the right to enter upon any premises at any reasonable time in order to take samples of or test sewage or industrial effluent or to carry out any inspection or work in connection with a drainage installation which the Municipality may deem necessary.
- (2) Any owner or occupier of premises who denies or causes or suffers any other person to deny entry to premises to any compliance officer demanding the same in terms of subsection (1), or who obstructs or causes or suffers any person to obstruct such compliance officer in the performance of his or her duties, or who withholds or causes or suffers any other person to withhold information required by the compliance officer for the purpose of carrying out his/her said duties, or who gives or causes or suffers any other person to give to the compliance officer any information which is to his/her knowledge false, shall be guilty of an offence.

19 Manhole on municipal property

- (1) Where, for any reason whatsoever, the provision of adequate means of access to the Municipality's connecting sewer is impracticable on any private premises, the Municipality may, at the expense of the owner, cause or permit a manhole to be constructed over the Municipality's connecting sewer in such public place and in such position and of such materials and dimensions as the Municipality may decide and, in addition, the owner shall bear the cost, as assessed by the Municipality, of any alteration to existing services in the public place which may, by reason of the construction of the manhole, be necessary.
- (2) The owner of the private premises referred to in subsection (1) shall, if so required by the Municipality, pay rental to the Municipality for the space occupied by the manholes in the public place.

20 Mechanical food waste or other disposal units

- (1) No person shall incorporate into a drainage installation a mechanical food waste or other disposal unit or garbage grinder which has a power capacity in excess of 500W, unless a standard water meter, which the Municipality installs and seals at the cost of the owner and to which the Municipality has the right of access at all times, has been connected into the supply pipe which provides water to the unit.
- (2) The Municipality may require the owner or occupier of any premises on which a food-waste or other disposal unit or a garbage grinder has been installed, or the owner of such unit or grinder, either to remove, repair or replace any unit which, in the opinion of the Municipality, is functioning inefficiently or which may impair the working of the Municipality's sewerage system.

- (3) The owner shall, upon the removal of any such unit or grinder, notify the Municipality in writing within 14 days of its removal.
- (4) The charges as prescribed in the applicable tariff shall be paid in respect of the discharge of a food-waste, other disposal unit or a garbage grinder referred to in subsection (1).

Part 2: Prevention of Water Pollution

21 Sewage or other pollutants not to enter stormwater drains

- (1) The owner or occupier of any piece of land on which steam or any liquid other than potable water is stored, processed or generated, shall provide all facilities necessary to prevent any discharge, leakage or escape of such liquid to any street, stormwater drain or watercourse except where, in the case of steam, the Municipality has specifically permitted such discharge.
- (2) Where the hosing down or flushing by rainwater of an open area on any private premises is, in the opinion of the Municipality, likely to cause the discharge of objectionable matter into any street gutter, stormwater drain, river, stream or other watercourse, whether natural or artificial, or to contribute towards the pollution of any such watercourse, the Municipality may instruct the owner of the premises to execute, at his/her own cost, whatever measures by way of alterations to the drainage installation or roofing of the area it may consider necessary to prevent or minimize such discharge or pollution

22 Stormwater not to enter sewers

No person shall discharge or cause or permit to be discharged any stormwater or any substance other than sewage into a drainage installation.

23 Discharge from swimming pools

Water from fountains, boreholes, wells, reservoirs or swimming pools situated on private premises shall be discharged into a drainage installation only with the prior written consent of the Municipality and subject to such conditions as to place, time, rate of discharge and total discharge as the Municipality may impose.

24 Permission to discharge industrial effluent

- (1) No person shall discharge or cause or permit to be discharged into any sewer, any industrial effluent or other liquid or substance other than soil-water or waste-water without the prior written permission of the Municipality or, if such permission has been obtained, otherwise than in strict compliance with any and all of the conditions of such permission.
- (2) Every person shall, before discharging any industrial effluent into a sewer, make application in writing to the Municipality for permission to do so on the applicable form, to be completed in duplicate, and shall thereafter furnish such additional information and submit such samples as the Municipality may require.
- (3) The Municipality may, at its discretion, having regard to the capacity of any sewer or any mechanical appliance used for sewage or any water care works, whether or not vested in the Municipality and subject to such conditions as it may deem fit to impose, including the payment of any charge assessed in terms of the applicable tariff, grant permission for the discharge of industrial effluent from any premises into any sewer.
- (4) A person to whom permission has been granted in terms of subsection (3) to discharge industrial effluent into a sewer shall, before doing or causing or permitting to be done anything which results in any change in the quantity or discharge or nature of that effluent, notify the Municipality in writing of the date on which it is proposed that the change shall take place and of the nature of the proposed change.
- (5) Any person who discharges or causes or permits to be discharged any industrial effluent into the sewer without having first obtained permission to do so in terms of subsection (3) shall be guilty of an offence and be liable to such charge as the Municipality may assess for the conveyance and treatment of the effluent so discharged and for any damage caused as a result of such unauthorized discharge.

- (6) Without prejudice to its rights in terms of subsection (5) or of section 25(2)(c), the Municipality shall be entitled to recover from any person who discharges into a drain or sewer any industrial effluent or any substance which is prohibited or restricted in terms of section 25 or which has been the subject of an order issued in terms of section 25(2), the whole cost of expenses or charges incurred or to be incurred by the Municipality or of losses suffered or to be suffered as a result of any or all of the following:
- (a) Injury to persons, damage to the sewer or any water care works or mechanical appliance or to any property whatsoever, as the result of the breakdown, either partial or completely of any sewer or water care works or mechanical appliance, whether under the control of the Municipality or not; or
 - (b) a prosecution in terms of the Water Act, 1956 (Act 54 of 1956), as amended, or any action against the Municipality consequent on any partial or complete breakdown of any water care works or mechanical appliance caused directly or indirectly by the said discharge, including fines and damages which may be imposed or awarded against the Municipality.
- (7) Due to any change in circumstances arising from a change in the sewage treatment process or the introduction of new or revised or stricter or other standards by the Municipality or in terms of the Water Act, 1956, or as a result of any amendment of this By-law or due to any other reason, the Municipality may from time to time or at any time review, amend, modify or revoke any permission given or any conditions attached to such permission and/or impose new conditions for the acceptance of any industrial effluent into the sewer or prohibit the discharge of any or all such effluent into the sewer or prohibit the discharge of any or all of such effluent into the sewer upon giving adequate written notice in advance of its intention to do so, and, upon expiration of such period of notice the previous permission or conditions, as the case may be, shall be regarded as having lapsed and the new or amended conditions, if any, as the case may be, shall forthwith apply.

25 Control of industrial effluent

- (1) The owner or occupier of any premises from which industrial effluent is discharged into a sewer, shall provide adequate facilities such as overflow level detection devices, standby equipment, overflow catch-pits or other appropriate means effectively to prevent the accidental discharge into any sewer, whether through the negligence of operators, power failure, failure of equipment or control gear, overloading of facilities, spillage during loading or unloading or for any other similar reason, of any substance prohibited or restricted or having properties outside the limits imposed in terms of this By-law.
- (2) The owner or occupier of any premises on which industrial effluent originated and who intends applying treatment to such effluent before discharging it, shall obtain prior written permission from the Municipality.
- (3) The Municipality may, by notice served on the owner or occupier of any premises from which industrial effluent is discharged, require him or her, without prejudice to any other provision of the National Building Regulations or this By-law, to do all or any of the following:
- (a) To subject the effluent before it is discharged into the sewer, to such pretreatment as will ensure that it will at all times conform in all respects with the requirements of section 26(1) or to modify the effluent cycle of the industrial process to such an extent and in such a manner as in the opinion of the Municipality is necessary to enable any water care works receiving the said effluent, whether under the control of the Municipality or not, to produce treated effluent complying with any standards which may be laid down in respect of such works in terms of the Water Act, 1956;
 - (b) to restrict the discharge of effluents to certain specified hours and the rate of discharge to a specified maximum and to install, at the expense of the owner or occupier such tanks, appliances and other equipment as in the opinion of the Municipality may be necessary or adequate for compliance with the said restrictions;
 - (c) to install a separate drainage installation for the conveyance of industrial effluent and to discharge the same into the sewer through a separate connection, as directed by the Municipality, and to refrain from discharging the said effluent through any drainage installation intended or used for the conveyance of domestic sewage or from discharging any domestic sewage through the said separate installation for industrial effluent;

- (d) to construct at his or her own expense in any drainage installation conveying industrial effluent to the sewer one or more inspection, sampling or metering chambers of such dimensions and materials and in such positions as the Municipality may prescribe;
- (e) to pay, in respect of the industrial effluent discharged from the premises, such charge as may be calculated in terms of the applicable tariff: provided that, where, due to the particular circumstances of any case, the actual chemical oxygen demand (COD) or permanganate value (PV) and the concentration of metals in the effluent cannot be assessed by means of the method of assessment prescribed by the SABS, the Municipality may use such alternative method of assessment as it may deem expedient and the charge to be levied shall be assessed accordingly;
- (f) to provide all such information as may be required by the Municipality to enable him or to assess the charges payable in terms of the applicable tariff; and
- (g) for the purposes of subparagraph (f) to provide and maintain at his or her own expense a meter or meters measuring the total quantity of water drawn from any borehole, spring or other source of water, excluding that of the Municipality, used on the property and discharged as industrial effluent into the sewer.

26 Metering and assessment of the volume and composition of industrial effluent

- (1) The Municipality may incorporate, in such position as it shall determine in any drainage installation conveying industrial effluent to a sewer, any meter or gauge or other device for the purpose of ascertaining the volume or composition of the said effluent, and it shall be an offence for any person to pass, open, break into or otherwise interfere with or do damage to any such meter, gauge or other device: provided that the Municipality may, at its discretion, enter into an agreement with any person discharging industrial effluent into the sewer, determining an alternative method of assessing the quantity of effluent so discharged.
- (2) The Municipality shall be entitled to install and maintain any such meter, gauge or device as aforesaid at the expense of the owner of the premises on which it is installed.
- (3) The owner of any premises on which is situated any borehole or well used for a water supply for trade or industrial purposes shall:
 - (a) register such borehole or well with the Municipality;
 - (b) provide the Municipality with full particulars of the discharge capacity of the borehole or well; and
 - (c) if the Municipality has reason to doubt the reliability of the particulars given, carry out, at the expense of the owner, such tests on the discharge capacity of the borehole or well as may, in the opinion of the Municipality, be necessary for the purpose of this By-law.

27 Prohibited discharges

- (1) No person shall discharge or cause or permit the discharge or entry into any sewer of any sewage, industrial effluent or other liquid or substance which:
 - (a) in the opinion of the Municipality, may be offensive to or may cause a nuisance to the public;
 - (b) is in the form of steam or vapour or has a temperature exceeding 44°C at the point where it enters the sewer;
 - (c) has a pH value less than 6,0 or greater than 10,0;
 - (d) contains any substance of whatsoever nature likely to produce or emit explosive, flammable, poisonous or offensive gasses or vapours in any sewer;
 - (e) contains any substance having a flashpoint of less than 90°C or which emits a poisonous vapour at a temperature below 93°C;
 - (f) contains any material of whatsoever nature, including, oil, grease, fat or detergents capable of causing interference with the proper operation of water care works;
 - (g) shows any visible signs of tar or associated products or distillates, bitumens or asphalts;

- (h) contains any substance in such concentration as is likely in the final treated effluent from any water care works to produce an undesirable taste after chlorination or an undesirable odour or colour, or excessive foam;
- (i) exceeds any of the limits or concentrations of substances specified in Schedule II: provided that the Municipality may approve such greater limits or concentrations for such period or on such conditions as it may specify on consideration of the effect of dilution in the sewer and of the effect of such substance on the sewer or any sewage treatment process if the Municipality is satisfied that, in the circumstances, the discharge of such substance will not:
 - (i) damage any sewer, mechanical appliance, water care works or equipment; or
 - (ii) prejudice the use of sewage effluent for re-use; or
 - (iii) adversely affect any waters into which purified sewage effluent is discharged, or any land or crops irrigated with the sewage effluent;
 - (iv) contains any substance of whatsoever nature which, in the opinion of the Municipality:
 - (v) is not amenable to treatment at the water care works, or which causes or may cause a breakdown or inhibition of the normal sewage treatment processes; or
 - (vi) is of such nature as is or may be amenable to treatment only to such degree as to prevent the final treated effluent from the water care works from satisfactorily complying in all respects with any requirement imposed in terms of the Water Act, 1956; or
 - (vii) whether listed in Schedule 2 or not, either alone or in combination with other matter may:
 - (aa) generate or constitute a toxic substance detrimental to the health of persons employed at the water care works or entering the Municipality's sewers or manholes in the course of their duties; or
 - (bb) be harmful to sewers, water care works or land used for the disposal of purified sewage effluent; or
 - (cc) adversely affect any of the processes whereby sewage is purified or any re-use of purified sewage effluent.
- (2) Any person receiving from a compliance officer a written order instructing him or her to stop the discharge into the sewer of any substance referred to in subsection (1), shall forthwith stop such discharge.
- (3) Any person who contravenes the provisions of subsection (1) or who fails to comply with an order issued in terms of subsection (2), shall be guilty of an offence.
- (4) Notwithstanding the provisions of subsection (3), should any person have failed to comply with the terms of an order served on him or her in terms of subsection (2) and such discharge is likely, in the opinion of the Municipality, to cause damages to any sewer or mechanical or other appliance or to seriously prejudice the efficient operation of any water care works, the Municipality may, after further written notice, refuse to permit the discharge of any industrial effluent into the sewer until such time as the industrial effluent complies in all respects with the Municipality's requirements as prescribed in terms of this By-law, in which event the person responsible for the discharge shall forthwith stop it, or if he or she fails to do so, the Municipality may prevent him or her from proceeding with the discharge.

CHAPTER 5

WATER

28 Connection from mains

- (1) All communication pipes which are intended for preventive or automatic use in case of fire shall be laid by the Municipality as far as the boundary of the consumer's property
- (2) Such communication pipes shall be used only for fire extinguishing purposes.

- (3) No take-off of any kind shall be made, other than those in connection with automatic sprinklers and drenchers, hydrant connections or necessary for a pressure tank upon the top of a building, which tank shall be controlled by a suitable ball tap.

29 Valves in communication pipes

Every communication pipe shall be fitted with a proper stop valve, which said valve shall be -

- (a) supplied by the Municipality at the expense of the consumer;
- (b) installed between the consumer's property and the main;
- (c) of the same diameter as the communication pipe;
- (d) in such position as may be determined by the Municipality.

30 Additions to system

No further sprinkler shall be added or connected to any existing fire extinguishing system after such system has been connected to the mains without the prior written consent of the Municipality.

31 Extension of System to other premises

No extension or connection from any fire extinguishing system to other premises shall be made, and in the event of any such connection or extension being made, the Municipality shall be entitled to enter upon any premises and to take all steps necessary to disconnect such connection or extension at the cost of the persons responsible for such extension or connection.

32 Inspection and approval of Fire Extinguishing Service

No supply of water shall be made or given until the fire extinguishing system has been inspected and the Municipality has certified in writing that such service is in accordance with this By-law and the work has been carried out to the Municipality's satisfaction

33 Connection to be at pleasure of Municipality

Connection to the mains shall be at the pleasure of the Municipality, which shall be entitled to disconnect any fire extinguishing services at any time.

34 Installation of reflux valve

In all private installations where a fire pump connection is installed, a reflux valve to close off the supply from the Municipality's mains when the fire pump connection is being used shall be installed between the boundary of the property and the fire pump connection.

35 Sprinkler system

- (1) A sprinkler system may be installed in direct communication with the main, but the Municipality shall not be deemed to guarantee any specified pressure of water at any time.
- (2) When an automatic sprinkler system has been installed and completed, the owner shall advise the Municipality in writing within 14 days of the date of completion of the installation of such sprinkler system.

35 Header tank or duplicate supply from mains

In the event of a header tank being installed above ground level, it must be provided with an overflow pipe, which shall discharge in such a position as to be readily observable, and shall not be led away by any down-pipe to any drain.

CHAPTER 6

NOTICES

36 Notices

- (1) Every notice, order or other document issued or served by the Municipality in terms of this By-law shall be valid if signed by a compliance officer.
- (2) If a notice is to be served on a person in terms of this By-law, such service shall be effected by:
 - (a) Delivering the notice to him personally or to his duly authorized agent or;
 - (b) By delivering the notice at his residence or place of employment to a person apparently not less than sixteen years of age and apparently residing or employed there;
 - (c) If he has nominated an address for legal purposes, by delivering the notice to such an address; or
 - (d) By registered or certified post addressed to his last known address.
 - (e) In the case of a body corporate, by delivering it to the registered office or the business premises of such a body corporate;
 - (f) If service cannot be effected in terms of paragraphs (a) to (e) by affixing it to the principal door of entry to the premises, or displaying it on a conspicuous place on the land to which it relates.
- (3) Any notice, order or other document served in terms of this By-law on any person shall be so served by delivering it, or a true copy thereof, to the person to whom it is addressed personally or at his last known residence or place of business or by posting it to him by registered post.
- (4) In every notice, order or other document issued or served in terms of this By-law, the premises to which it relates shall be specified but the person for whom it is intended may be referred to as "the owner" or "the occupier" if his or her name is not known.

CHAPTER 7

LAW ENFORCEMENT

37 Appointment of compliance officer

- (1) The Municipality may appoint or designate a person or employee to serve as a compliance officer for purposes of compliance and enforcement monitoring of this By-law.
- (2) A compliance officer shall take all lawful, necessary and practicable measures to enforce the provisions of this By-law.
- (3) The Municipality shall issue each compliance officer with a written appointment stating that he or she has been appointed for purposes of this By-law or with an identification card that contains the municipal logo, department and name of the officer.

38 Powers and functions of a compliance officer

- (1) A compliance officer may, subject to subsection (2) and (3), at any reasonable time, and without prior notice, enter any land property, building or premises for purposes of ensuring compliance with this By-law.
- (2) An inspection of a private dwelling may only be carried out by a compliance officer at a reasonable time and after reasonable notice has been given to the owner or occupier of the land or building and after obtaining the consent of the owner or lawful occupier or person in control of the building, or with a warrant issued in terms of the Criminal Procedure Act, 1977.
- (3) The compliance officer is not required to give any notice to enter land or a building, other than a private dwelling, and may conduct an inspection or take enforcement action without the consent of the owner or occupier of such land or building and without a warrant if:
 - (a) he or she believes on reasonable grounds that a warrant would be issued to him or her on application; and
 - (b) the delay in obtaining the warrant would defeat the object of the inspection and enforcement action.
- (4) A compliance officer shall show proof of his or her written appointment or identification card contemplated in section 38(3) when required to do so by any person affected by the exercising of a power or show proof that he or she is a law enforcement officer.
- (5) A compliance officer may not investigate a matter in which he or she has a direct or indirect personal interest.

- (6) In ascertaining compliance with this By-law, a compliance officer may:
- (a) be accompanied by an interpreter, a police officer or any other person who may be able to assist with the inspection;
 - (b) question any person who is or was on that property, who in the opinion of the compliance officer, may be able to furnish information on a matter to which this By-law relates;
 - (c) question any person about any act or omission in respect of which there is a reasonable suspicion that it might constitute:
 - (i) an offence in terms of this By-law; or
 - (ii) a breach of an approval or a term or condition of such approval
 - (d) question a person about any structure, object, document, book or record or inspect any written or electronic information or object which may be relevant for the purpose of investigating any matter in connection with this By-law;
 - (e) examine any book, record or other written or electronic information and make a copy thereof or an extract therefrom and remove such document, book, record or written or electronic information in order to make copies or extracts;
 - (f) require a person to produce or to deliver to a place specified by him or her, any document, book, record, or any written or electronic information referred to in paragraph (e) for inspection;
 - (g) require from such person an explanation of any entry in such document, book, record or written or electronic information;
 - (h) inspect any article, substance, plant or machinery which is or was on the property, or any work performed on the property or any condition prevalent on the property, or remove for examination or analysis any article, substance, plant or machinery or a part or sample;
 - (i) seize any book, record or other document, details or any article, substance, plant or machinery or a part or sample thereof which in his or her opinion may serve as evidence at the trial of any person charged with an offence under this By-law, provided that the user of the article, substance, plant or machinery concerned, as the case may be, may make copies of such book, record or document before such seizure;
 - (j) direct any person to appear before him or her at such time and place as may be determined by him or her and question such person either alone or in the presence of any other person on any matter to which this By-law relates; and
 - (k) take photographs or make audio visual recordings or tape recordings of any person or anything for the purposes of his or her investigation.
- (7) When a compliance officer removes or seizes any article, substance, plant or machinery, book, record or other document as contemplated above, he or she shall issue a receipt to the owner or person in control thereof and return it as soon as practicable after achieving the purpose for which it was removed or seized.
- (8) Where a compliance officer enters any land in terms of subsection (1), a person who controls or manages the land shall at all times provide such facilities as are reasonably required by the compliance officer to enable him or her to perform his or her functions effectively and safely under this By-law.
- (9) A compliance officer who enters and searches any property or private dwelling under this section, shall conduct such search with strict regard for decency and order and with regard for each person's right to dignity, freedom, security and privacy.

39 Offences and penalties

- (1) A person shall be guilty of an offence if such person
- (a) fails to comply with a decision taken or condition imposed by the Municipality in terms of this By-law.
 - (a) wilfully and with intent provides false or misleading information in connection with an application contemplated in this By-law;

- (b) unlawfully prevents an compliance officer entry to his or her premises or causes or permits any other person to prevent entry;
 - (c) obstructs or hinders a compliance officer in the performance of his or her duties or causes or permits any other person to so obstruct or hinder the compliance officer;
 - (d) refuses or fails to provide to a compliance officer such information as is required to allow a compliance officer to perform a function in terms of this By-law;
 - (e) furnishes false or misleading information to an official of the Municipality when called upon to furnish information;
 - (f) impersonates a compliance officer;
 - (g) contravenes or fails to comply with any provision of this By-law; or
 - (h) supplies particulars, information or answers in an application or on knowing it to be false, incorrect or misleading.
- (2) Any person convicted of an offence in terms of this By-law, shall be liable upon conviction to a fine or imprisonment or to both such fine and imprisonment.
- (3) A person convicted of an offence under this By-law who, after conviction, continues with the conduct in respect of which he or she was so convicted, is guilty of a continuing offence and upon conviction is liable to a fine or to imprisonment, or to both such fine and imprisonment, in respect of each day on which he or she so continues with that conduct.

40 Prosecution of corporate body and partnership

A partner in a partnership, a member of the board, executive committee or other managing body or a corporate body is personally guilty of an offence contemplated in terms of this By-law if such offence was committed by:

- (a) a corporate body established in terms of any law; or
- (b) a partnership; and

such person failed to take reasonable steps to prevent the offence.

CHAPTER 8

GENERAL

41 Appeals

Any person may appeal against any decision taken under this By-Law by giving written notice of the appeal in accordance with the provisions of section 62 of the Municipal Systems Act, 2000, as amended.

42 Exemptions

- (1) Any person may, in writing, apply for exemption from the provisions of this By-law to the Municipality.
- (2) An application in terms of subsection (1) above must be accompanied by reasons.
- (3) The Municipality may grant a temporary exemption in writing from one or all of the provisions of this By-law, provided that the Municipality:
 - (a) is satisfied that granting the exemption will not prejudice the objectives referred to in section 1; and
 - (b) grants any exemption subject to conditions that promote the attainment of the objectives referred to in section 1.
- (4) The Municipality must not grant an exemption under subsection (1) until the Municipality has:
 - (a) taken measures to ensure that all persons whose rights may be significantly detrimentally affected by the granting of the exemption, including but not limited to adjacent land owners or occupiers (including surrounding communities), are aware of the application for exemption and how to obtain a copy of it;
 - (b) provided such persons with a reasonable opportunity to object to the application; and
 - (c) duly considered and taken into account any objections raised.
- (5) The Municipality may:
 - (a) from time to time review any exemptions granted in terms of this section; and

(b) on good grounds withdraw any exemption.

(c)

43 Repeal of by-laws

The By-Laws supplementary to the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977) and the Regulations published in the *Provincial Gazette* by Notice Number 186 of 2005 is hereby repealed.

44 Short title and commencement

This By-law shall be known as the Senqu Municipality: Building Control By-law, 2017 and shall come into operation on the date of publication thereof in the *Provincial Gazette*.

SCHEDULES**Schedule 1****Conditions for an Enclosure****1 Height restrictions**

- 1.1 Notwithstanding the provisions of paragraph 2.3, no enclosure, except those erected on an erf zoned as industrial or business in terms of the land use scheme, irrespective of the type of material used, may not exceed a height of 2.1m.
- 1.2 Barbed wire or similar wire and safety spikes may be erected only from a height of 1.75m.

2 Design and appearance

- 2.1 An enclosure referred to in paragraph 1, which is visible from an adjacent street or public open space shall comply with the following conditions:
- (a) Any surface which is visible from such street or public open space shall -
 - (a) be skilfully finished;
 - (ii) be of good quality material;
 - (iii) be without defect; and
 - (iv) have an exposed or finished side;
 - (b) if it is a painted surface, be white only or a different colour as approved by the Municipality;
 - (c) if such enclosure is made of precast material, only have a brick pattern and be painted white or a different finish or colour as approved by the Municipality;
 - (d) if wood forms part of such enclosure, be thoroughly treated with a wood-preserving agent.
- 2.2 An enclosure referred to in paragraph 1, which is visible from any adjacent erf, shall comply with the following requirements:
- (a) Any surface fronting on the adjacent erf shall be -
 - (i) skilfully finished;
 - (ii) of good quality material;
 - (iii) without defect; and
 - (iv) maintenance free;
 - (b) if applicable, the struts, posts and columns of such an enclosure shall show on the owner's side; and
 - (c) if wood forms part of such enclosure, it shall be thoroughly treated with a wood-preserving agent.
- 2.3 Notwithstanding the provisions of paragraphs 1 and 2.1 and 2.2 -
- (a) the Municipality may agree to it that the maximum heights, as contemplated in paragraph 1, be exceeded;
 - (b) the enclosure referred to in paragraph 1 shall, within a distance of 4.5m from any street boundary or public open space boundary be splayed or lowered to a height of 1m, if the Municipality so requires;
 - (c) no barbed wire or similar wire and safety spikes in any area, excluding an erf zoned as industrial in terms of the land use scheme, may be visible from any street, public open space or adjacent erf;
 - (d) the enclosure shall be properly maintained to the sole satisfaction of the Municipality;
- 2.4 The height of any enclosure or wall will be measured from natural ground level.

3 Roofs

- 3.1 Sheet metal which is used for a roof and which is visible from the street or an adjacent erf shall be properly painted within fifteen months after construction thereof if the Municipality so requires.

- 3.2 No roof surface may have a luminous finish.

Schedule 2**Limits of Concentration of Certain Substances****1 PV, pH and electrical conductivity of sewage**

1.1 Subject to the provisions of section 25(1) of this By-law, the limits of the PV, pH and electrical conductivity of sewage are as follows:

- (a) pH-within the range 6,0-10,0; and
- (b) electrical conductivity not greater than 300m/Sm at 20°C.

1.2 Subject to the provisions of section 25(1) of this By-law, the maximum permissible concentrations of pollution expressed in milligrams per litre (mg/l) are as follows:

(a) General:

- (i) PV-not to exceed: 1 400mg/l;
- (ii) caustic alkalinity [expresses as CaCO]: 2 000 mg/l;
- (iii) substances in suspension [including fat, oil, grease, waxes and like substance]; 2 000mg/l;
- (iv) substances soluble in petroleum ether. 500mg/l;
- (v) sulphides, hydro-sulphides and polysulphides [expressed as S]: 50mg/l;
- (vi) substances from which hydrogen cyanide can be liberated in the drainage installation, sewer or water care works [expressed as HCN]: 20mg/l;
- (vii) formaldehyde [expressed as HCHO]: 50mg/l;
- (viii) phenolic compounds: 1.0mg/l;
- (ix) non-organic solids in suspension: 100mg/l;
- (x) chemical oxygen demand [COD]: 5 000mg/l;
- (xi) all sugars and/or starches [expressed as glucose]: 1 500mg/l;
- (xii) available chlorine [expressed as Cl]: 100mg/l;
- (xiii) sulphates and sulphites [expressed as SO₄]: 1 800mg/l;
- (xiv) fluorine-containing compounds [expressed as F]: 5mg/l;
- (xv) anionic surface activators: 500mg/l;
- (xvi) orthophosphate [expressed as P]: 10mg/l.

(b) Metals Group 1

- (i) The total collective concentration of all metals in Group 1 (expressed as indicated below) in any sample of the effluent, shall not exceed 20mg/l, nor shall the concentration of any individual metal in any sample exceed 5mg/l.
- (ii) Metals in Group 1 are:
 - (aa) Chromium [expressed as Cr];
 - (bb) Copper [expressed as Cu];
 - (cc) Nickel [expressed as Ni];
 - (dd) Zinc [expressed as Zn];
 - (ee) Silver [expressed as Ag];
 - (ff) Cobalt [expressed as Co];
 - (gg) Cadmium [expressed as Cd];

- (hh) Manganese [expressed as Mn].
- (c) Metals Group 2:
 - (i) The total collective concentration of all metals in Group 2 (expressed as indicated below) in any sample of the effluent shall not exceed 50mg/l, nor shall the concentration of any individual metal in any sample exceed 20mg/l.
 - (ii) The metals in Group 2 are:
 - (aa) Lead [expressed as Pb];
 - (bb) Selenium [expressed as Se];
 - (cc) Mercury [expresses as Hg].
- (d) Metals Group 3:
 - (i) The total collective concentration of the metals in Group 3 (expressed as indicated above) in any sample of the effluent shall not exceed 20mg/l.
 - (ii) The metals in Group 3 are:
 - (aa) Arsenic [expressed as As];
 - (bb) Boron [expresses as B].
- (e) Radio-Active Waste or isotopes:

The concentration of radio-active waste or isotopes as may be determined by the Atomic Energy Corporation or any organ of state:

2 Power of Municipality to limit total mass of any substance

Notwithstanding the requirements set out in this Schedule, the Municipality has the right to limit the total mass of any substance or impurity discharges per 24 hours into the sewers from any premises.

3 Method of testing

The method of testing in order to ascertain the concentration of any substance contemplated in this Schedule shall be the test normally used by the Municipality for this purpose.

SENQU MUNICIPALITY MUNICIPAL NOTICE**BY-LAW ON CHILD CARE FACILITIES**

The Municipal Council of Senqu Local Municipality in the Schedule hereto publishes, in terms of section 13 of the Local Government Municipal Systems Act, 2000 (Act 32 of 2000) read with section 162 of the Constitution of the Republic of South Africa Act 1996 (Act 108 of 1996) the By-law on Child Care Facilities.

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CHAPTER 1

OBJECTIVES, DEFINITIONS AND APPLICABILITY OF BY-LAW

1 Objectives

The objectives of this By-law is to—

- (a) regulate the operation of child care facilities by requiring operators to apply for a health compliance certificate;
- (b) ensure that the premises on which child care facilities are operated are age-appropriate and suitable for the health and well-being of children;

- (c) impose minimum safety standards; and
- (d) make provision for the medical care of children while attending child care facilities.

2 Definitions

In this By-law, unless the context otherwise indicates:

“Act” means the Children's Act, 38 of 2005, including the regulations made under that Act;

“adequate” means that which is adequate in the reasonable opinion of the Municipality after having regard to applicable law and guidelines;

“approved” means that which has been approved by the Municipality, after having regard to the reasonable environmental health requirements that may apply in the circumstances;

“approved premises” means any premises that have been approved for the operation of a child care facility and in respect of which a health compliance certificate has been issued;

“certificate of acceptability” means a certificate of acceptability issued by the Municipality in terms of the Regulations Governing General Hygiene Requirements For Food Premises and the Transport of Food made in terms of the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972) and published by Government Notice R962 of 23 November 2012;

“child” means any person under the age of 18 years and “children” has a corresponding meaning;

“child care facility” means any premises at which children are provided with temporary or partial care apart from their parents, whether for profit or otherwise, and excludes –

- (a) a boarding school;
- (b) a school hostel; and
- (c) any establishment which operates mainly for the tuition or training of children and which is controlled by an organ of state or is registered or approved by an organ of state;

“compliance officer” means a person who is authorised to implement and enforce the provisions of this By-law by virtue of his or her –

- (a) declaration as a peace officer as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977);
- (b) appointment as a police officer as contemplated in the South African Police Service Act, 1995 (Act 68 of 1995);
- (c) a traffic officer appointed in terms of section 3 of the Road Traffic Act, No. 29 of 1989 or section 3A of the National Road Traffic Act No. 93 of 1996 as the case may be;
- (d) appointment as a law enforcement officer or traffic officer by the Municipality and declaration as peace officer as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977); or
- (e) appointment by the Municipality as a compliance officer or an inspector;

“compulsory school-going age” means the age at which it is compulsory for a child to enter grade 1 in terms of the applicable law;

“Council” means the Senqu municipal council, a municipal council referred to in section 157(1) of the Constitution;

“form” means a form approved by the Municipality for the purposes of this By-law;

“fee” means any fee, charge or deposit determined for purposes of this By-law, by the Municipality in terms of the Senqu Municipality: Tariff By-law, 2017;

“health compliance certificate” means:

- (a) in the event of a child care facility where a maximum of six children are to be accommodated, the certificate issued by the Municipality for the purposes of registration in terms of this By-law; or

- (b) in the event of a child care facility where seven or more children are to be accommodated, a certificate issued by the Municipality for the purposes of registration in terms of the Act,

and which confirms that the premises, and the facilities and services available on those premises, comply with this By-law;

“health compliance certificate holder” means a person to whom a health compliance certificate has been issued in terms of this By-law, and includes -

- (a) a legal person;
- (b) a partnership;
- (c) an association;
- (d) a trust; and
- (e) a person acting on behalf of a health compliance certificate holder;

“Municipality” means the Senqu Municipality and includes the Council, any executive councillor, or committee established by the Municipality, or any employee thereof, or duly authorised agent thereof acting in connection with this By-law by virtue of a power vested in the Municipality and delegated to such employee or agent;

“National Building Regulations” means the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977);

“person in charge” includes –

- (a) the owner of a child care facility;
- (b) the principal of a child care facility; and
- (c) any person who is apparently in control of a child care facility;

“play area” means a portion of a premises set apart for children to play;

“premises” means any land or building or part of any land or building in or on which a child care facility is operated; and

“suitable” means that which is suitable in the reasonable opinion of the Municipality.

3 Applicability of By-law

This By-law applies to all areas which fall under the jurisdiction of the Municipality.

CHAPTER 2 HEALTH COMPLIANCE CERTIFICATE

4 Application for a health compliance certificate

- (1) No person may operate a child care facility on any premises unless he or she has been—
 - (a) issued with a health compliance certificate where the facility provides care for six or less children; or
 - (b) registered in terms of the Act where the facility provides care for seven or more children.
- (2) Application for a health compliance certificate in terms of this By-law must be made to the Municipality in writing by completing and submitting an application form and payment of the applicable fee.
- (3) The Municipality may, before considering such application, require that it be furnished with any information in connection with the application concerned which it may deem necessary.
- (4) Subject to subsection (5) the Municipality may issue a health compliance certificate if he or she is satisfied that the—
 - (a) premises on which it is proposed to operate the child care facility; and
 - (b) facilities and services available on those premises,comply with this By-law.

- (5) The health compliance certificate issued in terms of subsection (4) may be issued either unconditionally or on such conditions that the Municipality may deem necessary.
- (6) Every health compliance certificate must contain the following minimum information:
 - (a) the maximum number of children which may be cared for on the approved premises;
 - (b) the maximum number of children of different age groups which may be cared for on the approved premises;
 - (c) the minimum and the maximum ages of the children permitted to be cared for on the approved premises;
 - (d) the hours during which the child care facility may operate; and
 - (e) the date upon which the health compliance certificate expires.
- (7) A health compliance certificate must be displayed on every approved premises in such a way that it is clearly visible at all times to any person entering the premises.
- (8) A health compliance certificate is issued in respect of specific approved premises, which means that a health compliance certificate—
 - (a) becomes invalid if a health compliance certificate holder dies or ceases to operate a child care facility from the approved premises;
 - (b) is not transferable to any other person;
 - (c) is not transferable to, or valid for, any other child care facility or premises which the health compliance certificate holder may own, have an interest in or subsequently own or acquire an interest in;
 - (d) is not transferred when the holder of the health compliance certificate disposes of the child care facility concerned or of the approved premises; and
 - (e) may not be bequeathed by the health compliance certificate holder to any heir or legatee.
- (9) If a health compliance certificate holder wishes to move his or her child care facility to premises other than the approved premises, he or she must apply for and obtain a new health compliance certificate in respect of those new premises.
- (10) If a health compliance certificate holder wishes to make alterations to premises to which a health compliance certificate relates, he or she must—
 - (a) bring his or her intention to the attention of the Municipality before commencing the alterations; and
 - (b) apply for and obtain a new health compliance certificate before beginning to operate a child care facility from those altered premises.
- (11) A health compliance certificate issued in terms of this section may be cancelled by the Municipality after one month's written notice of its intention to cancel the health compliance certificate has been given to the health compliance certificate holder concerned, and after consideration by the Municipality of any representations which may be submitted in pursuance of such notice.
- (12) The cancellation of a health compliance certificate takes effect on the date specified in the cancellation notice issued by the Municipality, which date shall not be less than 60 days after the date upon which the notice of cancellation was given.
- (13) Application for annual renewal of a health compliance certificate must be made to the Municipality in writing by completing and submitting an application form and paying the applicable fee not later than one month before the health compliance certificate expires.

CHAPTER 3

GENERAL REQUIREMENTS FOR PREMISES

5 Compliance with National Building Regulations

- (1) Every structure on premises on which any child care facility is operated or is to be operated must comply with the requirements of the National Building Regulations.
- (2) The Municipality shall be entitled to approve an informal structure on any premises on which a child care facility is operated or is to be operated, provided that the structure—
 - (a) is stable;
 - (b) is waterproof;
 - (c) is sufficiently ventilated;
 - (d) is constructed of materials which are safe;
 - (e) is supplied with a portable fire extinguisher or other appropriate fire-fighting equipment;
 - (f) does not contain any physical features which present or might present a risk to children; and
 - (g) complies with any other additional requirements determined by the Municipality from time to time.
- (3) The Municipality may at any time amend the list in subsection (2) to keep in accordance with the safety and well-being of children.

6 Indoor play areas

- (1) A separate indoor play area must be provided on every premises on which a child care facility is operated.
- (2) The indoor play area must—
 - (a) be used for play only;
 - (b) provide not less than 1,5 m² of free floor area per child;
 - (c) separate children under the age of three years from children over the age of three years (movable partitions may be used to create this separation);
 - (d) have exterior walls and a roof which is impermeable to wind and rain;
 - (e) have windows which open to provide sufficient natural light and cross-ventilation;
 - (f) have a floor which has a smooth, impermeable surface that is easy to wash; and
 - (g) have sufficient safe indoor play equipment.

7 Outdoor play areas

- (1) An outdoor play area must be provided on every premises on which a child care facility is operated.
- (2) The outdoor play area must—
 - (a) comprise of not less than 2 m² of outdoor area per child;
 - (b) be, in the opinion of the Municipality, a safe area for children of the age concerned to play;
 - (c) not have any excavations, steps, projections, levels or surfaces that may, in the opinion of the Municipality, be dangerous or may constitute a hazard; and
 - (d) have sufficient safe outdoor play equipment.
- (3) If no outdoor play area is available at a premises, the health compliance certificate holder may, subject to the approval of the Municipality, substitute an additional indoor play area of 1.5 m² per child for the outdoor play area.

8 Toilets

- (1) Adequate toilets must be provided for the children on every premises on which a child care facility is operated.

- (2) Where a sewer reticulation system or other sewage disposal system approved by the Municipality, and a supply of water, are available on the premises, one approved toilet must be provided for every 20 children.
- (3) Where neither a sewer reticulation system nor other sewage disposal system approved by the Municipality, and no supply of running water, are available on the premises, then the following must be provided:
 - (a) an approved toilet on the premises or immediately adjacent to the premises; or
 - (b) an approved chemical toilet or other acceptable alternative that is hygienic or safe for every 8 children.
- (4) Where containers are provided as contemplated in subsection (3)(b)—
 - (a) the contents of the containers must be disposed of regularly during the day into an approved toilet;
 - (b) the containers must be kept in a clean and sanitary condition at all times;
 - (c) the container must be of a size suitable for use as a toilet and must be placed under a properly constructed seat; and
 - (d) the container must have a tight-fitting lid which is applied when the containers are removed for emptying.
- (5) Toilets must have an adequate—
 - (a) supply of toilet paper, soap and paper towels available and accessible to the children; and
 - (b) number of bins with self-closing lids for the disposal of paper, paper towels, tissues and other waste materials.

9 Washing facilities

- (1) Adequate washing facilities must be provided for the children on every premises on which a child care facility is operated.
- (2) Where a sewer reticulation system or other sewage disposal system approved by the Municipality, and a supply of running water, are available on the premises, hand washbasins must be provided as follows:
 - (a) one hand washbasin must be provided for every 20 children;
 - (b) hand washbasins must be placed at a height convenient for children; and
 - (c) hand washbasins must be supplied with running water.
- (3) Where neither a sewer reticulation system or other sewage disposal system approved by the Municipality, nor a supply of running water, are available on the premises—
 - (a) the washing facilities must be supplied with a minimum of 25 litres of potable water a day in a potable water container which—
 - (i) can be closed; and
 - (ii) must be accessible for supply to the hand washbasins: Provided that water is dispensed from the container for use in the hand washbasin and that no children wash in the container;
 - (b) one suitable container must be supplied for every 20 children; and
 - (c) a container or containers must be placed at a height convenient for children.
- (4) Washing facilities must have an adequate:
 - (a) supply of soap and paper towels available and accessible to the children; and
 - (b) number of bins with self-closing lids for the disposal of paper, paper towels, tissues and other waste materials.

- (5) If water supply to the child care facility is interrupted for any reason, the person in charge of the child care facility must—
 - (a) implement an alternate water supply arrangement within 24 hours of interruption of water supply; or
 - (b) close the child care facility until water supply is restored.

10 Kitchens

- (1) Every child care facility which provides meals to children from a kitchen on the premises must have a separate approved area set aside, with due regard for the safety of children, as a kitchen for the preparation of food and the washing up and rinsing of crockery, cutlery, pots, pans and other kitchen utensils.
- (2) The kitchen must—
 - (a) have a double bowl sink;
 - (b) have a hot water supply;
 - (c) have a separate hand washbasin;
 - (d) be arranged so that the utensils and other kitchen equipment are inaccessible to children; and
 - (e) meet the requirements of the Regulations Governing General Hygiene Requirements For Food Premises and the Transport of Food made in terms of the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972) and published by Government Notice R962 of 23 November 2012.
- (3) No person may provide meals to children in a child care facility from a kitchen on the premises unless he or she has been issued with a certificate of acceptability by the Municipality in respect of that kitchen.
- (4) If any child at a child care facility is bottle-fed,—
 - (a) the bottles must be clearly marked with the name of the child;
 - (b) the bottles must be supplied with suitable lids or caps;
 - (c) any filled bottles brought from home must be suitably stored in the kitchen in a cooler box or refrigerator in such manner as to prevent contamination and spoilage; and
 - (d) the child's bottles must be suitably rinsed in the kitchen.
- (5) The children must not have access to a kitchen contemplated in subsections (1), (2) or (3), or to any storage space or storage facility contemplated in subsection (4).
- (6) Where there is no formal kitchen as stated in subsection (2), an area must be demarcated and set aside for the above activities to take place.

11 Storage

- (1) Any premises on which a child care facility is operated must have adequate and suitable storage space and storage facilities for—
 - (a) food, crockery, cutlery and kitchen utensils, if a kitchen is provided;
 - (b) the personal belongings of each child; and
 - (c) the personal belongings of the staff of the child care facility.
- (2) The storage facilities must be lockable and reasonable steps must be taken to ensure that children do not have access to any storage space or storage facility contemplated in subsection (1).

12 Seating and resting

- (1) Any premises on which a child care facility is operated must—

- (a) if seating is provided, have suitable and safe seating; and
 - (b) if tables are provided, have suitable and safe tables which are the correct size to ensure that each child sits comfortably.
- (2) If full day care is provided at a child care facility, every child at the facility must have an approved resting or sleeping mat or mattress which is—
 - (a) marked with the name or symbol of the child to whom the mat or mattress is allocated;
 - (b) made of suitable waterproof material; and
 - (c) covered with a removable washable cover which is also marked with the name or symbol of the child to whom the mat or mattress is allocated.
- (3) If blankets are provided at the child care facility, then they must be marked with the name or symbol of the child to whom the blanket is allocated.
- (4) Reasonable steps must be taken to ensure that a child does not share a sleeping mat or mattress, or any blanket, with another child.
- (5) Washing of linen, blankets or duvet covers must be done on a weekly basis or each time it is soiled.

13 Fencing

- (1) Any premises on which a child care facility is operated must be enclosed with approved fencing so as to prevent—
 - (a) a child from leaving the premises on his or her own accord;
 - (b) the entrance of domestic animals onto the premises; and
 - (c) unauthorised access or entry.
- (2) Fencing around a child care facility must meet the following requirements:
 - (a) the fencing must be not less than 2m high;
 - (b) horizontal members must be placed at intervals which make it difficult for a child to climb; and
 - (c) the fence must be constructed of material which cannot reasonably cause harm to children.
- (3) A fence referred to in subsection (2) must have a gate which is self-closing and self-locking and a gate will only be regarded as self-locking for the purposes of subsection (2) if it cannot be readily opened by an unauthorised person
- (4) A gate which closes by means of a latch only, with no other means of securing the gate, will not be regarded as self-locking for the purposes of subsection (2).
- (5) If a pool is permitted on any premises on which a child care facility is operated, the pool must be—
 - (a) built in accordance with an approved plan, supported by an acceptable certificate from an engineer or other competent person;
 - (b) provided with an approved net;
 - (c) fenced in the manner contemplated in subsection (2); and
 - (d) provided with a suitable twin gate system with gates that are self-closing and self-locking, and which may close by means of a latch.
- (6) A portable pool is not permitted on any premises on which a child care facility is operated.

CHAPTER 4

ADDITIONAL REQUIREMENTS FOR TOILETS**14 Toilets: Children older than three years**

- (1) Toilets for children over the age of three years must be in an approved, screened-off and roofed area of the premises, separate to toilet facilities for children who are younger than three years.
- (2) Separate toilets must be provided for boys and girls of school-going age.

15 Toilets: Children under three years

- (1) Toilets for children who are under three years of age, or who are still in nappies, must include an approved separate nappy-changing area.
- (2) The nappy-changing area must have—
 - (a) a nappy-changing unit with an impermeable surface that can be easily cleaned;
 - (b) at least one hand washbasin;
 - (c) access to water: Provided that if no running water is available on the premises, an approved source of clean potable water must be available and accessible to the nappy-changing area on a daily basis;
 - (d) disposable material for the cleaning of children who are in nappies;
 - (e) approved facilities for the cleaning of cloth nappies if children in cloth nappies attend the child care facility;
 - (f) approved separate containers for the storage of clean nappies and soiled nappies and other waste, as well as an approved area for the storage of containers containing soiled nappies and other waste; and
 - (g) approved facilities for the cleaning of cloth nappies.

CHAPTER 5**ADDITIONAL REQUIREMENTS FOR PREMISES: AFTER CARE CENTRE****16 Separate facilities for after-care centre**

If a child care facility cares for children of compulsory school-going age and children under compulsory school-going age on the same premises, facilities available for the children of compulsory school-going age must be separate from the facilities available for the children under compulsory school-going age.

17 Indoor study area

- (1) An indoor study area consisting of 1.5 m² of free floor area per child must be provided on any premises on which a child care facility operates an after-school centre for children of compulsory school-going age.
- (2) The indoor study area must have—
 - (a) exterior walls and a roof which is impermeable to wind and rain;
 - (b) windows which open to provide sufficient natural light and cross-ventilation; and
 - (c) a floor which has a smooth, impermeable surface that is easy to wash.

CHAPTER 6**STAFF FACILITIES****18 Staff toilet and hand-washing facilities**

- (1) Any premises on which a child care facility is operated must have toilet and hand-washing facilities for the staff of the child care facility.
- (2) The staff toilet and hand-washing facilities must be—
 - (a) easily accessible to the staff;
 - (b) separate from the toilet and wash facilities used by the children; and
 - (c) provided with soap and towels at all times.

19 Bathroom facilities of staff resident on the premises

If any staff member of a child care facility resides on the premises on which the child care facility is operated, the toilet and bathroom facilities for the staff must be easily accessible from their living quarters.

CHAPTER 7

SAFETY AND MEDICAL CARE

20 Sickbay

- (1) Every premises on which a child care facility is operated must have an area set aside as a sickbay for the treatment and care of any child who becomes ill or who is injured until such time as the child is collected by his or her parents or guardian.
- (2) The sickbay may only be used for the treatment of ill or injured children and may not, in the ordinary course of events, be used for the treatment or care of children who have become ill or injured outside the hours of operation of the child care facility.
- (3) The sickbay must be equipped with—
 - (a) an approved, fully lockable and fully equipped first-aid unit, which must be kept out of the children's reach; and
 - (b) a bed or a mattress.
- (4) In addition, every sickbay must have an approved method for washing hands and every premises on which a child care facility is operated must have a working telephone available to notify parents or guardians of illness or injury and, where applicable, to summon medical assistance.

21 Medical care for children

- (1) The person in charge of a child care facility must—
 - (a) if a child becomes ill, or suffers an injury, requiring medical attention—
 - (i) notify the child's parent or guardian immediately; and
 - (ii) summon medical assistance or take the child to his or her medical practitioner;
 - (b) if a child becomes ill, or suffers an injury, but does not require medical assistance, provide the necessary care and treatment in the sickbay;
 - (c) if a child has a notifiable disease, notify the relevant authority immediately;
 - (d) if a child is under compulsory school-going age, ensure that he or she has completed the basic immunisation schedules as determined by the National Immunisation Programme;
 - (e) comply with the provisions of the regulations relating to the exclusion of children from school on account of an infectious disease, made under the Health Act, 1977 (Act No. 63 of 1977); and
 - (f) report cases of head lice to parents and ensure that children are not allowed back on the premises until the head lice have been eradicated.

- (2) The person in charge of a child care facility may only allow medication to be administered to a child in terms of written consent from the child's parents, which—
- (a) identifies the medication;
 - (b) specifies the dosage and frequency at which the medication must be administered; and
 - (c) specifies the period for which the medication must be administered.

22 Safety

The person in charge of a child care facility must ensure that—

- (a) the children are under constant adult supervision and adequately protected against fires, hot water installations, electrical fittings and appliances, heating appliances and any other object or thing which may be dangerous or cause injury to any child;
- (b) adequate fire extinguishers are provided and that the premises otherwise comply with the National Building Regulations;
- (c) if the children are under compulsory school-going age, any slats or rails forming part of a fence, security gate, playpen, bed, cot, balustrade or any other object or structure whatsoever are—
 - (i) not more than 75 mm apart;
 - (ii) suitably installed and maintained in a good state of repair;
 - (iii) painted only with non-toxic paint; and
 - (iv) not less than 1m high, with the exception of fences which must, in terms of section 13(2), be not less than 2m high;
- (d) all medicines, pesticides, detergents and other substances that may be harmful to children are locked in a storage facility and are stored so as not to be accessible to any child;
- (e) no noxious or poisonous plants or shrubs grow on the premises;
- (f) no animal is kept on the premises without the approval of the Municipality;
- (g) no person known or suspected to be suffering from an infectious or contagious disease or who has been in contact with such a person is allowed on the premises while that person is, in the opinion of the Municipality, capable of transmitting the infectious or contagious disease;
- (h) if the children are under compulsory school-going age, no swimming pool, sand pit or other structure is permitted on the premises without the approval of the Municipality; and
- (i) any reasonable measures that may, in the opinion of the Municipality, be necessary to protect the children from any physical danger are taken.

23 Maintenance

Any person in charge of a child care facility must ensure that every part of the premises on which the child care facility is operated, including any outdoor area and all structures and equipment, is maintained in good repair and in a clean and tidy condition.

24 Refuse

Any person in charge of a child care facility must provide—

- (a) an adequate number of bins with liners, inside the premises, for the disposal of paper, paper towels, tissues and other waste materials;
- (b) an approved refuse area, which is roofed and is graded to a gully and fenced; and

- (c) adequate refuse bins within the refuse area for the storage of refuse pending removal by the Municipality or an approved contractor.

25 Staff

- (1) Any person in charge of a child care facility must ensure that–
 - (a) every employee working on the premises is physically clean and in a state of good health;
 - (b) no person on the premises uses tobacco, any tobacco product, alcohol or any drug or other harmful substance in the presence of any child; and
 - (c) no person on the premises is under the influence of alcohol, drugs or any other harmful substance.
- (2) All employees must be subjected to criminal clearance checks before employment can be secured with the child care facility.
- (3) At least one member of staff must be suitably qualified to administer first aid.
- (4) The ratio of child care workers to children must be as follows:
 - (a) 0-2 years, requires 1 care worker, 1 assistant to 8 children;
 - (b) 2-3 years, requires 1 care worker, 1 assistant to 15 children;
 - (c) 3-6 years, requires 1 care worker, 1 assistant to 20 children; and
 - (d) six years and older require 1 care worker to 30 children.

26 Meals

Any person in charge of a child care facility must ensure that, if meals are provided for children, the meals meet the requirements of the relevant authority.

27 Transport

- (1) Any person in charge of a child care facility must, if transport is provided to children to or from the premises or elsewhere, ensure that–
 - (a) the doors of the vehicle have child locks, such that they cannot be opened from inside the vehicle by a child;
 - (b) no child is transported in the front seat of a vehicle or placed under the seat of a vehicle;
 - (c) no baby in a carry cot is placed under a seat of a vehicle;
 - (d) the vehicle in which any child is transported is not overloaded in terms of any applicable legislation;
 - (e) the driver of the vehicle in which any child is transported is licensed to transport passengers in accordance with the applicable legislation;
 - (f) the vehicle in which any child is transported is licensed to transport passengers, has car seats and seat belts and is roadworthy in accordance with the applicable legislation; and
 - (g) the vehicle is fitted with seat belts and car seats which, given the age of the children transported, comply with the applicable legislation.
- (2) If children under compulsory school-going age are transported, then the person who operates the child care facility must ensure that while being transported, the children are supervised by at least one adult apart from the driver of the vehicle.
- (3) Any person in charge of a child care facility must ensure compliance with the provisions of subsections (1) and (2) regardless of whether transport is provided by that person, the child care facility, or by a third party on behalf of that person or the child care facility.

CHAPTER 8

ADMINISTRATIVE REQUIREMENTS

28 Applications for admission

- (1) The person in charge of a child care facility must ensure that every child's parent or guardian makes written application for the child to attend the facility.
- (2) Every application for a child to attend a child care facility must include the following minimum information:
 - (a) the child's full names and surname;
 - (b) the child's date of birth;
 - (c) the child's age;
 - (d) the child's identity number, where applicable;
 - (e) the child's sex;
 - (f) the name of each parent or guardian;
 - (g) the residential address and telephone numbers (landline and, if applicable, cell phone) of each parent or guardian;
 - (h) the place of work and work telephone numbers of each parent or guardian;
 - (i) the name, address and telephone numbers of a responsible person, other than a parent or guardian, who may be consulted in emergencies; and
 - (j) the name, address and telephone number of the child's medical practitioner.
- (3) Every application for a child to attend a child care facility must include the parent's or guardian's consent to the owner consulting the child's medical practitioner when the child is in need of medical attention.
- (4) The person in charge of a child care facility must ensure that the date on which the child is admitted to the facility and the date on which the child ceases to be cared for at the facility are recorded on the application form.

29 Medical reports

The person in charge of a child care facility must, at the same time that the application form is completed, obtain from the parent or guardian of each child admitted to the child care facility a report which contains the following minimum information:

- (a) the child's general state of health and physical condition;
- (b) the nature and dates of any operations that the child has undergone;
- (c) the nature and dates of any illnesses or communicable diseases that the child has suffered from;
- (d) the details of allergies that the child suffers from;
- (e) information about any medical treatment that the child is undergoing or has undergone; and
- (f) if the child is under compulsory school-going age, the details of any immunisation that the child has received.

30 Registers

The person in charge of a child care facility must keep—

- (a) a general register in which is recorded the details listed in sections 28(2) and 29 regarding every child presently admitted at the facility; and

- (b) an attendance register in which is recorded the presence or absence of each child on a daily basis and, in the case of absence, the reasons for the absence.

31 Incident book

The person in charge of a child care facility must keep a journal, diary or other similar book in which important or significant events relating to the child care facility and the children, including illnesses and accidents, and the details of medications administered, are recorded.

32 Communication book

The person in charge of a child care facility must ensure that each child is issued with a communication book which is sent home with the child each day and which provides the basis for communication between the child care facility and parents.

33 Retention of records

- (1) The person in charge of a child care facility must keep records for the following time periods:
 - (a) application forms and medical forms: a minimum of 2 years after the date on which the child ceases to be cared for at the facility; and
 - (b) general registers, attendance registers and journals: a minimum of 2 years after the date of the last entry in each of those documents.
- (2) The records must be retained in a safe place allowing ready access by the person who operates the child care facility and reasonable steps must be taken to prevent damage to or destruction of the records.

34 Suspension or termination of operation

A health compliance certificate holder must notify the Municipality in advance and in writing if he or she intends suspending or terminating the operation of the child care facility to which his or her health compliance certificate relates.

CHAPTER 9 ENFORCEMENT

35 Appointment of compliance officer

- (1) The Municipality may appoint or designate a person or employee to serve as a compliance officer for purposes of compliance and enforcement monitoring of this By-law.
- (2) A compliance officer shall take all lawful, necessary and practicable measures to enforce the provisions of this By-law.
- (3) The Municipality shall issue each compliance officer with a written appointment stating that he or she has been appointed for purposes of this By-law or with an identification card that contains the municipal logo, department and name of the officer.

36 Powers and functions of compliance officer

- (1) A compliance officer may, subject to subsection (2) and (3), at any reasonable time, and without prior notice, enter any land property, building or premises for purposes of ensuring compliance with this By-law.
 - (a) on which a child care facility is being operated; or
 - (b) if he or she has reasonable grounds to suspect that a child care facility is being operated on the premises,in order to carry out such examination, inquiry or inspection on the premises as he or she may deem necessary.

- (2) An inspection of a private dwelling may only be carried out by a compliance officer at a reasonable time and after reasonable notice has been given to the owner or occupier of the land or building and after obtaining the consent of the owner or lawful occupier or person in control of the building, or with a warrant issued in terms of the Criminal Procedure Act, 1977.
- (3) The compliance officer is not required to give any notice to enter land or a building, other than a private dwelling, and may conduct an inspection or take enforcement action without the consent of the owner or occupier of such land or building and without a warrant if:
 - (a) he or she believes on reasonable grounds that a warrant would be issued to him or her on application; and
 - (b) the delay in obtaining the warrant would defeat the object of the inspection and enforcement action.
- (4) A compliance officer shall show proof of his or her written appointment or identification card contemplated in section 35(3) when required to do so by any person affected by the exercising of a power or show proof that he or she is a law enforcement officer.
- (5) A compliance officer may not investigate a matter in which he or she has a direct or indirect personal interest.
- (6) In ascertaining compliance with this By-law, a compliance officer may:
 - (a) be accompanied by an interpreter, a police officer or any other person who may be able to assist with the inspection;
 - (b) question any person who is or was on that property, who in the opinion of the compliance officer, may be able to furnish information on a matter to which this By-law relates;
 - (c) question any person about any act or omission in respect of which there is a reasonable suspicion that it might constitute:
 - (i) an offence in terms of this By-law; or
 - (ii) a breach of an approval or a term or condition of such approval
 - (d) question a person about any structure, object, document, book or record or inspect any written or electronic information or object which may be relevant for the purpose of investigating any matter in connection with this By-law;
 - (e) examine any book, record or other written or electronic information and make a copy thereof or an extract therefrom and remove such document, book, record or written or electronic information in order to make copies or extracts;
 - (f) require a person to produce or to deliver to a place specified by him or her, any document, book, record, or any written or electronic information referred to in paragraph (e) for inspection;
 - (g) require from such person an explanation of any entry in such document, book, record or written or electronic information;
 - (h) inspect any article, substance, plant or machinery which is or was on the property, or any work performed on the property or any condition prevalent on the property, or remove for examination or analysis any article, substance, plant or machinery or a part or sample;
 - (i) seize any book, record or other document, details or any article, substance, plant or machinery or a part or sample thereof which in his or her opinion may serve as evidence at the trial of any person charged with an offence under this By-law, provided that the user of the article, substance, plant or machinery concerned, as the case may be, may make copies of such book, record or document before such seizure;
 - (j) direct any person to appear before him or her at such time and place as may be determined by him or her and question such person either alone or in the presence of any other person on any matter to which this By-law relates; and

- (k) take photographs or make audio visual recordings or tape recordings of any person or anything for the purposes of his or her investigation.
- (7) When a compliance officer removes or seizes any article, substance, plant or machinery, book, record or other document as contemplated above, he or she shall issue a receipt to the owner or person in control thereof and return it as soon as practicable after achieving the purpose for which it was removed or seized.
- (8) Where a compliance officer enters any land in terms of subsection (1), a person who controls or manages the land shall at all times provide such facilities as are reasonably required by the compliance officer to enable him or her to perform his or her functions effectively and safely under this By-law.
- (9) A compliance officer who enters and searches any property or private dwelling under this section, shall conduct such search with strict regard for decency and order and with regard for each person's right to dignity, freedom, security and privacy.

37 Offences and penalties

- (1) A person shall be guilty of an offence if such person
 - (a) fails to comply with a decision taken or condition imposed by the Municipality in terms of this By-law.
 - (b) wilfully and with intent provides false or misleading information in connection with an application contemplated in this By-law;
 - (c) unlawfully prevents an compliance officer entry to his or her premises or causes or permits any other person to prevent entry;
 - (d) obstructs or hinders a compliance officer in the performance of his or her duties or causes or permits any other person to so obstruct or hinder the compliance officer;
 - (e) refuses or fails to provide to a compliance officer such information as is required to allow a compliance officer to perform a function in terms of this By-law;
 - (f) furnishes false or misleading information to an official of the Municipality when called upon to furnish information;
 - (g) impersonates a compliance officer;
 - (h) contravenes or fails to comply with any provision of this By-law;
 - (i) supplies particulars, information or answers in an application or on knowing it to be false, incorrect or misleading;
 - (j) contravenes any provision or condition in respect of his or her health compliance certificate; or
 - (k) contravenes or fails to comply with any order or notice lawfully issued under this By-law.
- (2) Any person convicted of an offence in terms of this By-law, shall be liable upon conviction to a fine or imprisonment or to both such fine and imprisonment.
- (3) A person convicted of an offence under this By-law who, after conviction, continues with the conduct in respect of which he or she was so convicted, is guilty of a continuing offence and upon conviction is liable to a fine or to imprisonment, or to both such fine and imprisonment, in respect of each day on which he or she so continues with that conduct.

38 Withdrawal of health compliance certificate

The Municipality may, in its discretion, withdraw a health compliance certificate and a certificate of acceptability where applicable—

- (a) if the health compliance certificate holder is convicted of a breach of any of the provisions of this By-law; or
- (b) if a change in legislation necessitates a withdrawal.

CHAPTER 10

GENERAL MATTERS

39 Appeals

Any person may appeal against any decision taken under this By-law by giving written notice of the appeal in accordance with the provisions of section 62 of the Municipal Systems Act, 2000.

40 Exemptions

- (1) Any person may, in writing, apply for exemption from the provisions of this By-law to the Municipality.
- (2) An application in terms of subsection (1) above must be made on the approved form and be accompanied by the applicable fee and a memorandum motivating why an exemption should be granted by the Municipality.
- (3) The Municipality may grant a temporary exemption in writing from one or all of the provisions of this By-law, provided that the Municipality:
 - (a) is satisfied that granting the exemption will not prejudice the objectives referred to in section 1; and
 - (b) grants any exemption subject to conditions that promote the attainment of the objectives referred to in section 1.
- (4) The Municipality must not grant an exemption under subsection (1) until the Municipality has:
 - (a) taken measures to ensure that all persons whose rights may be significantly detrimentally affected by the granting of the exemption, are aware of the application for exemption and how to obtain a copy of it;
 - (b) provided such persons with a reasonable opportunity to object to the application; and
 - (c) duly considered and taken into account any objections raised.
- (5) The Municipality may:
 - (a) from time to time review any exemptions granted in terms of this section; and
 - (b) on good grounds withdraw any exemption.

41 State and Municipality bound

This By-law is binding on the State and the Municipality except in so far as any criminal liability is concerned.

42 Transitional provisions in respect of existing child care facility

- (1) A compliance officer may grant an extension of time to a person who was operating a child care facility before the date of commencement of this By-law so that such person may comply with the provisions of this By-law within 9 months of the date of commencement.
- (2) The Municipality may, in any case where reasons to its satisfaction are given, extend the period stated in subsection (1) by not more than a further 12 months.

43 Repeal of by-laws

The By-Laws Relating to Childcare Services published in the *Provincial Gazette* by Notice Number 203 of 2005 is hereby repealed.

44 Short title and commencement

This By-law shall be known as the Senqu Municipality: Child Care Services By-law, 2017 and shall come into operation on the date of publication thereof in the *Provincial Gazette*.

SENQU MUNICIPALITY**BY-LAW ON CORPORATE IDENTITY**

The Municipal Council of Senqu Local Municipality in the Schedule hereto publishes, in terms of section 13 of the Local Government Municipal Systems Act, 2000 (Act 32 of 2000) read with section 162 of the Constitution of the Republic of South Africa Act 1996 (Act 108 of 1996) the By-law on Corporate Identity.

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CHAPTER 1**PURPOSE, DEFINITIONS AND APPLICABILITY OF BY-LAW****1 Objectives**

The objectives of this By-law are to provide a legal framework to control unauthorised use of the municipal logo.

2 Definitions

In this By-law any word or expression to which a meaning has been assigned in this By-law has the meaning so assigned to it and unless the context otherwise indicates:

“authorised person” means a person authorised by the Municipality to implement the provisions of this By-law;

“compliance officer” means a person who is authorised to implement and enforce the provisions of this By-law by virtue of his or her –

- (a) declaration as a peace officer as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977);
- (b) appointment as a police officer as contemplated in the South African Police Service Act, 1995 (Act 68 of 1995);
- (c) a traffic officer appointed in terms of section 3 of the Road Traffic Act, No. 29 of 1989 or section 3A of the National Road Traffic Act No. 93 of 1996 as the case may be;
- (d) appointment as a law enforcement officer or traffic officer by the Municipality and declaration as peace officer as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977); or
- (e) appointment by the Municipality as a compliance officer or an inspector;

“Council” means the Senqu municipal council, a municipal council referred to in section 157(1) of the Constitution;

“fee” means any fee, charge or deposit determined for purposes of this By-law, by the Municipality in terms of the Senqu Municipality: Tariff By-law, 2017;

“form” means a form approved by the Municipality for the purposes of this By-law;

“Municipality” means the Senqu Municipality and includes the Council, any executive councillor, or committee established by the Municipality, or any employee thereof, or duly authorised agent thereof acting in connection with this By-law by virtue of a power vested in the Municipality and delegated to such employee or duly authorised agent or any legal entity duly authorised or contracted by the Municipality to provide an electricity service within the jurisdiction of the Municipality; and

“person” includes a juristic person and an organ of state.

3 Applicability of By-law

In the event of any conflict with any other by-law which directly or indirectly regulates corporate identity, the provisions of this By-law shall prevail to the extent of the inconsistency.

CHAPTER 2

USE OF SYMBOL BY MUNICIPALITY

4 Logo usage instruction manual

- (1) The Municipality shall develop a logo usage instruction manual which shall be adhered to by any municipal employee using the logo as required within the scope of his or her employment.
- (2) The logo usage instruction manual must, amongst others, contain directives on:
 - (a) The font to be used;
 - (b) colour palette;
 - (c) switching of colours;
 - (d) use of logo on similar coloured background;
 - (e) re-arrangements of elements of the design; and
 - (f) distortion of the logo.

5 Use of logo at official function of Municipality

If the logo is used at an official function where an office bearer or the municipal manager is a guest of honour, the logo shall be displayed at a prominent place at the ceremony.

CHAPTER 3

USE OF LOGO OF MUNICIPALITY

6 Prohibition on use of logo other than by Municipality

- (1) No person, other than a person authorised by the Municipality, shall use the logo of the Municipality referred to in this By-law as his or her coat of arms or logo, either on its own or in conjunction with other symbols without the prior written approval of the Municipality.
- (2) No person, other than a person authorised by the Municipality, shall use the logo of the Municipality referred to in this By-law on or in a document or product developed by that person in order to create the impression that the Municipality is part of or supports the development of that document or product.

7 Application for use of logo of Municipality

- (1) A person who is desirous to use the logo of the Municipality for whatever purpose shall apply to the Municipality on the applicable form for approval.
- (2) An application for the use of the logo of the Municipality shall be accompanied by the applicable fee and reasons and the circumstances under which and place, if applicable, where the logo will be used
- (3) The Municipality may grant an approval for the use of the logo subject to such conditions of use as it considers necessary, including the application of the logo usage guidelines.

CHAPTER 4

LAW ENFORCEMENT

8 Appointment of compliance officer

- (1) The Municipality may appoint or designate a person or employee to serve as a compliance officer for purposes of compliance and enforcement monitoring of this By-law.
- (2) A compliance officer shall take all lawful, necessary and practicable measures to enforce the provisions of this By-law.
- (3) The Municipality shall issue each compliance officer with a written appointment stating that he or she has been appointed for purposes of this By-law or with an identification card that contains the municipal logo, department and name of the officer.

9 Powers and functions of a compliance officer

- (1) A compliance officer may, subject to subsection (2) and (3), at any reasonable time, and without prior notice, enter any land property, building or premises for purposes of ensuring compliance with this By-law.
- (2) An inspection of a private dwelling may only be carried out by a compliance officer at a reasonable time and after reasonable notice has been given to the owner or occupier of the land or building and after obtaining the consent of the owner or lawful occupier or person in control of the building, or with a warrant issued in terms of the Criminal Procedure Act, 1977.
- (3) The compliance officer is not required to give any notice to enter land or a building, other than a

private dwelling, and may conduct an inspection or take enforcement action without the consent of the owner or occupier of such land or building and without a warrant if:

- (a) he or she believes on reasonable grounds that a warrant would be issued to him or her on application; and
 - (b) the delay in obtaining the warrant would defeat the object of the inspection and enforcement action.
- (4) A compliance officer shall show proof of his or her written appointment or identification card contemplated in section 8(3) when required to do so by any person affected by the exercising of a power or show proof that he or she is a law enforcement officer.
- (5) A compliance officer may not investigate a matter in which he or she has a direct or indirect personal interest.
- (6) In ascertaining compliance with this By-law, a compliance officer may:
- (a) be accompanied by an interpreter, a police officer or any other person who may be able to assist with the inspection;
 - (b) question any person who is or was on that property, who in the opinion of the compliance officer, may be able to furnish information on a matter to which this By-law relates;
 - (c) question any person about any act or omission in respect of which there is a reasonable suspicion that it might constitute:
 - (i) an offence in terms of this By-law; or
 - (ii) a breach of an approval or a term or condition of such approval
 - (d) question a person about any structure, object, document, book or record or inspect any written or electronic information or object which may be relevant for the purpose of investigating any matter in connection with this By-law;
 - (e) examine any book, record or other written or electronic information and make a copy thereof or an extract therefrom and remove such document, book, record or written or electronic information in order to make copies or extracts;
 - (f) require a person to produce or to deliver to a place specified by him or her, any document, book, record, or any written or electronic information referred to in paragraph (e) for inspection;
 - (g) require from such person an explanation of any entry in such document, book, record or written or electronic information;
 - (h) inspect any article, substance, plant or machinery which is or was on the property, or any work performed on the property or any condition prevalent on the property, or remove for examination or analysis any article, substance, plant or machinery or a part or sample;
 - (i) seize any book, record or other document, details or any article, substance, plant or machinery or a part or sample thereof which in his or her opinion may serve as evidence at the trial of any person charged with an offence under this By-law, provided that the user of the article, substance, plant or machinery concerned, as the case may be, may make copies of such book, record or document before such seizure;

- (j) direct any person to appear before him or her at such time and place as may be determined by him or her and question such person either alone or in the presence of any other person on any matter to which this By-law relates; and
 - (k) take photographs or make audio visual recordings or tape recordings of any person or anything for the purposes of his or her investigation.
- (7) When a compliance officer removes or seizes any article, substance, plant or machinery, book, record or other document as contemplated above, he or she shall issue a receipt to the owner or person in control thereof and return it as soon as practicable after achieving the purpose for which it was removed or seized.
- (8) Where a compliance officer enters any land in terms of subsection (1), a person who controls or manages the land shall at all times provide such facilities as are reasonably required by the compliance officer to enable him or her to perform his or her functions effectively and safely under this By-law.
- (9) A compliance officer who enters and searches any property or private dwelling under this section, shall conduct such search with strict regard for decency and order and with regard for each person's right to dignity, freedom, security and privacy.

10 Offences and penalties

- (1) A person shall be guilty of an offence if such person -
- (a) Does not comply with the conditions of an approval granted in terms of this By-law;
 - (b) who uses the logo of the Municipality in an unauthorised manner;
 - (c) who, after the service of a notice, continues using the logo of the Municipality in an unauthorised manner;
 - (d) unlawfully prevents an authorised person and a compliance officer entry to his or her premises or causes or permits any other person to prevent entry;
 - (e) obstructs or hinders an authorised person or a compliance officer in the performance of his or her duties or causes or permits any other person to so obstruct or hinder the authorised person or compliance officer;
 - (f) refuses or fails to provide to an authorised person or a compliance officer such information as is required to allow a compliance officer to perform a function in terms of this By-law;
 - (g) furnishes false or misleading information to an authorised person the Municipality when called upon to furnish information;
 - (h) impersonates an authorised person or a compliance officer;
 - (i) contravenes or fails to comply with any provision of this By-law; or
 - (j) supplies particulars, information or answers in an application or on knowing it to be false, incorrect or misleading.
- (2) Any person convicted of an offence in terms of this By-law, shall be liable upon conviction to a fine or imprisonment or to both such fine and imprisonment.

- (3) A person convicted of an offence under this By-law who, after conviction, continues with the conduct in respect of which he or she was so convicted, is guilty of a continuing offence and upon conviction is liable to a fine or to imprisonment, or to both such fine and imprisonment, in respect of each day on which he or she so continues with that conduct.

11 Service of notice

- (1) The Municipality may serve a notice on any person who is using the logo of the Municipality in an unauthorised manner, to refrain from doing so with immediate effect.
- (2) Any notice or other document that is served on a person in terms of this By-law is regarded as having been served-
- (a) when it has been delivered to that person personally;
 - (b) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of sixteen years;
 - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic and an acknowledgement of the posting thereof from the postal service is obtained;
 - (d) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided by paragraphs (a), (b) or (c); or
 - (e) if that person's address and agent or representative in the Republic is unknown, when it had been posted in a conspicuous place on the property or premises, if any, to which it relates.

12 Compliance with notice

Any person on whom a notice duly issued or given under this By-law is served shall, within the time specified in such notice, comply with its terms.

CHAPTER 5

GENERAL PROVISIONS

13 Appeals

Any person may appeal against any decision taken under this By-law by giving written notice of the appeal in accordance with the provisions of section 62 of the Municipal Systems Act, 2000.

14 Repeal of by-laws

The By-Law relating to Corporate Identity published in the *Provincial Gazette* by Notice Number 204 of 2005 is hereby repealed.

15 Short title and commencement

This By-law shall be known as the Senqu Municipality: Corporate Identity By-law, 2017 and shall come into operation on the date of publication thereof in the *Provincial Gazette*.

SENQU MUNICIPALITY MUNICIPAL NOTICE**BY-LAW ON CREDIT CONTROL AND DEBT COLLECTION**

The Municipal Council in the Schedule hereto publishes, in terms of section 13 of the Local Government Municipal Systems Act, 2000 (Act 32 of 2000) read with section 162 of the Constitution of the Republic of South Africa Act 1996 (Act 108 of 1996) the By-law on Credit Control and Debt Collection.

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CHAPTER 1 PURPOSE, DEFINITIONS AND APPLICABILITY OF BY-LAW

1 Purpose

The objects of this By-law are to—

- (a) give effect to the Municipality's Credit Control and Debt Collection Policy, and its implementation and enforcement in terms of section 156(2) of the Constitution read with sections 96 and 98 of the Systems Act;
- (b) provide for the collection of monies due and payable to the Municipality; and
- (c) provide for matters incidental thereto.

2 Definitions

In this By-law, unless the context otherwise indicates:

"account" means an account rendered specifying charges for municipal services provided by the municipality, or any authorised and contracted service provider, and which account may include assessment rates levies;

"actual consumption" means the measured consumption of any customer for any given period;

"charges" means the rate (including assessment rates), charge, tariff, fee or subsidy determined by the Municipality in term of this By-law;

"arrears" means those rates, levies, consumed services, service charges and municipal rental that have not been paid by the due date;

"arrangement" means a written agreement entered into between the Municipality and the debtor where specific repayment parameters are agreed to;

"average consumption" means the average consumption by a customer of a municipal service during a specific period, which consumption is calculated by dividing the total measured consumption of that municipal service by that customer over the preceding three months by three;

"chief financial officer" means a person appointed by the Municipality to manage, inter alia, the Municipality 's financial administration and debt collection of the Municipality 's debtors and includes any person acting in this position;

"consumer" in relation to premises means:

- (a) any occupier thereof or any other person with whom the Municipality has contracted to supply or is actually supplying electricity thereat; or
- (b) if such premises are not occupied, any person who has a valid existing agreement with the Municipality for the supply of electricity to such premises; or
- (c) if there is no such person or occupier, the owner of the premises;

"Council" means the municipal council, as referred to in section 157 of the Constitution of the Republic of South Africa Act 108 of 1996, of the Senqu Municipality established by part 7 of provincial notice 80, dated 27 September 2000;

"credit control" means all the functions relating to the collection of monies owed by ratepayers and the users of municipal services;

"customer" means the owner of the premises and includes any debtor of the Municipality;

"defaulter" means any person owing the Municipality arrear monies in respect of taxes and/or service charges;

"estimated consumption" means the deemed consumption by a consumer whose consumption is not measured during a specific period, which estimated consumption is rationally determined taking into account at least the consumption of municipal services for a specific level of service during a specific period in the area of supply of the municipality;

"fee" means any fee or deposit determined by the Municipality in terms of this By-law;

"interest" means the charge levied on arrears, calculated at the prime rate charged by the bank which holds the municipality's primary bank account, plus a percentage as may be determined by Municipality from time to time;

"municipal account" means an account rendered specifying charges for services provided by the municipality, or any authorised and contracted service provider, and/or assessment rates levies as well as municipal rent;

"Municipality" means the Senqu Municipality and includes the Council, any executive councillor, or committee established by the Municipality, or any employee thereof, or duly authorised agent thereof acting in connection with this By-Law by virtue of a power vested in the Municipality and delegated to such employee or agent;

"municipal manager" means the person appointed as municipal manager by the municipal council in terms of section 82 of the Local Government: Municipal Structures Act, 1998 [Act 117 of 1998] as amended and includes a person acting in this position;

"municipal services" means those services provided by the municipality, such as, amongst others, the supply of water, electricity, refuse removal and sewerage treatment and for which services charges are levied;

"occupier" means any person who occupies any premises or part thereof, without regard to the title under which he or she so occupies;

"owner" means -

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

- (i) a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act 1986, (Act 95 of 1986), and without restricting the above, the developer or the body corporate in respect of the common property, or
- (ii) a section as defined in such Act, the person in whose name such a section is registered under a sectional title deed and includes the lawfully appointed agent of such a person;
- (f) any legal person including but not limited to –
 - (i) a company registered in terms of the Companies Act, 2008 (Act 71 of 2008), a trust, a closed corporation that was registered in terms of the Closed Corporations Act, 1984 (Act 69 of 1984);
 - (ii) any organ of state;
 - (iii) any council or board established in terms of any legislation applicable to the Republic of South Africa;
 - (iv) any embassy or other foreign entity;
- (g) any public benefit organisation or non-profit organisation that are registered, accredited or recognised in terms of any law applicable in the Republic of South Africa and that provide a certificate of exemption from the South African Revenue Services in terms of the Income Tax Act and, if requested by the Municipality, provide its financial statements for the preceding year;
- (h) the occupier of the premises who is a beneficiary of the Housing Subsidy System contemplated in the Housing Act, if that occupier has been identified as a beneficiary by the Department of Human Settlements;

"premises" includes –

- (a) any piece of land of which the occupier is a beneficiary in terms of the Housing Subsidy Scheme; or
- (b) any piece of land, the external surface boundaries of which are delineated on:
 - (i) a general plan or diagram registered in terms of the Land Survey Act, (9 of 1927) or in terms of the Deed Registry Act, 47 of 1937; or
 - (ii) a sectional plan registered in terms of the Sectional Titles Act, 95 of 1986, which is situated within the area of jurisdiction of the Municipality;

"service charges" means the fees levied by the municipality in terms of its tariff policy for any municipal services rendered in respect of an immovable property and includes any penalties, interest or surcharges levied or imposed in terms of this policy;

"tampering" means any unauthorised interference with Municipality's supply, seals and metering equipment;

"tariff" means the Municipality's tariff of charges for the supply of electricity and includes any fee, charge, levy and surcharge; and

"the Act" means the means Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000).

3 Applicability of By-law

- (1) This By-law applies throughout the Municipality's area of jurisdiction in respect of any amounts payable to–
 - (a) the Municipality for rates or the provision of any municipal service;
 - (b) any service provider of the Municipality in respect of any municipal service provided by the service provider concerned on behalf of the Municipality; or
 - (c) any other amount payable to the Municipality.
- (2) If there is any conflict between this By-law and any other by-law of the Municipality, this By-law shall prevail.

CHAPTER 2 SERVICE PROVISION AND ACCOUNTS

4 Service agreement

- (1) The Municipality shall not supply any services unless and until –
 - (a) application has been made by a customer on the applicable form;
 - (b) a service agreement has been entered into between such customer and the Municipality; and
 - (c) a deposit as security equal to an amount as determined by the Municipality has been paid in full by such a customer.
- (2) Termination of the services agreement must be in writing to the other party of the intention to do so.

5 Payment of charges

- (1) All accounts is payable when issued by the Municipality and each account shall, on its face, reflect the due date and a warning indicating that the service may be discontinued if the charges in respect thereof remain unpaid after the due date.
- (2) An error or omission in any account or failure to render an account shall not relieve the consumer of his or her obligation to pay the correct amount due and the onus shall be on the consumer to satisfy himself or herself that the account rendered is in accordance with the applicable charge.
- (3) The Municipality may remind a consumer that his or her payments are due or demand payment of arrear amounts by means of a written reminder, facsimile, telephone call, cellular phone text message, e-mail or utilisation of other media and any cost so incurred may be levied against the account of the debtor.

6 Accounts

The Municipality may-

- (a) consolidate any separate accounts of persons liable for payments to the Municipality;
- (b) credit a payment by such a person against any account of that person; and
- (c) implement any of the debt collection and credit control measures provided for in this By-law and policy in relation to any arrears on any of the accounts of such a person.

7 Dispute regarding amount owing

- (1) In the event of any dispute arising as to the amount owing by an owner in respect of municipal services, such owner shall, notwithstanding such dispute, proceed to make regular minimum payments based on the calculation of the average municipal account for the preceding three months prior to the arising of the dispute, any adjustment in the time value of money as well as the annual amendments of tariffs of the Municipality.
- (2) The amount referred to in subsection (1) shall be determined by the chief financial officer and be conveyed by notice to the relevant owner.

8 Dishonoured payments

Where any payment made to the Municipality is later dishonoured by the bank, the Municipality may levy such costs and administration fees as may be reasonable and enforceable in terms of prevailing legislation.

9 Legal cost

- (1) All legal costs, including attorney-and-own-client costs incurred in the recovery of amounts in arrears shall be levied against the arrears account of the debtor.
- (2) If a debtor becomes an indigent person before the settlement of the arrears, the legal costs shall be for the account of the Municipality.

10 Disconnection fees

Where any service is discontinued as a result of non-compliance with this By-law by the debtor, the Municipality is entitled to levy and recover the applicable disconnection fee from such debtor.

**CHAPTER 3
ARREARS COLLECTION****11 Credit control policy**

- (1) The Council shall approve a written policy on credit control and debt collection which shall be termed the Credit Control Policy and which may provide for -
 - (a) Credit control procedures and mechanisms;
 - (b) debt collection procedures and mechanisms;
 - (c) provision for indigent debtors;
 - (d) interest on arrears;
 - (e) extensions of time for payment of accounts, including arrangements for payment;
 - (f) termination of services or the restriction of the provision of services when payments are in arrears;
 - (g) the provision of new services;
 - (h) an agreement between a debtor's employer and the Municipality to deduct amounts from the debtor's salary or wage;
 - (i) intergovernmental arrangements;
 - (j) the sale in execution of any property; and
 - (k) any other matter, which is incidental to credit control and debt collection.
- (2) In determining its policy, the Municipality may differentiate between categories of persons, customers, debtors and owners as it may deem appropriate provided such differentiation does not amount to unfair discrimination.

12 Power to restrict or disconnect supply of services

- (1) The Municipality may restrict or disconnect the supply of water and electricity or discontinue any other service rendered to any premises whenever a user of any such service:
 - (a) fails to make full payment on the due date or fails to make an acceptable arrangement for the repayment of any amount for services, rates or taxes and bar the customer from buying prepayment services who are in arrears with all overdue rates and service accounts;
 - (b) fails to comply with a condition of supply imposed by the Municipality;
 - (c) obstructs the efficient supply of water, electricity or any other municipal services to another customer;
 - (d) supplies such municipal service to a customer who is not entitled thereto or permits such a service to continue;
 - (e) tampers with any municipal supply meter or bypasses any metering equipment in order to obtain an un-metered service;
 - (f) causes a situation, which in the opinion of the Municipality is dangerous, or a contravention of relevant legislation;
 - (g) is placed under provisional sequestration, liquidation or judicial management, or commits an act of insolvency in terms of the Insolvency Act 24 of 1936 or any other applicable law;
 - (h) is subject to an administration order granted in terms of section 74 of the Magistrates Court Act, 1944 (Act 32 of 1944).
- (2) The Municipality may introduce various metering equipment and customers may be required to convert to a system preferred by the municipality;

- (3) The right of Municipality to restrict water to any premises or consumer shall be subject to the provisions of section 4 of the Water Services Act, 108 of 1997.
- (4) The right to restrict, disconnect or terminate a service shall be in respect of any service rendered by the Municipality, and shall prevail notwithstanding the fact that payment has been made in respect of any specific service and notwithstanding the fact that the person who entered into an agreement for the supply of services with the Municipality and the owner are different entities or persons, as the case may be.

13 Arrangements to pay outstanding and due amounts in consecutive instalments

A debtor may enter into a written agreement with the Municipality to repay any outstanding and due amount to the Municipality under the following conditions:

- (a) That the outstanding balance, costs and any interest thereon are paid in regular and consecutive monthly instalments; and
- (b) the written agreement being signed on behalf of the Municipality by a duly authorised officer.

14 Full and final settlement of amount

- (1) The chief financial officer shall be at liberty to appropriate monies received in respect of any municipal services provided by the Municipality in a manner he or she deems fit in accordance with the Credit Control Policy of the Municipality.
- (2) Where the exact amount due and payable to the Municipality has not been paid in full, any lesser amount tendered to and accepted by any municipal employee, shall not be a payment in final settlement of such an amount unless permitted by the Credit Control Policy of the Municipality.
- (3) The provisions in subsection (2) above shall prevail notwithstanding the fact that such a lesser payment was tendered and accepted in full settlement.

15 Reconnection of services

- (1) The Municipality shall authorise the reconnection of services or the reinstatement of service delivery after satisfactory payment and arrangements for payment has or have been made by the debtor.
- (2) Payment of any amount for prepaid electrical services shall firstly be utilised to settle any amount that is owing to the Municipality by the customer and the remainder of the amount paid shall be utilised for the purchase of electrical units.

16 Sales in execution

The Municipality may only sell a property in execution in terms of a policy approved by the Council from time to time.

17 Interest charges

- (1) Subject to the provisions of the Local Government: Municipal Finance Management Act 56 of 2003 or any other law relating to interest, the Municipality may charge and recover interest in respect of any arrears amount due and payable to it.
- (2) The Municipality may write-off arrear interest on any arrear amount that it may have charged in terms of subsection (1) on condition that the debtor pays the outstanding balance and costs once-off and in full.
- (3) If the Municipality writes-off any interest in terms of subsection (2), the full amount of the arrear interest charged, or a portion thereof, as determined by the Council shall be written off.

CHAPTER 4 ASSESSMENT RATES

18 Amount due for assessment rates

- (1) All properties within the boundaries of the Senqu Municipality are to be valued in terms of the legislation, applicable to the valuation of properties for the purpose of levying property rates.

- (2) All assessment rates due by property owners are payable by the fixed date as determined by Municipality.
- (3) Joint owners of property shall be jointly and severally liable for payment of assessment rates.
- (4) Assessment rates may be paid as an annual single amount, or in equal payments or payments of varying amounts as determined by the Municipality.
- (5) Payment of assessment rates may not be deferred beyond the fixed date by reason of an objection to the valuation roll.

19 Claim on rental for assessment rates in arrears

The Municipality may apply to the appropriate Court for the attachment of any rental due in respect of rate able property in order to cover in part or in full any amount outstanding in respect of assessment rates for a period longer than three months after the fixed date.

20 Liability of company directors for assessment rates

Where a company, closed corporation, trust or a body corporate, in terms of the Sectional Titles Act, 1986 or any other legal entity is responsible for the payment of any arrear amount to the Municipality, the liability of such entity shall be extended personally to the directors, trustees or members thereof jointly and severally as the case may be.

21 Disposal of Municipality's property and payment of assessment rates

- (1) The purchaser of Municipal property is liable for the payment of assessment rates on the property from the date such property was registered in terms of the Deeds Registries Act.
- (2) In the event of the Municipality repossessing the aforesaid property, any outstanding and due amount in respect of assessment rates shall be recovered from the Purchaser.

22 Restraint on transfer of property

- (1) The registrar of deeds or other registration officer of immovable property may not register the transfer of property except on production to that registration officer of a clearance and evaluation certificate referred to in section 118 of the Municipal Systems Act:
 - (a) issued by the municipality in which that property is situated; and
 - (b) which certifies that all amounts due in connection with that property for municipal service fees, surcharges on fees, property rates and other municipal taxes, levies and duties during the two years preceding the date of application for the certificate have been fully paid.
- (2) In the case of the transfer of immovable property by a trustee of an insolvent estate, the provisions of this section are subject to section 89 of the Insolvency Act, 1936 (Act No. 24 of 1936).
- (3) An amount due for municipal service fees, surcharges on fees, property rates and other municipal taxes, levies and duties is a charge upon the property in connection with which the amount is owing and enjoys preference over any mortgage bond registered against the property.

23 Assessment rates payable on municipal property

The lessee of municipal property shall be responsible for payment of any general assessment rate payable on such property for the duration of the lease if the lease agreement provides for such payment by the lessee.

**CHAPTER 5
NOTICES**

24 Service of notice

- (1) Any notice or other document that is served on a person in terms of this By-law is regarded as having been served-
 - (a) when it has been delivered to that person personally;

- (b) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of sixteen years;
 - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic and an acknowledgement of the posting thereof from the postal service is obtained;
 - (d) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided by paragraphs [a], [b] or [c]; or
 - (e) if that person's address and agent or representative in the Republic is unknown, when it had been posted in a conspicuous place on the property or premises, if any, to which it relates.
- (2) When any notice or other document must be authorized or served on the owner, occupier or holder of any property or right in any property, it is sufficient if that person is described in the notice or other document as the owner, occupier or holder of the property or right in question, and it is not necessary to name that person.
- (3) Any legal process is effectively and sufficiently served on the Municipality when it is delivered to the municipal manager or a person in attendance at the municipal manager's office.

25 Compliance with notices

Any person on whom a notice duly issued or given under this by-law is served shall, within the time specified in such notice, comply with its terms.

26 Authentication of documents

- (1) Every order, notice or other document requiring authentication by the Municipality shall be sufficiently authenticated, if signed by the municipal manager or by a duly authorised employee of the Municipality.
- (2) Delivery of a copy of the document shall be deemed to be delivery of the original.

CHAPTER 6 LAW ENFORCEMENT

27 Power of entry and inspection

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

28 Offences and penalties

- (1) A person is guilty of an offence if he or she -
 - (a) fails to give the access required by an employee in terms of this By-law;
 - (b) obstructs or hinders an employee in the exercise of his or her powers or performance of functions or duties under this By-law;

- (c) uses or interferes with Municipality equipment or consumption of services supplied;
 - (d) tampers or breaks any seal on a meter or on any equipment belonging to the Municipality, or for any reason as determined by the Chief financial officer causes a meter not to properly register the service used;
 - (e) fails or refuses to give an employee such information as he or she may reasonably require for the purpose of exercising his or her power or functions under this By-law or gives such an officer false or misleading information knowing it to be false or misleading.
- (2) Any person convicted of an offence in terms of this By-law, shall be liable upon conviction to a fine or imprisonment or to both such fine and imprisonment.
 - (3) A person convicted of an offence under this By-law who, after conviction, continues with the conduct in respect of which he or she was so convicted, is guilty of a continuing offence and upon conviction is liable to a fine or to imprisonment, or to both such fine and imprisonment, in respect of each day on which he or she so continues with that conduct.
 - (4) Every person committing a breach of the provisions of this by-law shall be liable to recompense the Municipality for any loss or damage suffered or sustained by it in consequence of such breach.

CHAPTER 7

GENERAL MATTERS

29 Prima Facie Evidence

A certificate under the hand of the municipal manager reflecting the amount due and payable to the Municipality shall upon mere production thereof be accepted by any court of law as prima facie evidence of the indebtedness reflected therein.

30 Relaxation, waiver and differentiation

- (1) The Municipality may differentiate between different categories of ratepayers, users of services, customers, debtors, taxes, services, service standards and other matters provided such differentiation does not amount to unfair discrimination.
- (2) The Municipality may, in a specific instance and for a particular owner or customer and subject to such conditions as the Municipality may deem fit, relax or waive in writing the requirements of any provision of this By-law.

31 Reporting of defaulters

- (1) The Municipality may report such persons that owe the Municipality monies to bodies that collate and retain such information.
- (2) The information that would be included in such a report shall be available personal information on the defaulter, or in the event of a legal person, the available statutory details, including information pertaining to the responsible officers of such legal persons.

32 Repeal of by-laws

The By-Laws Relating to Credit Control and Debt Collection published by in the *Provincial Gazette* by Notice Number 50 of 2006 is hereby repealed.

33 Short title and commencement

This by-law shall be known as the Senqu Municipality: Credit Control and Debt Collection By-law, 2017 and shall come into operation on the date of publication thereof in the *Provincial Gazette*.

SENQU MUNICIPALITY MUNICIPAL NOTICE**BY-LAW ON ELECTRICITY SUPPLY**

The Municipal Council of Senqu Local Municipality in the Schedule hereto publishes, in terms of section 13 of the Local Government Municipal Systems Act, 2000 (Act 32 of 2000) read with section 162 of the Constitution of the Republic of South Africa Act 1996 (Act 108 of 1996) the By-law on Electricity Supply.

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CHAPTER 1

OBJECTIVES, DEFINITIONS AND APPLICABILITY OF BY-LAW

1 Objectives

The purpose of this By-Law is to determine –

- (a) the technical requirements for the provision of electricity, including the technical conditions of supply, connections and metering; installations, fittings and standardised designs and materials specifications, supply interruptions and changes in supply; and
- (b) conditions of supply and disconnection; and
- (c) matters incidental thereto.

2 Definitions

In this By-Law any word or expression to which a meaning has been assigned in the By-Law and the applicable standard specification, shall have the meaning so assigned to it and, unless the context otherwise indicates:

“alternative metering infrastructure” means an intelligent metering system or a smart meter which may be used as a pre-payment or credit meter;

“applicable standard specification” means the following standard specifications:

- (a) SANS 62052-11: Electricity Metering Equipment (A.C.) - General Requirements, Tests and Test Conditions - Part 11: Metering Equipment” and SANS 62053-11: Electricity Metering Equipment (A.C.) - Particular Requirements - Part 11: Electromechanical Meters For Active Energy (Classes 0,5, 1 And 2);
- (b) SANS 1524 -1 Electricity payment systems;
- (c) SABS IEC 60211 Maximum demand indicators, Class O;
- (d) SANS 1019 Standard voltages, currents and insulation levels for electricity supply;
- (e) SANS 10142-1 Code of practice for the wiring of premises;
- (f) NRS 047 National Rationalised Specification for the Electricity Supply - Quality of Service;

- (g) NRS 048 National Rationalised Specification for the Electricity Supply - Quality of Supply, and
- (h) NRS 057 Electricity Metering: Minimum Requirements;

"certificate of compliance" means a certificate issued in terms of the Regulations in respect of an electrical installation or part of an electrical installation by a registered person;

"compliance officer" means a person who is authorised to implement and enforce the provisions of this By-law by virtue of his or her –

- (a) declaration as a peace officer as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977);
- (b) appointment as a police officer as contemplated in the South African Police Service Act, 1995 (Act 68 of 1995);
- (c) a traffic officer appointed in terms of section 3 of the Road Traffic Act, No. 29 of 1989 or section 3A of the National Road Traffic Act No. 93 of 1996 as the case may be;
- (d) appointment as a law enforcement officer or traffic officer by the Municipality and declaration as peace officer as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977); or
- (e) appointment by the Municipality as a compliance officer or an inspector;

"consumer" in relation to premises means the owner of the premises;

"Council" means the Senqu municipal council, a municipal council referred to in section 157(1) of the Constitution;

"credit meter" means a meter where an account is issued subsequent to the consumption of electricity;

"duly authorised official" means an employee of the Municipality authorised by it to implement and enforce the provisions of this By-law and includes a compliance officer;

"electrical contractor" means an electrical contractor as defined in the Regulations;

"electrical installation" means an electrical installation as defined in the Regulations;

"Electricity Regulation Act" means the Electricity Regulation Act, 2006 (Act 4 of 2006);

"electricity services policy" means the electricity services policy approved by the Council;

"form" means a form approved by the Municipality for the purposes of this By-law;

"high voltage" means the set of nominal voltage levels that are used in power systems for bulk transmission of electricity in the range of $44\text{kV} < U_n < 220\text{ kV}$. (SANS 1019);

"law" means any applicable law, proclamation, ordinance, act of parliament or enactment having force of law;

"low voltage" means the set of nominal voltage levels that are used for the distribution of electricity and whose upper limit is generally accepted to be an a.c. voltage of 1000 V [or a d.c. voltage of 1500 V], (SANS 1019);

"medium voltage" means the set of nominal voltage levels that lie above low voltage and below high voltage in the range of $1\text{ kV} < U_n < 44\text{ kV}$. (SANS 1019);

"meter" means a device which records the demand and the electrical energy consumed and includes conventional and prepayment meters;

"motor load, total connected" means the sum total of the kW input ratings of all the individual motors connected to an installation;

"motor rating" means the maximum continuous kW output of a motor as stated on the maker's rating plate;

"motor starting current" in relation to alternating current motors means the root mean square value of the symmetrical current taken by a motor when energised at its rated voltage with its starter in the starting position and the rotor locked;

"municipal area" means the area of jurisdiction of the Municipality;

"Municipal Systems Act" means the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000);

"Municipality" means the Senqu Municipality and includes the Council, any executive councillor, or committee established by the Municipality, or any employee thereof, or duly authorised agent thereof acting in connection with this By-Law by virtue of a power vested in the Municipality and delegated to such employee or duly authorised agent or any legal entity duly authorised or contracted by the Municipality to provide an electricity service within the jurisdiction of the Municipality;

"NERSA" means the National Energy Regulator of South Africa established under section 3 of the National Energy Regulator Act, 2004, Act 40 of 2004;

"NRS 047" means the national rationalised specification *NRS 047-1:1999 – Electricity supply – Quality of service Part 1: Minimum standards*;

"NRS 048" means the national rationalised specifications *NRS 048-1:1996 – Electricity supply – Quality of supply Part 1*, *NRS 048-2:1996 – Electricity supply – Quality of supply Part 2*, *NRS 048-3:1998 – Electricity supply – Quality of supply Part 3*, *NRS 048- 4:1999 – Electricity supply – Quality of supply Part 4*, *NRS 048-5:1998 – Electricity supply – Quality of supply Part 5*;

"NRS 057" means the national rationalised specification *NRS 057-2:2000 – Electricity metering Part 2: Minimum requirements*;

"occupier" in relation to any premises means-

- (a) any person in actual occupation of such premises;
- (b) any person legally entitled to occupy such premises;
- (c) in the case of such premises being subdivided and let to lodgers or various tenants, the person receiving the rent payable by such lodgers or tenants, whether on his own account or as agent for any person entitled thereto or interested therein, or
- (d) any person in control of such premises or responsible for the management thereof,

and includes the agent of any such person when he or she is absent from the Republic of South Africa or his or her whereabouts are unknown;

"owner" in relation to premises means the person in whom is vested the legal title thereto; provided that-

- (a) in the case of immovable property-
 - (i) leased for a period of not less than 30 years, whether the lease is registered or not, the lessee thereof, or
 - (ii) beneficially occupied under a servitude or right analogous thereto, the occupier thereof;
- (b) if the owner -
 - (i) is deceased or insolvent, has assigned his or her estate for the benefit of his or her creditors, has been placed under curatorship by order of court or is a company being wound up or under judicial management, the person in whom the administration of such property is vested as executor, administrator, trustee, assignee, curator, liquidator or judicial manager, as the case may be, or
 - (ii) is absent from the Republic of South Africa, or if his or her address is unknown to the Municipality, any person who as agent or otherwise receives or is entitled to receive the rent in respect of such property, and
 - (iii) if the Municipality is unable to determine who such person is, the person who is entitled to the beneficial use of such property, shall be deemed to be the owner thereof to the exclusion of the person in whom is vested the legal title thereto;

"point of consumption" means a point of consumption as defined in the Regulations;

"point of metering" means the point at which the consumer's consumption of electricity is metered and which may be at the point of supply or at any other point on the distribution system of the Municipality or the electrical installation of the consumer, as specified by the Municipality or any duly authorised official of the Municipality; provided that it shall meter all of, and only, the consumer's consumption of electricity;

"point of supply" means the point determined by the Municipality or any duly authorised official of the Municipality at which electricity is supplied to any premises by the Municipality;

"premises" means any land or any building or structure above or below ground level and includes any vehicle, aircraft or vessel;

"prepayment meter" means a meter that can be programmed to allow the flow of pre-purchased amounts of energy in an electrical circuit;

"registered person" means a registered person as defined in regulation 1 of the Regulations;

"Regulations" means Regulations made in terms of the Occupational Health and Safety Act, 1993 (Act 85 of 1993);

"retail wheeling" means the process of moving third party electricity from a point of generation across the distribution systems of the Municipality and selling it to a customer;

"safety standard" means the Code of Practice for the Wiring of Premises SANS 10142-1 incorporated in the Regulations;

"SANS 10142-1" means the code of practice *SANS 10142-1/SABS 0142-1:2003 – The wiring of premises Part 1: Low-voltage installations*, as issued by Standards South Africa of the South African Bureau of Standards;

"SANS 1019" means the specification *SANS 1019/SABS 1019:2001 – Standard voltages, currents and insulation levels for electricity supply*, as issued by Standards South Africa of the South African Bureau of Standards;

"SANS 62052-11" means the specification *SANS 62052-11: Electricity Metering Equipment (A.C.) - General Requirements, Tests and Test Conditions - Part 11: Metering Equipment*, as issued by Standards South Africa of the South African Bureau of Standards;

"SANS 62053-11" means the specification *SANS 62053-11: Electricity Metering Equipment (A.C.) - Particular Requirements - Part 11: Electromechanical Meters For Active Energy (Classes 0,5, 1 And 2)*, as issued by Standards South Africa of the South African Bureau of Standards;

"service connection" means all cables and equipment required to connect the supply mains to the electrical installation of the consumer at the point of supply;

"service protective device" means any fuse or circuit breaker installed for the purpose of protecting the Municipality's equipment from overloads or faults occurring on the installation or on the internal service connection;

"standby supply" means an alternative electricity supply not normally used by the consumer;

"supply mains" means any part of the Municipality's electricity network;

"tariff" means any tariff, fee, charge or deposit determined for purposes of this By-law, by the Municipality in terms of the Senqu Municipality: Tariff By-law, 2017;

"token" means the essential element of a prepayment metering system used to transfer information from a point of sale for electricity credit to a prepayment meter and vice versa;

"voltage" means the root-mean-square value of electrical potential between two conductors.

3 Applicability of By-Law

This By-Law shall apply to the supply areas licensed by NERSA which are located within the municipal area.

CHAPTER 2

GENERAL CONDITIONS OF SUPPLY**4 Provision of electricity services**

- (1) The Municipality shall supply or contract for the supply of electricity to the supply areas licensed by NERSA which are located within the municipal area and the Electricity Supply By-Law shall be applicable in the event of the Municipality supplying or contracting to supply such electricity to the supply areas.
- (2) If the Municipality contracts for the supply of electricity it shall do so in accordance with section 78 of the Municipal Systems Act.
- (3) The Municipality may permit the retail wheeling of electricity through its network by another electricity supplier that is licensed for the trading of electricity in terms of the Electricity Regulation Act, to the customers of such electricity supplier.

5 Supply by agreement

- (1) No person shall use or be entitled to use an electricity supply from the Municipality unless or until such person shall have entered into an agreement in writing with the Municipality for such supply, and such agreement together with the provisions of this By-Law shall in all respects govern such supply.
- (2) If a person uses an electricity supply without entering into an agreement he or she shall be liable for the cost of electricity used.

6 Service of notice

- (1) Any notice or other document that is served on any person in terms of this By-Law is regarded as having been served-
 - (a) when it has been delivered to that person personally;
 - (b) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of sixteen years;
 - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic and an acknowledgement of the posting thereof from the postal service is obtained;
 - (d) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided by paragraphs (a), (b) or (c); or
 - (e) if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the property or premises, if any, to which it relates.
- (2) When any notice or other document must be authorised or served on the owner, occupier or holder of any property or right in any property, it is sufficient if that person is described in the notice or other document as the owner, occupier or holder of the property or right in question, and it is not necessary to name that person.
- (3) Any legal process is effectively and sufficiently served on the Municipality when it is delivered to the municipal manager or a person in attendance at the municipal manager's office.

7 Compliance with notices

Any person on whom a notice duly issued or given under this By-Law is served shall, within the time specified in such notice, comply with its terms.

8 Application for supply

- (1) Application for the supply of electricity shall be made in writing by the prospective consumer on the applicable form, and the estimated load, in A and Kva, of the installation, as well as the number of phases required shall be stated therein.
- (2) An application referred to in subsection (1) shall be made as early as possible before the supply of electricity is required in order to facilitate the work of the Municipality.

- (3) An application for an electricity supply for a period of less than one year shall be regarded as an application for a temporary supply of electricity and shall be considered at the discretion of the Municipality or any duly authorised official of the Municipality, which may specify any special conditions to be satisfied in such case.
- (4) Any extension to existing reticulation systems or allied installation necessitated in delivering such supply, as determined by the Municipality, shall be to the cost of the applicant.
- (5) An applicant for the supply of electricity shall submit the following documents together with the prescribed form:
 - (a) if the applicant is a legal person, founding documentation in terms of applicable legislation together with the identification of the authorised representative of the legal person contemplated in paragraph (b);
 - (b) if the applicant is a natural person, a temporary identity certificate, an identity document or identity card issued in terms of the Identification Act, 1997 (Act 68 of 1997) or a valid South African passport issued to a South African citizen or if the person is permanently resident in the Republic, an identity document issued by a foreign country; and
 - (c) if the applicant is the owner of the property, a Deed of Sale or other proof of ownership of the premises for which a supply of electricity is required; or
 - (d) if the applicant is a lessee of the premises for which a supply of electricity is required, a valid lease agreement concluded between the lessor and lessee.

9 Processing of requests for supply

Applications for the supply of electricity will be processed and the supply made available within the periods stipulated in NRS 047.

10 Wayleaves

- (1) The Municipality may refuse to lay or erect a service connection above or below ground on any thoroughfare or land not vested in the Municipality or on any private property, unless and until the prospective consumer shall have obtained and deposited with the Municipality written permission granted by the owner of the said private property or by the person in whom is vested the legal title to the land or thoroughfare as aforesaid exists, as the case may be, authorising the laying or erection of a service connection thereon.
- (2) If such permission is withdrawn at any time or if the aforesaid private property or thoroughfare changes ownership and the new owner refuses to grant or continue such permission, the cost of any alteration required to be made to a service connection in order that the supply of electricity may be continued, and of any removal thereof which may become necessary in the circumstances, shall be borne by the consumer to whose premises the supply of electricity is required to be continued.

11 Statutory servitude

- (1) Subject to the provisions of subsection (3) the Municipality may within its municipal area:-
 - (a) provide, establish and maintain electricity services;
 - (b) acquire, construct, lay, extend, enlarge, divert, maintain, repair, discontinue the use of, close up and destroy electricity supply mains;
 - (c) construct, erect or lay any electricity supply main on, across, through, over or under any street or immovable property and the ownership of any such main shall vest in the Municipality;
 - (d) do any other thing necessary or desirable for or incidental, supplementary or ancillary to any matter contemplated by paragraphs (a) to (c).
- (2) If the Municipality constructs, erects or lays any electricity supply main on, across, through, over or under any street or immovable property not owned by the Municipality or under the control of or management of the Municipality it shall pay to the owner of such street or property compensation in an amount agreed upon

by such owner and the Municipality or, in the absence of agreement, be determined either by arbitration or a court of law.

- (3) The Municipality shall, before commencing any work other than repairs or maintenance on or in connection with any electricity supply main on immovable property not owned by the Municipality or under the control or management of the Municipality, give the owner or occupier of such property reasonable notice of the proposed work and the date on which it proposes to commence such work.

12 Right of admittance to inspect, test and undertake maintenance work

- (1) The Municipality shall, through its employees, contractors and their assistants and advisers, have reasonable access to or over any property for the purposes of -
 - (a) doing anything authorised or required to be done by the Municipality under this By-Law or any other law;
 - (b) inspecting and examining any service mains and anything connected therewith;
 - (c) enquiring into and investigating any possible source of electricity supply or the suitability of immovable property for any work, scheme or undertaking of the Municipality and making any necessary survey in connection therewith;
 - (d) ascertaining whether there is or has been a contravention of the provisions of this By-Law or any other law, and
 - (e) enforcing compliance with the provisions of this By-Law or any other law.
- (2) An employee of the Municipality authorised thereto by such Municipality may, by notice in writing served on the owner or occupier of any property, require such owner or occupier to provide, on the day and at the hour specified in such notice, access to such property to a person and for a purpose referred to in subsection (1).
- (3) The Municipality may gain access to or over any property without notice and may take whatever action as may, in its opinion, be necessary or desirable in consequence of the existence of a state of war or the occurrence of any calamity, emergency or disaster.

13 Refusal or failure to give information

- (1) No person shall refuse or fail to give such information as may be reasonably required of him or her by any duly authorised official of the Municipality or render any false information to any such official regarding any electrical installation work completed or contemplated.
- (2) The Municipality shall not make any information available concerning the supply or account details for any premises to any third party without the express written permission from the applicant who signed the supply agreement for the supply to the premises concerned except to the owner of a property upon written request to the Municipality.

14 Refusal of admittance

No person shall wilfully hinder, obstruct, interfere with or refuse admittance to any duly authorised official of the Municipality in the performance of his duty under this By-Law or of any duty connected therewith or relating thereto.

15 Electricity tariffs

Copies of tariffs may be obtained free of charge at the offices of the Municipality.

16 Deposits

- (1) Every consumer shall, in respect of each electricity installation prior to the commencement of the supply of electricity, pay a deposit as security for payment of any charges which are due or may become due to the Municipality.

- (2) The amount of the deposit in respect of each electricity installation shall be determined by the Municipality in terms of the Senqu Municipality: Tariff By-law, 2017 and each such deposit may be increased if the Municipality deems the deposit held to be inadequate.
- (3) Such deposit shall not be regarded as being in payment or part payment of any accounts due for the supply of electricity for the purpose of obtaining any discount provided for in the electricity tariff referred to in this By-Law.
- (4) On cessation of the supply of electricity, the amount of such deposit, free of any interest, less any payments due to the Municipality shall be refunded to the consumer.
- (5) The Municipality may, in the event of illegal connections referred to in section 20(1)(b), increase the amount of the deposit required to an average of six month's supply cost, as determined by the Municipality.

17 Payment of charges

- (1) The consumer shall be liable for all charges listed in the tariff for the electricity service as approved by the Municipality.
- (2) All accounts shall be deemed to be payable when issued by the Municipality and each account shall, on its face, reflect the due date and a warning indicating that the supply of electricity may be disconnected should the charges in respect of such supply remain unpaid after the due date.
- (3) An error or omission in any account or failure to render an account shall not relieve the consumer of his obligation to pay the correct amount due for electricity supplied to the premises and the onus shall be on the consumer to satisfy himself or herself that the account rendered is in accordance with the tariff in respect of electricity supplied to the premises.
- (4) Where a duly authorised official of the Municipality has visited the premises for the purpose of disconnecting the supply of electricity in terms of subsection (2) and he or she is obstructed or prevented from effecting such disconnection, the prescribed fee shall become payable for each visit necessary for the purpose of such disconnection.
- (5) After disconnection for non-payment of an account, the prescribed fees and any amounts due for electricity consumed shall be paid before the electricity supply is reconnected.
- (6) Notwithstanding the fact that an occupier has an agreement for the supply of electricity, should the owner of immovable property apply for a clearance certificate in terms of section 118 of the Local Government: Municipal Systems Act then such owner will be liable for all charges due to the Municipality in respect of the said property, in order to obtain such certificate.

18 Interest on overdue accounts

The Municipality may charge interest on accounts which are not paid by the due date appearing on the account, in terms of an approved Credit and Debt Collection Policy and any related indigent support of the Municipality.

19 Resale of electricity

- (1) A reseller shall comply with the licensing and registration requirements set out in the Electricity Regulation Act and regulations issued under that Act.
- (2) No person shall sell or supply electricity, supplied to his or her premises under an agreement with the Municipality, to any other person or persons for use on any other premises, or permit or suffer such resale or supply to take place, unless such resale or supply is authorised by the Municipality.
- (3) If electricity is resold for use upon the same premises, the electricity resold shall be measured by a submeter of a type which has been approved by the South African Bureau of Standards and supplied, installed and programmed in accordance with the standards of the Municipality.
- (4) The tariff at which and the conditions of sale under which electricity is thus resold shall not be less favourable to the purchaser than those that would have been payable and applicable had the purchaser been supplied directly with electricity by the Municipality.

- (5) Every reseller shall furnish the purchaser with monthly accounts that are at least as detailed as the relevant billing information details provided by the Municipality to its electricity consumers.

20 Right to disconnect supply

- (1) The Municipality shall have the right to disconnect the supply of electricity to any premises –
- (a) if the person liable to pay for such supply fails to pay any charge due to the Municipality in connection with any supply of electricity which he or she may at any time have received from the Municipality in respect of such premises, or, where any of the provisions of this By-Law and the Regulations are being contravened, provided the Municipality has given the person seven days' notice to remedy his or her default and the person has failed to remedy such default after notice has been given, or, in the case of a grave risk to person or property, or as envisaged in terms of section 24 of this By-law, without notice;
 - (b) in the case where an installation has been illegally reconnected on a consumer's premises after having been previously legally disconnected by the Municipality, or in the case where the Municipality's electrical equipment has been tampered with to prevent the full registration of consumption by the meter, the electricity supply may be physically removed from those premises at the cost of the consumer and ownership of the materials so removed shall vest in the Municipality;
 - (c) in the event that a certificate of compliance is unavailable.
- (2) After disconnection for non-payment of accounts or the improper or unsafe use of electricity, the fee as prescribed by the Municipality shall be paid.
- (3) If, after the removal of the electricity supply as contemplated in subsection (1)(b), the electrical service is re-instated, the applicant shall pay the cost of a new service connection together with a deposit determined by the Municipality in terms of the Senqu Municipality: Tariff By-law, 2017.

21 Non-liability of Municipality

- (1) The Municipality shall not be liable for any loss or damage, direct or consequential, suffered or sustained by a consumer as a result of or arising from the cessation, interruption or any other abnormality of the supply of electricity, unless caused by negligence on the part of the Municipality.
- (2) Damage to any machinery or appliances connected to the installation or the insurance thereof is at the cost of the consumer unless negligence by the Municipality is proven.

22 Leakage of electricity

Under no circumstances shall any rebate be allowed on the account for electricity supplied and metered in respect of electricity wasted owing to leakage or any other fault in the electrical installation.

23 Failure of supply

- (1) The Municipality does not undertake to attend to a failure of supply of electricity due to a fault in the electrical installation of the consumer, except when such failure is due to the operation of the service protective device of the Municipality.
- (2) When any failure of supply of electricity is found to be due to a fault in the electrical installation of the consumer or to the faulty operation of apparatus used in connection therewith, the Municipality shall have the right to charge the consumer the applicable tariff for each restoration of the supply of electricity in addition to the cost of making good or repairing any damage which may have been done to the service main and meter by such fault or faulty operation as aforesaid.
- (3) The Municipality shall not undertake any rectification work on an electrical installation of the consumer and the consumer is responsible for maintaining such electrical installation.

24 Disconnection without notice

The Municipality reserves the right to disconnect without notice any individual installation, section or area supplied with electricity in the event of a fault or emergency in which event the municipality may not be held liable for any damages or losses which may occur in such an event.

25 Protection of Municipality's supply mains

- (1) No person shall, except with the consent of the Municipality and subject to such conditions as may be imposed -
 - (a) construct, erect or lay, or permit the construction, erection or laying of any building, structure or other object, or plant trees or vegetation over or in such a position or in such a manner as to interfere with or endanger the supply mains;
 - (b) excavate, open up or remove the ground above, next to, under or near any part of the supply mains;
 - (c) damage, endanger, remove or destroy, or do any act likely to damage, endanger or destroy any part of the supply mains;
 - (d) make any unauthorized connection to any part of the supply mains or divert or cause to be diverted any electricity there from;
 - (e) the owner or occupier shall limit the height of trees or length of projecting branches in the proximity of overhead lines or provide a means of protection which in the opinion of the Municipality will adequately prevent the tree from interfering with the conductors should the tree or branch fall or be cut down.
 - (f) Should the owner fail to observe paragraph (e) the Municipality shall have the right, after prior written notification, or at any time in an emergency, to cut or trim the trees or other vegetation in such a manner as to comply with this provision and shall be entitled to enter the property for this purpose.
- (2) The Municipality may subject to obtaining an order of court demolish, alter or otherwise deal with any building, structure or other object constructed, erected or laid in contravention with this By-Law:
- (3) The Municipality may in the case of an emergency or disaster remove anything damaging, obstructing or endangering or likely to damage, obstruct, endanger or destroy any part of the electrical distribution system.

26 Temporary disconnection and reconnection

- (1) The Municipality shall, at the request of the consumer, temporarily disconnect and reconnect the supply of electricity to the consumer's electrical installation upon payment of the tariff for each such disconnection and subsequent reconnection.
- (2) In the event of the necessity arising for the Municipality to effect a temporary disconnection and reconnection of the supply of electricity to a consumer's electrical installation and the consumer is in no way responsible for bringing about this necessity, the Municipality shall waive payment of the fee hereinbefore referred to.
- (3) The Municipality may only under exceptional circumstances temporarily disconnect the supply of electricity to any premises without notice, for the purpose of effecting repairs or carrying out tests or for any other legitimate purpose and in all other instances adequate notice shall be given.
- (4) Notwithstanding the provisions of subsection (1), the Municipality may inspect the service connection and/or require a certificate of compliance to be submitted to it before reconnecting the supply.

27 Temporary supply

It shall be a condition of the giving of any temporary supply of electricity, as defined in this By-Law, that, if such supply is found to interfere with the efficient and economical supply of electricity to other consumers, the Municipality shall have the right, with notice, or under exceptional circumstances without notice, to terminate such temporary supply at any time and, the Municipality shall not be liable for any loss or damage occasioned by the consumer by such termination.

28 Temporary work

Electrical installations requiring a temporary supply of electricity shall not be connected directly or indirectly to the supply mains except with the special permission in writing of the Municipality. Full information as to the reasons for and nature of such temporary work shall accompany the application for the aforesaid permission, and the Municipality may refuse such permission or may grant the same upon such terms and conditions as it may appear desirable and necessary.

29 Load reduction

- (1) At times of peak load, or in an emergency, or when, in the opinion of the Municipality, it is necessary for any reason to reduce the load on the electricity supply system of the Municipality, the Municipality may without notice interrupt and, for such period as the Municipality may deem necessary, discontinue the electricity supply to any consumer's electrically operated thermal storage water heater or any specific appliance or the whole installation.
- (2) The Municipality shall not be liable for any loss or damage directly or consequentially due to or arising from such interruption and discontinuance of the electricity supply.
- (3) The Municipality may install upon the premises of the consumer such apparatus and equipment as may be necessary to give effect to the provisions of subsection (1) and any duly authorised official of the Municipality may at any reasonable time enter any premises for the purpose of installing, inspecting, testing adjusting and/or changing such apparatus and equipment.
- (4) Notwithstanding the provisions of subsection (2), the consumer or the owner, as the case may be, shall, when installing an electrically operated water storage heater, provide such necessary accommodation and wiring as the Municipality may decide to facilitate the later installation of the apparatus and equipment referred to in subsection (2).
- (5) Energy saving light fittings shall be used in all new installations.

30 Medium and low voltage switchgear and equipment

- (1) In cases where a supply of electricity is given at either medium or low voltage, the supply and installation of the switchgear, cables and equipment forming part of the service connection shall, unless otherwise approved by the Municipality or any duly authorised official of the Municipality, be paid for by the consumer.
- (2) In the case of a medium voltage supply of electricity, all such equipment shall be approved by any duly authorised official of the Municipality and installed by or under the supervision of any duly authorised official of the Municipality.
- (3) No person shall operate medium voltage switchgear without the written authority of the Municipality.
- (4) All earthing and testing of medium voltage equipment linked to the Municipality's network shall be conducted by or under the supervision of an employee of the Municipality.
- (5) In the case of a low voltage supply of electricity, the consumer shall provide and install a low voltage main switch and/or any other equipment required by the Municipality or any duly authorised official of the Municipality.

31 Substation accommodation

- (1) The Municipality may, on such conditions as may be deemed fit by the Municipality or any duly authorised official of the Municipality, require the owner to provide and maintain accommodation which shall constitute a substation and which shall consist of a separate room or rooms to be used exclusively for the purpose of housing medium voltage cables and switchgear, transformers, low voltage cables and switchgear and other equipment necessary for the supply of electricity requested by the applicant. The accommodation shall be situated at a point to which free, adequate and unrestricted access is available at all times for purposes connected with the operation and maintenance of the equipment.
- (2) The Municipality reserves the right to supply its own networks from its own equipment installed in such accommodation, and if additional accommodation is required by the Municipality, such additional accommodation shall be provided by the applicant at the cost of the Municipality.

32 Wiring diagram and specification

- (1) When more than one electrical installation or electricity supply from a common main or more than one distribution board or meter is required for any building or block of buildings, the wiring diagram of the circuits starting from the main switch and a specification shall on request be supplied to the Municipality in duplicate for approval before the work commences.
- (2) Where an electrical installation is to be supplied from a substation on the same premises on which the current is transformed from high voltage, or from one of the substations of the Municipality through mains separate from the general distribution system, a complete specification and drawings for the plant to be installed by the consumer shall, if so required, be forwarded to the Municipality for approval before any material in connection therewith is ordered.

33 Standby supply

No person shall be entitled to a standby supply of electricity from the Municipality for any premises having a separate source of electricity supply except with the written consent of the Municipality and subject to such terms and conditions as may be laid down by the Municipality.

34 Consumer's electricity generation equipment

- (1) No electricity generation equipment provided by a consumer in terms of any legislation or for his own operational requirements shall be connected to any installation without the prior written approval of the Municipality.
- (2) An application for approval contemplated in subsection [40.1] shall be made in writing on the prescribed form and shall include a full specification of the equipment and a wiring diagram.
- (3) The electricity generation equipment contemplated in this section shall be so designed and installed that it is impossible for the Municipality's supply mains to be energized by means of a back-feed from such equipment.
- (4) The position of the installed generating equipment shall not interfere with the supply mains and the generating equipment must be installed entirely on the consumer's premises.
- (5) The consumer shall be responsible for providing and installing all such protective equipment and for obtaining a certificate of compliance for the work carried out.
- (6) Where by special agreement with the Municipality, the consumer's electricity-generation equipment is permitted to be electrically coupled to, and run in parallel with the Municipality's supply mains, the consumer shall be responsible for providing, installing and maintaining all the necessary synchronizing and protective equipment required for such safe parallel operation, to the satisfaction of the Municipality.
- (7) Under normal operating conditions, any export of surplus energy from the consumer to the Municipality's network shall be subject to special agreement with the Municipality.
- (8) In the event of a general power failure on the Municipality's network protection equipment shall be installed by the consumer, subject to the Municipality's approval, so as to ensure that the consumer's installation is isolated from the Municipality's network until normal operating conditions are restored.
- (9) The cost of any specialised metering equipment shall be for the consumer's account.

35 Circular letters

The Municipality may from time to time issue Circulars detailing the requirements of the Municipality regarding matters not specifically covered in the Regulations or this By-Law but which are necessary for the safe, efficient operation and management of the supply of electricity.

CHAPTER 3**RESPONSIBILITIES OF CONSUMERS****36 Consumer to erect and maintain electrical installation**

Any electrical installation connected or to be connected to the supply mains, and any additions or alterations thereto which may be made from time to time, shall be installed by the consumer in accordance with the applicable

codes and maintained and kept in good order by the consumer in compliance with the applicable standard specifications at his or her own expense.

37 Fault in electrical installation

- (1) If any fault develops in the electrical installation, which constitutes a hazard to persons, livestock or property, the consumer shall immediately disconnect the electricity supply.
- (2) The consumer shall without delay give notice thereof to the Municipality and shall immediately take steps to remedy the fault.
- (3) The Municipality may require the consumer to reimburse it for any expense to which it may be put in connection with a fault in the electrical installation.

38 Discontinuance or use of supply

In the event of a consumer desiring to discontinue using the electricity supply, he or she shall give at least two full working days' notice in writing of such intended discontinuance to the Municipality, failing which he or she shall remain liable for all payments due in terms of the applicable tariff for the supply of electricity until the expiration of two full working days after such notice has been given.

39 Change of occupier

- (1) A consumer vacating any premises shall give the Municipality not less than two full working days' notice in writing of his or her intention to discontinue using the electricity supply, failing which he or she shall remain liable for such supply.
- (2) The person taking over occupation of the premises desires to continue using the electricity supply, he or she shall make application in accordance with the provisions of section 5 of this By-Law, and if he or she fails to make application for an electricity supply within ten working days of taking occupation of the premises, the supply of electricity shall be disconnected, and he or she shall be liable to the Municipality for the electricity supply from the date of occupation till such time as the supply is so disconnected.
- (3) Where premises are fitted with pre-payment meters any person occupying the premises at that time shall be deemed to be the consumer. Until such time as an application is made by this person for a supply of electricity, in terms of section 5 of this By-Law, he or she shall be liable for all charges and fees owed to the Municipality for that metering point as well as any outstanding charges and fees whether accrued by that person or not.

40 Service apparatus

- (1) The consumer shall be liable for all costs to the Municipality arising from damage to or loss of any metering equipment, service protective device, service connection or other apparatus on the premises, unless such damage or loss is shown to have been occasioned by an Act of God or an act or omission of an employee of the Municipality or caused by an abnormality in the supply of electricity to the premises.
- (2) If, during a period of disconnection of an installation from the supply mains, the service main, metering equipment or any other service apparatus, being the property of the Municipality and having been previously used, have been removed without its permission or have been damaged so as to render reconnection dangerous, the owner or occupier of the premises, as the case may be, during such period shall bear the cost of overhauling and/or replacing such equipment.
- (3) Where there is a common metering position, the liability detailed in subsection [1] shall devolve on the owner of the premises.
- (4) The amount due in terms of subsection [1] shall be evidenced by a certificate from the Municipality which shall be final and binding.

CHAPTER 4

SPECIFIC CONDITIONS OF SUPPLY

41 Service connection

- (1) The consumer shall bear the cost of the service connection, as approved by the Municipality in accordance with the Senqu Municipality: Tariff By-law 2017 and the Municipality may absolve the consumer of an indigent household from the payment of such cost.
- (2) The categories of consumers determined by the Municipality in its electricity services policy may supply their own material for a services connection but such material must comply with the technical specifications determined for it by the Municipality.
- (3) If the material referred to in subsection (2) does not comply with the technical specifications determined for it by the Municipality, the Municipality may notify the consumer thereof and request the consumer to remove such material at his or her own cost.
- (4) Notwithstanding the fact that the consumer bears the cost of the service connection, ownership of the service connection, laid or erected by the Municipality, shall vest in the Municipality, and the Municipality shall be responsible for the maintenance of such service connection up to the point of supply.
- (5) The agreement between the consumer and the Municipality must reflect the Municipality's duty to maintain up to the point of supply.
- (6) The consumer shall not be entitled to any compensation from the Municipality in respect of such service connection.
- (7) The work to be carried out by the Municipality at the cost of the consumer for a service connection to the consumer's premises shall be determined by the Municipality.
- (8) Where 60A 3Ø is exceeded, the consumer is required to upgrade to a transformer of the appropriate size at his or her own cost.
- (9) Any network upgrading or new construction will be for the cost of the consumer.
- (10) A consumer may use his or her own contractor in the event of network upgrading or new construction but the contractor must be competent and construction plans will be submitted to the Municipality electrical department for approval prior to commencement of the upgrade or construction.
- (11) The consumer shall provide, fix and maintain on his or her premises such ducts, wireways, trenches and fastenings as may be required by the Municipality for the installation of the service connection.
- (12) Unless otherwise approved, the Municipality shall only provide one service connection to each registered erf. In respect of two or more premises belonging to one owner and situated on adjacent erven, a single bulk supply of electricity may be made available provided the erven are consolidated or notarially tied.
- (13) Any covers of a wireway carrying the supply circuit from the point of supply to the metering equipment shall be made to accept the seals of the Municipality.
- (14) Within the meterbox, the service conductor or cable, as the case may be, shall terminate in an unobscured position and the conductors shall be visible throughout their length when cover plates, if present, are removed.
- (15) In the case of blocks of buildings occupied by a number of individual occupants, separate wireways and conductors or cables shall be laid from the common metering room or rooms to each individual occupant in the blocks of buildings.
- (16) Alternatively, if trunking is used, the conductors of the individual circuits shall be clearly identified and tied together every 1,5m throughout their length.
- (17) The Municipality will not connect any installation unless a certificate of compliance is received.

42 Metering accommodation

- (1) The consumer shall, if required by the Municipality or any duly authorised official of the Municipality, provide accommodation in an approved position, the meter board and adequate conductors for the Municipality's metering equipment, service apparatus and protective devices.

- (2) Such accommodation and protection shall be provided and maintained, to the satisfaction of the Municipality, at the cost of the consumer or the owner, as the circumstances may demand, and shall be situated, in the case of credit meters, at a point to which free and unrestricted access shall be had at all reasonable hours for the reading of meters but at all times for purposes connected with the operation and maintenance of the service equipment.
- (3) Access at all reasonable hours shall be afforded for the inspection of prepayment meters.
- (4) Where sub-metering equipment is installed, accommodation separate from the Municipality's metering equipment shall be provided.
- (5) The consumer or, in the case of a common meter position, the owner of the premises shall provide adequate electric lighting in the space set aside for accommodating the metering equipment and service apparatus.
- (6) Where in the opinion of the Municipality the position of the meter, service connection, protective devices or main distribution board is no longer readily accessible or becomes a course of danger to life or property or in any way becomes unsuitable, the consumer shall remove it to a new "position, and the cost of such removal, which shall be carried out with reasonable dispatch, shall be borne by the consumer.
- (7) The accommodation for the Municipality's metering equipment and protective devices may, if approved, include the consumer's main switch and main protective devices.
- (8) No apparatus other than that used in connection with the supply of electricity and use of electricity shall be installed or stored in such accommodation unless approved.

CHAPTER 5

SYSTEMS OF SUPPLY

43 Load requirements

Alternating current supplies shall be given as prescribed by the Electricity Regulation Act and in the absence of a quality of supply agreement, as set out in applicable standard specification.

44 Load limitations

- (1) Where the estimated load, calculated in terms of the safety standard, does not exceed 15kVA, the electrical installation shall be arranged for a two-wire single-phase supply of electricity, unless otherwise approved by the Municipality or any duly authorised official of the Municipality.
- (2) Where a three-phase four-wire supply of electricity is provided, the load shall be approximately balanced over the three phases but the maximum out-of-balance load shall not exceed 15kVA, unless otherwise approved by the Municipality or any duly authorised official of the Municipality.
- (3) No current-consuming appliance, inherently single phase in character, with a rating which exceeds 15kVA shall be connected to the electrical installation without the prior approval of the Municipality.

45 Interference with other person's electrical equipment

- (1) No person shall operate electrical equipment having load characteristics which, singly or collectively, give rise to voltage variations, harmonic currents or voltages, or unbalanced phase currents which fall outside the applicable standard specification.
- (2) The assessment of interference with other persons' electrical equipment shall be carried out by means of measurements taken at the point of common coupling.
- (3) Should it be established that undue interference is in fact occurring, the consumer shall, at his or her own cost, install the necessary equipment to filter out the interference and prevent it reaching the supply mains.

46 Supplies to motors

Unless otherwise approved by the Municipality or any duly authorised official of the Municipality the rating of motors shall be limited as follows:

- (a) Limited size for low voltage motors:

- (i) the rating of a low voltage single-phase motor shall be limited to 2kW and/or the starting current shall not exceed 70A;
- (ii) all motors exceeding these limits shall be wound for three phases at low voltage or such higher voltage as may be required;
- (b) Maximum starting and accelerating currents of three-phase alternating current motors:
 - (i) the starting current of three-phase low voltage motors permitted shall be related to the capacity of the consumer's service connection, as follows

Insulated service cable, size in mm ² , copper equivalent mm ²	Maximum permissible starting current A	Maximum motor rating in kW		
		Direct on line [6 x full-load current]	Star/Delta [2,5 x full-load current]	Other means [1,5 x full-load current]
		kW	kW	kW
16	72 95 115 135 165	6 7,5 9 10 13 16 18	13,5 18	23 30 36,5
25 35 50 70 95 120 150	200 230 260	20	22 25 31 38 46 52	45 55 67 77 87

- (c) Consumers supplied at medium voltage:
 - (i) in an installation supplied at medium voltage the starting current of a low voltage motor shall be limited to 1,5 times the rated full-load current of the transformer supplying such a motor;
 - (ii) the starting arrangement for medium voltage motors shall be subject to the approval of the Municipality.

47 Power factor

- (1) If required by the Municipality, the power factor of any load shall be maintained within the limits 0,85 lagging and 0,9 leading.
- (2) Where, for the purpose of complying with subsection (1), it is necessary to install power factor corrective devices, such corrective devices shall be connected to the individual appliance terminals unless the correction of the power factor is automatically controlled.
- (3) The consumer shall, at his or her own cost, install such corrective devices.

48 Protection

Electrical protective devices for motors shall be of such a design as effectively to prevent sustained over-current and single phasing, where applicable.

CHAPTER 6

MEASUREMENT OF ELECTRICITY

49 Metering

- (1) The Municipality shall, at the consumer's cost, provide, install and maintain appropriately rated metering equipment at the point of metering for measuring the electricity supplied.
- (2) Any meter that is installed by the Municipality after the date of commencement of this By-Law must -
 - (a) be of the type determined by the Municipality or alternative metering infrastructure of a class 1 nature;
 - (b) be surge protected;
 - (c) mounted in such a manner that it is non-accessible to non-authorised personnel; and
 - (d) if it is installed at ground level, be appropriately locked.

- (3) Except in the case of prepayment meters, the electricity used by a consumer during any metering period shall be ascertained by the reading of the appropriate meter or meters supplied and installed by the Municipality and read at the end of such period except where the metering equipment is found to be defective, or the Municipality invokes the provisions of section 50(2) of this By-Law, in which case the consumption for the period shall be estimated.
- (4) Where the electricity used by a consumer is charged at different tariff rates, the consumption shall be metered separately for each rate.
- (5) The Municipality reserves the right to meter the supply to blocks of shops and flats, tenement-houses and similar buildings for the buildings as a whole, or for individual units, or for groups of units.
- (6) No alterations, repairs or additions or electrical connections of any description shall be made on the supply side of the point of metering unless specifically approved in writing by the Municipality or any duly authorised official of the Municipality.

50 Accuracy of metering

- (1) A meter shall be conclusively presumed to be registering accurately if its error, when tested in the manner prescribed in subsection (5) hereof, is found to be within the limits of error as provided for in the applicable standard specifications.
- (2) The Municipality shall have the right to test its metering equipment. If it is established by test or otherwise that such metering equipment is defective, the Municipality shall -
 - (a) in the case of a credit meter, adjust the account rendered;
 - (b) in the case of prepayment meters,
 - (i) render an account where the meter has been under-registering, or
 - (ii) issue a free token where the meter has been over-registering;in accordance with the provisions of subsection (6).
- (3) The consumer shall be entitled to have the metering equipment tested by the Municipality on payment of the prescribed fee. If the metering equipment is found not to comply with the system accuracy requirements as provided for in the applicable standard specifications, an adjustment in accordance with the provisions of subsections (2) and (6) shall be made and the aforesaid fee shall be refunded.
- (4) In case of a dispute, the consumer shall have the right at his own cost to have the metering equipment under dispute tested by an approved independent testing authority, and the result of such test shall be final and binding on both parties.
- (5) Meters shall be tested in the manner as provided for in the applicable standard specifications.
- (6) When an adjustment is made to the electricity consumption registered on a meter in terms of subsection (2) or (3), such adjustment shall either be based on the percentage error of the meter as determined by the test referred to in subsection (5) or upon a calculation by the Municipality from consumption data in its possession. Where applicable, due allowance shall be made, where possible, for seasonal or other variations which may affect the consumption of electricity.
- (7) When an adjustment is made as contemplated in subsection (6), the adjustment may not exceed a period of six months preceding the date on which the metering equipment was found to be inaccurate.
- (8) The application of this section does not bar a consumer from claiming back overpayment for any longer period where the consumer is able to prove the claim in the normal legal process.
- (9) Where the actual load of a consumer differs from the initial estimated load to the extent that the Municipality deems it necessary to alter or replace its metering equipment to match the load, the costs of such alteration or replacement shall be borne by the consumer.
- (10) Prior to the Municipality making any upward adjustment to an account in terms of subsection (6), the Municipality shall –

- (a) notify the consumer in writing of the monetary value of the adjustment to be made and the reasons therefore;
 - (b) in such notification provide sufficient particulars to enable the consumer to submit representations thereon, and
 - (c) call upon the consumer in such notice to provide it with reasons in writing, if any, within 21 days or such longer period as the Municipality may permit why his/her account should not be adjusted as notified.
- (11) Should the consumer fail to make any representations during the period referred to in subsection (10) the Municipality shall be entitled to adjust the account as notified in subsection (10)(a).
- (12) The Municipality shall consider any reasons provided by the consumer in terms of subsection (9)(a) and shall, if satisfied that a case has been made out therefore, adjust the account appropriately.
- (13) If a duly authorised official of the Municipality decides after having considered the representation made by the consumer that such representations do not establish a case warranting an amendment to the monetary value established in terms of subsection (6), the Municipality shall be entitled to adjust the account as notified in terms of subsection 10(a), subject to the consumer's right to appeal the decision of the official in terms of section 62 of the Municipal Systems Act.

51 Reading of credit meters

- (1) Unless otherwise prescribed, credit meters shall normally be read at intervals of one month and the fixed or minimum charges due in terms of the tariff shall be assessed accordingly.
- (2) The Municipality shall not be obliged to effect any adjustments to such charges.
- (3) If for any reason the credit meter cannot be read, the Municipality may render an estimated account. The electrical energy consumed shall be adjusted in a subsequent account in accordance with the electrical energy actually consumed.
- (4) When a consumer vacates a property and a final reading of the meter is not possible, an estimation of the consumption may be made and the final account rendered accordingly.
- (5) If a special reading of the meter is desired by a consumer, this may be obtained upon payment of the prescribed fee.
- (6) If any calculating, reading or metering error is discovered in respect of any account rendered to a consumer, the error shall be corrected in subsequent accounts. Any such correction shall only apply in respect of accounts for a period of 6 months preceding the date on which the error in the accounts was discovered, and shall be based on the actual tariffs applicable during the period. The application of this section does not prevent a consumer from claiming back overpayment for any longer period where the consumer is able to prove the claim in the normal legal process.

52 Prepayment metering

- (1) No refund of the amount tendered for the purchase of electricity credit shall be given at the point of sale after initiation of the process by which the prepayment meter token is produced.
- (2) Copies of previously issued tokens for the transfer of credit to the prepayment meter may be issued at the request of the consumer.
- (3) When a consumer vacates any premises where a prepayment meter is installed, no refund for the credit remaining in the meter shall be made to the consumer by the Municipality.
- (4) The Municipality shall not be liable for the reinstatement of credit in a prepayment meter lost due to tampering with, or the incorrect use or the abuse of, prepayment meters or tokens.
- (5) Where a consumer is indebted to the Municipality for electricity consumed or to the Municipality for any other service supplied by the Municipality, including rates, or for any charges previously raised against him or her in connection with any service rendered, the Municipality may deduct a percentage from the amount tendered to offset the amount owing to the Municipality, as set out in the section 5 agreement for the supply of electricity.

- (6) The Municipality may, at its discretion, appoint vendors for the sale of credit for prepayment meters and shall not guarantee the continued operation of any vendor.

53 Alternative metering infrastructure

The Municipality shall, from the date of commencement of this By-Law, in a phased manner and within its financial means, install alternative metering infrastructure to ensure the remote reading and disconnection of a consumer.

CHAPTER 7

ELECTRICAL CONTRACTORS

54 Requirements in addition to requirements in Regulations

- (1) Where an application for a new or increased supply of electricity has been made to the Municipality, any duly authorised official of the Municipality may at his or her discretion accept notification of the completion of any part of an electrical installation, the circuit arrangements of which permit the electrical installation to be divided up into well-defined separate portions, and such part of the electrical installation may, at the discretion of any duly authorised official of the Municipality, be inspected, tested and connected to the supply mains as though it were a complete installation.
- (2) The examination, test and inspection that may be carried out at the discretion of the Municipality or any duly authorised official of the Municipality in no way relieves the electrical contractor or registered person or the user or lessor, as the case may be, from his or her responsibility for any defect in the installation.
- (3) Such examination, test and inspection referred to in subsection (2) shall not be taken under any circumstances (even where the electrical installation has been connected to the supply mains) as indicating or guaranteeing in any way that the electrical installation has been carried out efficiently with the most suitable materials for the purpose or that it is in accordance with this By-Law or the safety standard, and the Municipality shall not be held responsible for any defect or fault in such electrical installation.

55 Responsibility of Municipality

The Municipality shall not be held responsible for the work done by the electrical contractor or registered person on a consumer's premises and shall not in any way be responsible for any loss or damage which may be occasioned by fire or by any accident arising from the state of the wiring on the premises.

CHAPTER 8

COST OF WORK

56 Repair of damage and recovery of cost

- (1) The Municipality may repair and make good any damage done in contravention of this By-Law or resulting from a contravention of this By-Law.
- (2) The cost of any such work carried out by the Municipality which was necessary due to the contravention of this By-Law, shall be to the account of the person who acted in contravention of this bylaw.

CHAPTER 9

PLANNING

57 Electricity master plan

- (1) The Municipality shall develop an electricity master plan to address the socio-economic, technical, financial, institutional and environmental matters as they pertain to the electricity supply in the municipal area.
- (2) The electricity master plan must be developed as part of the Municipality's integrated development plan in accordance with the Municipal Systems Act.
- (3) The electricity master plan must -
 - (a) set explicit electrification targets;

- (b) plan for the expansion of the electricity network;
- (c) provide for the ongoing rehabilitation of the network;
- (d) show how the investments in expansion and rehabilitation will be funded;
- (e) identify who will take responsibility for the identified investments and who will operate the network; and
- (f) provide for reporting on progress in the implementation of the electricity supply plan in terms of a set of key performance indicators.

58 Electrical maintenance guide plan

- (1) The Municipality shall develop an electrical maintenance guide plan to provide maintenance guidelines for electricity infrastructure.
- (2) The electrical maintenance guide plan must, amongst others, provide for guidelines and recommendations regarding –
 - (a) auto reclose switches;
 - (b) conductors;
 - (c) insulators;
 - (d) poles;
 - (e) cross arms;
 - (f) swan necks;
 - (g) stays or guys;
 - (h) vibration dampers;
 - (i) air break switches;
 - (j) sectionalisers;
 - (k) transformers;
 - (l) line accessibility;
 - (m) connections;
 - (n) tower or mast structural steel;
 - (o) earthing.
- (3) The guidelines and recommendations referred to in subsection (2) must provide for the intervals for the various maintenance inspections to be carried out on sub-transmission and distribution overhead lines and underground cable networks.

CHAPTER 10

OFFENCES AND PENALTIES

59 Appointment of compliance officer

- (1) The Municipality may appoint or designate a person or employee to serve as a compliance officer for purposes of compliance and enforcement monitoring of this By-law.
- (2) A compliance officer shall take all lawful, necessary and practicable measures to enforce the provisions of this By-law.
- (3) The Municipality shall issue each compliance officer with a written appointment stating that he or she has been appointed for purposes of this By-law or with an identification card that contains the municipal logo, department and name of the officer.

60 Powers and functions of a compliance officer

- (1) A compliance officer may, subject to subsection (2) and (3), at any reasonable time, and without prior notice, enter any land property, building or premises for purposes of ensuring compliance with this By-law.
- (2) An inspection of a private dwelling may only be carried out by a compliance officer at a reasonable time and after reasonable notice has been given to the owner or occupier of the land or building and after obtaining the consent of the owner or lawful occupier or person in control of the building, or with a warrant issued in terms of the Criminal

Procedure Act, 1977.

- (3) The compliance officer is not required to give any notice to enter land or a building, other than a private dwelling, and may conduct an inspection or take enforcement action without the consent of the owner or occupier of such land or building and without a warrant if:
 - (a) he or she believes on reasonable grounds that a warrant would be issued to him or her on application; and
 - (b) the delay in obtaining the warrant would defeat the object of the inspection and enforcement action.
- (4) A compliance officer shall show proof of his or her written appointment or identification card contemplated in section 59(3) when required to do so by any person affected by the exercising of a power or show proof that he or she is a law enforcement officer.
- (5) A compliance officer may not investigate a matter in which he or she has a direct or indirect personal interest.
- (6) In ascertaining compliance with this By-law, a compliance officer may:
 - (a) be accompanied by an interpreter, a police officer or any other person who may be able to assist with the inspection;
 - (b) question any person who is or was on that property, who in the opinion of the compliance officer, may be able to furnish information on a matter to which this By-law relates;
 - (c) question any person about any act or omission in respect of which there is a reasonable suspicion that it might constitute:
 - (i) an offence in terms of this By-law; or
 - (ii) a breach of an approval or a term or condition of such approval
 - (d) question a person about any structure, object, document, book or record or inspect any written or electronic information or object which may be relevant for the purpose of investigating any matter in connection with this By-law;
 - (e) examine any book, record or other written or electronic information and make a copy thereof or an extract therefrom and remove such document, book, record or written or electronic information in order to make copies or extracts;
 - (f) require a person to produce or to deliver to a place specified by him or her, any document, book, record, or any written or electronic information referred to in paragraph (e) for inspection;
 - (g) require from such person an explanation of any entry in such document, book, record or written or electronic information;
 - (h) inspect any article, substance, plant or machinery which is or was on the property, or any work performed on the property or any condition prevalent on the property, or remove for examination or analysis any article, substance, plant or machinery or a part or sample;
 - (i) seize any book, record or other document, details or any article, substance, plant or machinery or a part or sample thereof which in his or her opinion may serve as evidence at the trial of any person charged with an offence under this By-law, provided that the user of the article, substance, plant or machinery concerned, as the case may be, may make copies of such book, record or document before such seizure;
 - (j) direct any person to appear before him or her at such time and place as may be determined by him or her and question such person either alone or in the presence of any other person on any matter to which this By-law relates; and
 - (k) take photographs or make audio visual recordings or tape recordings of any person or anything for the purposes of his or her investigation.
- (7) When a compliance officer removes or seizes any article, substance, plant or machinery, book, record or other document as contemplated above, he or she shall issue a receipt to the owner or person in control thereof and return it as soon as practicable after achieving the purpose for which it was removed or seized.

- (8) Where a compliance officer enters any land in terms of subsection (1), a person who controls or manages the land shall at all times provide such facilities as are reasonably required by the compliance officer to enable him or her to perform his or her functions effectively and safely under this By-law.
- (9) A compliance officer who enters and searches any property or private dwelling under this section, shall conduct such search with strict regard for decency and order and with regard for each person's right to dignity, freedom, security and privacy.

(10)

61 Offences and penalties

- (1) A person shall be guilty of an offence if such person
 - (a) fails to comply with a decision taken or condition imposed by the Municipality in terms of this By-law.
 - (b) wilfully and with intent provides false or misleading information in connection with an application contemplated in this By-law;
 - (c) unlawfully prevents a compliance officer entry to his or her premises or causes or permits any other person to prevent entry;
 - (d) obstructs or hinders a compliance officer in the performance of his or her duties or causes or permits any other person to so obstruct or hinder the compliance officer;
 - (e) refuses or fails to provide to a compliance officer such information as is required to allow a compliance officer to perform a function in terms of this By-law;
 - (f) furnishes false or misleading information to an official of the Municipality when called upon to furnish information;
 - (g) impersonates a compliance officer;
 - (h) contravenes or fails to comply with any provision of this By-law; or
 - (i) supplies particulars, information or answers in an application or on knowing it to be false, incorrect or misleading.
- (2) Any person convicted of an offence in terms of this By-law, shall be liable upon conviction to a fine or imprisonment or to both such fine and imprisonment.
- (3) A person convicted of an offence under this By-law who, after conviction, continues with the conduct in respect of which he or she was so convicted, is guilty of a continuing offence and upon conviction is liable to a fine or to imprisonment, or to both such fine and imprisonment, in respect of each day on which he or she so continues with that conduct.
- (4) Every person committing a breach of the provisions of this By-law shall be liable to recompense the Municipality for any loss or damage suffered or sustained by it in consequence of such breach

62 Prosecution of corporate body and partnership

A partner in a partnership, a member of the board, executive committee or other managing body or a corporate body is personally guilty of an offence contemplated in terms of this By-law if such offence was committed by:

- (a) a corporate body established in terms of any law; or
- (b) a partnership; and

such person failed to take reasonable steps to prevent the offence.

CHAPTER 11

GENERAL MATTERS

63 Electrical safety policy

- (1) The Municipality shall develop an electrical safety policy which shall be applicable to all employees working on and around electrical components that are part of municipal facilities.

- (2) The purpose of the electrical safety policy is to establish and implement an electrical safety programme to prevent electrical shock or other injuries resulting from direct or indirect electrical contact to employees working on or near energised or de-energised parts.
- (3) The electrical safety policy must provide, amongst others, for –
 - (a) the responsibilities of a safety officer, manager or supervisor, employee and a contractor's technical representative;
 - (b) hazard identification and control;
 - (c) safety related electrical requirements for special events;
 - (d) training requirements; and
 - (e) reporting.

64 Alternative energy generation and energy efficiency

The Municipality shall consider any application for alternative energy generation within the national policy and legislative framework for alternative energy generation and energy efficiency.

65 Prohibition on erecting structure near high voltage power lines

No person shall erect a building or any other structure underneath or within six metres on either side of a high voltage power line.

66 Estimation of consumption

- (1) The Municipality may estimate the quantity of electricity provided in respect of a period or periods within the interval between successive measurements which may not be more than 90 days apart, and may render an account to a consumer for the services so estimated, which estimate shall, for the purposes of this By-Law, be regarded as an accurate measurement until the contrary is proved.
- (2) For purposes of assessing the quantity of electricity supplied to a consumer during any period and measured by a measuring device installed by the Municipality over a specific period, for the purposes of this By-Law it will be deemed that-
 - (a) the quantity is represented by the difference between measurements taken at the beginning and end of such period;
 - (b) the measuring device was accurate during such period; and
 - (c) the entries in the records of the Municipality were correctly made.
- (3) If electricity is supplied to, or taken by, a consumer without its passing through a measuring device, or where tampering or interference with such measuring device has taken place, the estimate by the Municipality of the quantity of such electricity shall be deemed to be correct.
- (4) Where electricity supplied by the Municipality to any premises is in any way taken by the consumer without such electricity passing through any measuring device provided by the Municipality, the Municipality may- for the purpose of rendering an account, make an estimate, in accordance with subsection (5), of the quantity of electricity supplied to the consumer during the period that electricity is so taken by the consumer.
- (5) For the purposes of subsection (4), an estimate of the quantity of electricity supplied to a consumer shall be based on either -
 - (a) the average monthly consumption of electricity on the premises registered over three succeeding measuring periods taken over not more than 180 days in total, after the date on which the irregularity referred to in subsection (2) was discovered and rectified; or
 - (b) the period preceding the date referred to in subsection (2) but not exceeding 36 months, or both paragraphs (a) and (b).
- (6) Nothing in this By-Law may be construed as imposing on the Municipality an obligation to cause any measuring device installed on any premises to be measured at the end of any fixed period, and the

Municipality may estimate the quantity of electricity supplied over any period during the interval between successive measurements of the measuring device, which may not be more than 90 days apart, and render an account to a consumer for the quantity of electricity so estimated.

- (7) The Municipality shall, on receipt from the consumer of written notice of not less than seven days and subject to payment of the applicable tariff, measure the quantity of electricity supplied to such consumer at a time or on a day other than that upon which it would normally be measured.
- (8) Where electricity supply services are provided through a communal electricity services work, the amount due and payable by consumers gaining access to electricity supply services through that communal electricity services work, will be based on the estimated average consumption of electricity supplied to that electricity services work, and the decision of the Municipality in arriving at that amount is final and binding on each consumer affected thereby, unless legally set aside.
- (9) Failure by the Municipality to comply with the periods of 90 and 180 days referred to above will not disentitle the Municipality from recovering any monies due to it by a consumer.

67 Domicile

The street, building or flat address of the point of supply is deemed to be the *domicilium citandi et executandi* of the consumer for the purpose of the serving of any documents in accordance with section 115 of the Local Government: Municipal Systems Act.

68 Repeal of by-laws

The Senqu Electricity Supply By-Law published by Notice No 205 in the Provincial Gazette No 1405 dated 9 December 2005 is hereby repealed.

69 Short title and commencement

This By-law shall be known as the Senqu Municipality: Electricity Supply By-law, 2017 and shall come into operation on the date of publication thereof in the *Provincial Gazette*.

SENQU MUNICIPALITY MUNICIPAL NOTICE**BY-LAW ON INDIGENT SUPPORT**

The Municipal Council of Senqu Local Municipality in the Schedule hereto publishes, in terms of section 13 of the Local Government Municipal Systems Act, 2000 (Act 32 of 2000) read with section 162 of the Constitution of the Republic of South Africa Act 1996 (Act 108 of 1996) the By-law on Indigent Support.

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1 Objectives

The objectives of this By-law is to provide the legal framework within which the Municipality can provide basic services to poorer communities in an affordable manner and to give effect to the Indigent and Free Basic Services Subsidy Policy of the Municipality.

2 Definitions

In this By-law any word or expression to which a meaning has been assigned in the By-law, shall have the meaning so assigned to it and, unless the context otherwise indicates –

“**child headed household**” means a household where both parents are deceased and where all the occupants of the premises are children of the deceased and the main caregiver of the household is 18 years of age or younger;

"Council" means the Council of the Municipality of Senqu and includes any duly authorised political structure or office bearer as defined in the Local Government: Municipal Finance Management Act 56 of 2003 and/or any duly authorised official of the Council;

"household" means an owner, occupier, vulnerable person or tenant of a premises who reside on the premises with his or her children;

"household income" means all sources of income being formal and/ or informal of nature including, but not restricted to, salaries, revenue generated, pensions, fixed deposits, investments, state subsidies and or grants, private financial support/contributions from outside the indigent household;

"indigent" means –

- (a) a child headed household;
- (b) an unemployed person;
- (c) a pensioner; or
- (d) a person or persons of a household –
 - (i) whose total income is the equivalent or less than the threshold amount approved by the Council annually in its Free Basic Service and Indigent Support Policy;
 - (ii) who does not own any fixed property other than the property for which the application is made; and
 - (iii) who does not hold any fixed deposits or investments;

"indigent debtor" means the head of an indigent household;

"indigent household" means a household where all the individuals residing on the premises are indigent and which household is responsible for the payment of municipal services and rates;

"Indigent and Free Basic Services Subsidy Policy" means the policy for the provision of indigent subsidies to qualifying indigent debtors in terms of the Council's policy relating to the following:

- (a) Free basic electrify
- (b) free basic water
- (c) subsidised sewerage rates and refuse
- (d) assisted arrear debt recovery programme as determined by Council annually during the budget process, in line with National norm and guidelines;

"form" means a form approved by the Municipality for the purposes of this By-law;

"fee" means any fee, charge or deposit determined for purposes of this By-law, by the Municipality in terms of the Senqu Municipality: Tariff By-law, 2017;

"Municipality" means the Senqu Municipality and includes the Council, any executive councillor, or committee established by the Municipality, or any employee thereof, or duly authorised agent thereof acting in connection with this By-Law by virtue of a power vested in the Municipality and delegated to such employee;

"municipal manager" means the municipal manager of the Senqu Municipality or his or her nominee acting in terms of power delegated to him or her by the municipal manager with the concurrence of the Council;

"owner" in relation to immovable property, means –

- (a) the person in whom is vested the legal title thereto provided that –
 - (i) the lessee of immovable property which is leased for a period of not less than fifty years, whether the lease is registered or not, shall be deemed to be the owner thereof; and
 - (ii) the occupier of immovable property occupied in terms of a servitude or right analogous thereto shall be deemed the owner thereof;

- (b) if the owner is deceased, insolvent, has assigned his or her estate for the benefit of his or her creditors, has been placed under curatorship by order of court or is a company being wound up or under judicial management, then the person in whom the administration of such property is vested as executor, administrator, trustee, assignee, curator, liquidator or judicial manager, as the case may be;
- (c) if the owner is absent from the Republic or if his or her address is unknown to the municipality, then any person who as agent or otherwise receives or is entitled to receive the rent in respect of such property; or

if the municipality is unable to determine who such person is, then the person who is entitled to the beneficial use of the property;

“**vulnerable person**” means a person occupying land with the written consent of the owner, but to which that person does not have title, lease or security of tenure.

3 Indigent and Free Basic Services Subsidy Policy

- (1) The Council shall adopt an Indigent and Free Basic Services Subsidy Policy, which shall embody and provide procedures and guidelines for the subsidisation of basic services and tariff charges to indigent households in its municipal area.
- (2) The object of the Indigent and Free Basic Services Subsidy Policy referred to in subsection (1) shall be to ensure:
 - (a) The provision of basic services to the community in a sustainable manner within the financial and administrative capacity of the Municipality; and
 - (b) the provision of procedures and guidelines for the subsidisation of basic service charges to indigent households.

4 Guiding principles

- (1) The following guiding principles shall be contained in the Indigent and Free Basic Services Subsidy Policy referred to in section 3:
 - (a) Relief will be provided by the Municipality to registered residential consumers of services who are declared indigent by the Municipality;
 - (b) the Municipality shall, wherever possible, ensure that any relief provided in terms of this bylaw and its policy is constitutional, practical, fair, equitable and justifiable in order to avoid the alienation of any group of households;
 - (c) differentiation between residential consumers shall, in accordance with the by-laws, policies and resolutions of the Council and legislation, be permitted;
 - (d) differentiation shall also be permitted in respect of the level of service provided to or to be provided to indigent households;
 - (e) the application of the indigent support subsidy for minimum service levels should not result in the creation of a massive bureaucratic administration that would not be cost effective to implement;
 - (f) a differentiation shall be made between those households who cannot afford to pay for basic services and those households who refuse to pay for such services;
 - (g) the payment for services rendered should be affordable for the indigent;
 - (h) the Indigent and Free Basic Services Subsidy Policy will apply during each financial year of Municipality;
 - (i) financial support to the indigent will be dependent upon the availability of funds to enable the Municipality to provide such support;

- (j) the Council shall, annually, review and amend the qualification criteria for indigent support provided by it if and when necessary;
- (k) the collective or joint gross income of members of indigent households will always be taken into account to determine the level of financial support to be granted to indigent households;
- (l) indigent households must formally apply on the applicable application form for indigent support and will qualify for such support according to criteria and principles determined by the Council;
- (m) the household income must be correctly reflected on the application form requesting indigent support;
- (n) the applicant who signs the prescribed application form shall be regarded as the indigent debtor and the representative of the indigent household;
- (o) after the application form for indigent support has been completed by an indigent debtor it shall be assessed in terms of the policy;
- (p) all approved indigent debtors should be registered on a municipal database system;
- (q) the onus will be on the approved indigent debtor to inform the Municipality of any change in his status or personal household circumstances;
- (r) all indigent households should be re-evaluated after a period of six months or such period as the Municipality may determine to assess the provision of continued basic services and indigent support to them;
- (s) an approved community communications programme, embodying the principles of transparency and fairness, must be implemented in respect of the indigent support policy; and
- (u) skills training and other education related programmes should be supported to develop the indigent to become self - sufficient and thereby reduce the rate of indigence.

5 Qualification, acceptance and registration criteria

The qualification, acceptance and registration criteria for free basic services and indigent support shall be determined in the Indigent and Free Basic Services Subsidy Policy adopted and reviewed annually by the Council.

6 Provision of indigent support subsidies

- (1) Indigent support subsidies shall be provided by the Municipality to an indigent household who qualifies therefore in terms of the qualification criteria contemplated in section 5;
- (2) An indigent debtor shall apply to the Municipality for an indigent support subsidy on applicable form.
- (3) The application referred to in subsection (2) must be accompanied by the necessary supporting documentation determined by the Municipality in its Indigent and Free Basic Services Subsidy Policy.
- (4) The relief must be significant so as to relieve the recipient of an indigent subsidy from the financial hardship of paying fully for services received from the Municipality for a specific period.
- (5) A registered indigent shall be charged the determined subsidised tariff or charge for a service.
- (6) The indigent debtor will receive a monthly account, which will reflect the amount due and payable.

- (7) The subsidised amount must be reflected against the indigent subsidy vote.
- (8) An indigent support subsidy is only provided for a period of one year and the indigent shall submit an application annually on the date as determined by Municipality.
- (9) Indigent support shall be terminated by the Municipality under the following circumstances:
 - (a) upon the death of the account holder;
 - (b) at the end of the 12 month cycle;
 - (c) upon the sale of the property;
 - (d) when the total income of the indigent household is more than the threshold amount referred to in the definition of "indigent" in section 1 of this By-law;
 - (e) if the applicant is found to have furnished false information about his or her personal circumstances or indigent status or that of other individuals residing in the indigent household.
- (10) In addition to the penalty contemplated in section 15, if the applicant is found to have furnished false information about his or her personal circumstances or indigent status or that of other individuals residing in the indigent household -
 - (a) all arrears which may have been written off by the Municipality, shall become payable immediately;
 - (b) the credit control collection measure will be applicable; and
 - (c) the applicant will be disqualified to apply for indigent support for a period of two years.

7 Balance on service charges, tariffs and fees

The Municipality shall implement a procedure to assess and recover any arrear debt due by an indigent, after deduction of the indigent support subsidy, from him or her in accordance with the Senqu Municipality: Credit Control and Debt Collection By-law, 2017.

8 Indigent status

The Municipality shall not amend, alter, withdraw, or suspend in terms of this By-law and its policy the indigent households status without first having forwarded notification thereof to the said indigent household.

9 Special tariff for services

The Municipality may determine special tariffs for indigent households, subject to the availability of funds and compliance with criteria for municipal services and amenities.

10 Responsibilities of municipal manager

It is the responsibility of the municipal manager to ensure that:

- (a) a register of all debtors receiving indigent support subsidies from the Municipality in terms of this By-law is created, maintained and updated;
- (b) the indigent status of debtors are reflected in the accounting records of the Municipality;
- (c) indigent debtors are advised and kept informed of the approval, amendment, suspension or withdrawal of an application for indigent support in terms of this By-law and the conditions under which such support will be granted, including the renewal of indigent support applications;
- (d) any instances of misuse of the Indigent and Free Basic Services Subsidy Policy are reported to the Municipality for attention in terms of this By-law;

- (e) the progress or otherwise of the implementation of the Indigent and Free Basic Services Subsidy Support Programme is reported on at such intervals as may be required by the Council.

11 Budgeting for indigent support

- (1) The Council must annually budget for the total indigent subsidy to be granted to indigent debtors in terms of this By-law.
- (2) The amount referred to in subsection (1) must, upon approval of the budget of the Council, be reflected against a separate vote in the name of indigent subsidy.
- (3) The total value of indigent subsidies for all subsidised services must be reflected against such indigent subsidy vote on a monthly basis.

12 Review and amendment of indigent support policy

- (1) The Council has the discretionary power to amend any clause, stipulation or tariff embodied in its Indigent and Free Basic Services Subsidy Policy in the interests of all the parties concerned at the annual budgetary review of Council policies in conjunction with the consideration of the annual budget of the Council.
- (2) Indigent and Free Basic Services Subsidy Policy adopted in terms of this By-law shall be regarded as a budget-related policy and be reviewed on an annual basis by the Council during the annual budget review.
- (3) Any amendment to the Indigent and Free Basic Services Subsidy Policy shall be considered and adopted in conjunction with the adoption of the annual budget of the Council.

13 Offences

- (1) Any indigent who-
 - (a) obstructs or hinders the Municipality in the exercise of its powers or performance of functions or duties under this By-law;
 - (b) uses or interferes with Municipality equipment or consumption of services supplied;
 - (c) tampers or breaks any seal on any meter installed, or with the water restrictor system installed or on any equipment belonging to the Municipality, or for any reason causes interference with the service provision and the service used;
 - (d) furnishes misleading information knowing it to be false or misleading.
 - (e) contravenes or fails to comply with a provision of this By-law,

shall be guilty of an offence and be liable upon conviction to a fine or to imprisonment or both such a fine and imprisonment

- (2) In addition to the penalty referred to in section (1), an indigent may be charged for usage, as estimated by the Municipality based on average usage during the previous six months or as may be determined by resolution of the Council.

14 Notices and documents

- (1) A notice or document issued by the Municipality in terms of this By-law shall be deemed to be duly issued if signed by an employee duly authorised by the Municipality.
- (2) If a notice is to be served on a person in terms of this By-law, such service shall be effected by -
 - (a) delivering the notice to him or her personally

- (b) by delivering the notice at his or her residence or to a person apparently not less than sixteen years of age and apparently residing or employed there;
 - (c) if he or she has nominated an address for legal purposes, by delivering the notice to such an address;
 - (d) by registered or certified post addressed to his or her last known address;
- (3) If service cannot be effected in terms of subsection (2) by affixing it to the principal door of entry to the premises, or displaying it on a conspicuous place on the land

15 Authentication of documents

- (1) Every order, notice or other document requiring authentication by the Municipality shall be sufficiently authenticated, if signed by the municipal manager or by a duly authorised employee of the Municipality;
- (2) Delivery of a copy of the document shall be deemed to be delivery of the original.

16 Responsibility of compliance with this By-law

- (1) The indigent debtor is responsible for ensuring compliance with this By-law in respect of all or any matters relating to the indigent support granted.
- (2) The indigent debtor is responsible for compliance with this By-law and policy in respect of matters relating to the use of any water, electricity, sanitation installation and other services provided by the Municipality.

17 Availability of By-law

- (1) A copy of this By-law shall be included in the municipalities Municipal Code as required in terms of section 15 of the Municipal Systems Act, No 32 of 2000 and shall be displayed on the official website of the Municipality.
- (2) A copy of this By-law shall be available for inspection at the municipal offices at all reasonable times.
- (3) A copy of this By-law may be obtained against payment of a fee from the Municipality.

18 Appeals against decisions of the Municipality

- (1) If an application for free basic services and indigent support is declined by the Municipality, the applicant may appeal to the Municipality against such decision.
- (2) The appeal must be in writing and lodged with the municipal manager within 14 days after receipt of the decision to decline the application.
- (3) The appeal must set out the reason for the appeal and any other documentary proof in support of the appeal.
- (4) The appeal authority shall consist of three officials from the municipal department responsible for financial services designated by the municipal manager.
- (5) The appeal authority must decide the appeal within 21 days after the lodgement of the appeal.
- (6) The decision of the appeal authority is final and the appellant shall be notified of the decision in writing.

19 Conflict of by- laws

If there is any conflict between this By-law and any other by-law of the Municipality, this By-law shall prevail.

20 Repeal of by-laws

The Indigent Support By-Law published in the *Provincial Gazette* by Notice Number 206 of 2005 is hereby repealed.

21 Short title and commencement

This By-law shall be known as the Senqu Municipality: Indigent Support By-law, 2017 and shall come into operation on the date of publication thereof in the *Provincial Gazette*.

SENQU MUNICIPALITY MUNICIPAL NOTICE**BY-LAW ON THE KEEPING OF ANIMALS, BIRDS AND POULTRY AND BUSINESSES RELATING THERETO**

The Municipal Council of Senqu Local Municipality in the Schedule hereto publishes, in terms of section 13 of the Local Government Municipal Systems Act, 2000 (Act 32 of 2000) read with section 162 of the Constitution of the Republic of South Africa Act 1996 (Act 108 of 1996) the By-law on the Keeping of Animals, Birds and Poultry and Businesses Relating Thereto.

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CHAPTER 1

DEFINITIONS AND APPLICABILITY

1 Definitions

In this By-law any word or expression to which a meaning has been assigned in this By-law has the meaning so assigned to it and, unless the context otherwise indicates:

"adequate" means adequate in the opinion of the Municipality;

"animal" means any of the following animals:

- (a) Cattle;
- (b) sheep;
- (c) goats;
- (d) horses;
- (e) mules;
- (f) donkeys;
- (g) pigs;
- (h) rabbits;
- (i) cats; or
- (j) dogs;

"approved" means approved by the health officer, regard being had to the reasonable public health requirements that may apply to each particular case;

"aviary" means a roofed or unroofed enclosure, other than a portable cage, used for the keeping of birds;

"battery system" means a system of keeping birds or poultry in cages either in single rows or in tier formation within a building or structure;

"bird" means a feathered vertebrate other than poultry;

"cattery" means premises in or on which boarding facilities for cats are provided or in or on which cats are kept and bred for commercial purposes;

"compliance officer" means a person who is authorised to implement and enforce the provisions of this By-law by virtue of his or her –

- (a) declaration as a peace officer as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977);
- (b) appointment as a police officer as contemplated in the South African Police Service Act, 1995 (Act 68 of 1995);

- (c) a traffic officer appointed in terms of section 3 of the Road Traffic Act, No. 29 of 1989 or section 3A of the National Road Traffic Act No. 93 of 1996 as the case may be;
- (d) appointment as a law enforcement officer or traffic officer by the Municipality and declaration as peace officer as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977); or
- (e) appointment by the Municipality as a compliance officer or an inspector;

"Council" means the Senqu municipal council, a municipal council referred to in section 157(1) of the Constitution;

"dwelling" means any building or part of a building used for human habitation;

"enclosure", in relation to animals, means any kraal, pen, paddock or other fenced or enclosed area used for accommodating, keeping or exercising animals;

"environmental health practitioner" means an environmental health practitioner appointed by the Municipality in terms of section 24 of the Health Act, 1977 (Act 63 of 1977);

"hawk" means the activity of hawking licensed in terms of item 3(1) of Schedule 1 to the Businesses Act, 1991 (Act 71 of 1991);

"hawker" means any person carrying on the activity of hawking in terms of item 3(1) of Schedule 1 to the Businesses Act, 1991;

"health officer" means a medical officer of health appointed in terms of section 22 or 25 of the Health Act, 1977;

"kennels" means any premises in or on which –

- (a) boarding facilities for dogs are provided;
- (b) dogs are bred for commercial purposes; or
- (c) dogs are kept for the purpose of being trained or hired out with or without handlers;

"livestock" means horses, cattle, sheep, goats, pigs, mules, donkeys and poultry;

"Municipality" means the Senqu Municipality and includes the Council, any executive councillor, or committee established by the Municipality, or any employee thereof, or duly authorised agent thereof acting in connection with this By-law by virtue of a power vested in the Municipality and delegated to such employee or agent;

"nuisance" means a nuisance as defined in the Health Act, 1977;

"owner", in relation to an animal, means any person having possession, charge, custody or control of the animal;

"person in control" means a person actually managing or in control of any premises or business;

"pet" means any domestic or other animal which may be lawfully kept, and includes any bird and non-poisonous reptile;

"pet salon" means the business of providing a beauty treatment service for pets by washing, drying, brushing, clipping or trimming them or by attending to their nails or teeth;

"pet shop" means the business of keeping pets for the purpose of sale; **"pigsty"** means a building, structure or enclosure in which pigs are kept;

"poultry" means fowls, ducks, Muscovy ducks, geese, turkeys, pigeons, peacocks and domestic guinea fowl;

"poultry house" means any roofed-over building or structure, other than one in which a battery system is operated, in which poultry are kept;

"poultry run" means any unroofed wire mesh or other enclosure, whether or not an addition to a poultry house, in which poultry are kept;

"pound fees" means fees payable for impounding animals determined for the purposes of this By-law, by the Municipality in terms of the Senqu Municipality: Tariff By-law, 2017, and includes fees for the removal and destruction of carcasses;

"pound master" means a person in control of a pound;

"premises" means any land, building or structure or any portion of any land, building or structure in or on which any of the activities regulated by this By-law are carried on;

"public place" means any road, street, pavement, sidewalk, park or other place to which the public has authorised and unimpeded access;

"rabbit hutch" means any roofed-over building or structure, other than one in which a battery system is operated, in which rabbits are kept;

"rabbit run" means any unroofed wire mesh or other enclosure, whether or not an addition to a rabbit hutch, in which rabbits are kept;

"stable" means any building or structure or any part of a building or structure used for accommodating or keeping cattle, horses, mules or donkeys; and

"veterinarian" means a person registered as a veterinarian in terms of section 1 of the Veterinary and Para-Veterinary Professions Act, 1982 (Act 19 of 1982).

2 Application of By-laws

- (1) The provisions of this By-law do not apply to -
 - (a) the keeping of cows for commercial milk production;
 - (b) an agricultural show where animals, poultry or birds are kept on a temporary basis; and
 - (c) a laboratory where animals, poultry or birds are kept for research purposes,

provided that the health officer may, if he or she is satisfied that the application of one of the provisions of this By-law or more is essential in the interest of public health, by notice to the person in control require such provision or provisions to be complied with.

- (2) The provisions of sections 4, 9 and 10 do not apply to the temporary keeping of a goat on any premises for the purpose of providing milk for medical reasons, provided the prior approval of the health officer is obtained and no nuisance arises from the keeping of such goat.
- (3) The provisions of sections 3, 4, 5, 7, 9, 11, 13, 15, 17, 18 and 20 apply only to premises that are newly constructed or have been reconstructed or converted after the commencement of this By-law, provided that the health officer may, if he or she is satisfied that the application of any one of the provisions in question or more is essential in the interest of public health, give notice in writing to the owner or person in control of such premises to, within a reasonable period stated in the notice, comply with the provisions the health officer may specify.
- (4) The provisions of section 11(5), (8) and (10) and section 12(d) to (i) do not apply to the keeping of poultry numbering not more than 20.
- (5) The provisions of section 13(5) and (8) and section 14(d) to (h) do not apply to the keeping of ten rabbits or less.

CHAPTER 2

KENNELS AND PREMISES IN GENERAL

3 Kennels and premises for the keeping of livestock

- (1) No person may –

- (a) keep any livestock, other than poultry, or maintain a kennels in any area defined by the Municipality as unsuitable for the keeping of livestock and the maintenance of kennels: and
 - (b) keep any livestock, other than poultry, on premises situated on land less than 1 ha in extent, provided that in the case of a dealer or speculator in livestock the land is not less than 2,5 ha in extent.
- (2) The provisions of subsection 1(a) do not apply in respect of a veterinary clinic or veterinary hospital operating with the Municipality's consent.

4 Premises for the keeping of animals, poultry and birds

No person may –

- (a) keep any animal, unit of poultry or bird in or on premises that do not comply with the provisions of this By-law;
- (b) keep any animal, unit of poultry or bird in or on premises that are so constructed, maintained or situated that the keeping of animals, poultry or birds on the premises is, in the opinion of the health officer, likely to cause a nuisance;
- (c) keep more than 20 units of poultry or 10 rabbits on special residential premises, provided that more than 20 units of poultry may be kept on an agricultural holding and that the owner, occupier or keeper ensures that no health nuisance is constituted;
- (d) keep more than three dogs or three cats older than six months on premises zoned for special residential purposes;
- (e) keep dogs and cats on premises zoned for general residential purposes or industrial or business purposes unless the prior approval of a compliance officer has been obtained, provided that in giving his or her approval the compliance officer may impose any conditions he or she deems necessary; and
- (f) operate a battery system for poultry or rabbits before written approval has been obtained from the Municipality.

CHAPTER 3

KEEPING OF CATTLE, HORSES, MULES AND DONKEYS

5 Requirements for premises

- (1) For the keeping of a head of cattle, horse, mule or donkey on any premises, a stable or enclosure must be provided on the premises:
- (2) A stable contemplated in subsection (1) must meet the following requirements:
 - (a) Every wall and partition of the stable must be constructed of brick, stone, concrete or other durable material;
 - (b) the internal wall surfaces of the stable must be of smooth brick or other durable surface brought to a smooth finish;
 - (c) if the stable has –
 - (i) a pitched roof, the walls of the stable must have a height of 2,4m;
 - (ii) a flat roof, the walls of the stable must have a height of 2,7m;
 - (iii) a lean-to roof, the walls of the stable must have a mean height of 3m with a minimum height of 2,4m on the one side; and
 - (iv) an opening along the entire length of one of its long sides, the height of the wall may not be less than 2m;

- (d) the stable must have a floor area of at least 9m² for each head of cattle, horse, mule or donkey accommodated in the stable;
 - (e) except in the case of a stable that is open along the entire length of one of its long sides, lighting and ventilation must be provided in the stable by means of one or more than one opening or glazed window or louvre that can be opened, provided that –
 - (i) the area of the opening, window or louvre totals at least 0,3m² for each head of cattle, horse, mule or donkey accommodated in the stable; and
 - (ii) the lowest point of every opening, window or louvre is at least 1,8m above floor level;
 - (f) the floor of the stable must be constructed of concrete or other durable and impervious material brought to a smooth finish, be graded to a channel and be drained in accordance with section 43.
- (3) An enclosure contemplated in subsection (1) must have an area of at least 10m² for each head of cattle, horse, mule or donkey accommodated in the enclosure, and the fencing of the enclosure must be of a substantial material and be so constructed as to prevent the animals from breaking out.
 - (4) No enclosure contemplated in subsection (1) may be situated within 30 m and no stable contemplated in subsection (1) may be situated less than 5 m of any boundary of any land, dwelling or other building or structure used for human habitation and no enclosure and no stable may be situated within 50 m of any well, watercourse or other source of water supply intended or used for human consumption.
 - (5) A potable water supply adequate for drinking and cleaning purposes must be provided in or adjacent to a stable or enclosure contemplated in subsection (1) for the animals accommodated in the stable or enclosure.

6 Duties of keepers of cattle, horses, mules and donkeys

A person keeping any head of cattle, horse, mule or donkey on any premises must –

- (a) ensure that the head of cattle, horse, mule or donkey is kept in a stable or an enclosure on the premises;
- (b) maintain in a clean and sanitary condition and in good repair –
 - (i) the premises; and
 - (ii) any equipment, apparatus, container and receptacle used in connection with the keeping of the head of cattle, horse, mule or donkey;
- (c) provide portable manure storage receptacles on the premises, which receptacles must –
 - (i) be of an impervious material and have close-fitting lids; and
 - (ii) be kept on a platform that is constructed of concrete or other durable and impervious material and that is situated adjacent to the stable or enclosure, provided that the provisions of section 5(4) are, with the necessary changes, complied with;
- (d) if the nature of the manure and the bedding in the stable or enclosure are of such quantity that the storage receptacles contemplated in paragraph (c) are inadequate or impractical, provide a manure midden that –
 - (i) is enclosed on three sides by walls constructed of brick, concrete or other durable material plastered to a smooth finish and coved at the junction of the walls with the floor; and

- (ii) has a floor that is of concrete brought to a smooth finish, is graded and is drained to a water channel at least 150 mm in diameter along the full length of the open side, which channel must be kept filled with water;
- (e) remove all the manure from the stable or enclosure at least once every 24 hours and dispose of the manure in a manner that will not create a nuisance;
- (f) store all saddles, bridles, harnesses and other equipment or articles used in the keeping of cattle, horses, mules and donkeys in a storeroom or other approved storage facilities;
- (g) store concentrates in a number of rodent-proof receptacles with close-fitting lids in a rodent-proof storeroom on the premises; and
- (h) take effective measures to destroy or prevent the harbouring or breeding of flies, cockroaches, rodents and other vermin on the premises.

CHAPTER 4

KEEPING OF PIGS

7 Requirements for premises

- (1) For the keeping of a pig on any premises, a pigsty, meeting all of the requirements contained in this section, must be provided on the premises:
- (2) Every wall of the pigsty must –
 - (a) be constructed of brick, stone, concrete or other durable material;
 - (b) have a height of not less than 1,5 m; and
 - (c) have a smooth internal surface.
- (3) The pigsty must have a floor area of at least 3 m² for each pig accommodated in the pigsty, with an overall minimum floor area of 6 m².
- (4) A roof over any part of the pigsty must, at its lowest point in the pigsty, be at a height of not less than 1,5 m from ground level and, except in the case of a roofed structure having one of its long sides completely open, the pigsty must have –
 - (a) lighting and ventilation openings of at least 0,15 m² for every pig that is accommodated in the pigsty, which openings are situated in opposite external walls; or
 - (b) adequate means of ventilation and lighting other than that provided for in subparagraph (i).
- (5) The junction of the pigsty's walls with its floor must be coved.
- (6) The floor of the pigsty must be –
 - (a) at least 150 mm above the surrounding ground level;
 - (b) constructed of concrete or other durable and impervious material brought to a smooth finish; and

- (c) graded to allow for the run-off of liquids into an open channel outside the pigsty, which channel must be not less than 100 mm in diameter, be constructed of concrete, glazed earthenware or other durable and impervious material and be drained in accordance with section 43.
- (7) The pigsty must be so constructed as to prevent any pig in the pigsty from breaking out.
- (8) No pigsty may be situated within 100 m of –
 - (a) any dwelling or other building or structure used for human habitation;
 - (b) the boundary of any land; or
 - (c) any well, watercourse or other source of water supply intended or used for human consumption.
- (9) A roofed-over concrete platform must be provided for the storage of all swill in containers and for the preparation of pig feed, which platform must –
 - (a) have curbing of a height of at least 100 mm on all of its sides; and
 - (b) a surface brought to a smooth impervious finish, graded to a channel and drained in accordance with section 43.
- (10) A potable water supply adequate for drinking and cleaning purposes must be provided in or adjacent to the pigsty for the pigs accommodated in the pigsty.

8 Duties of keepers of pigs

A person keeping a pig on any premises must –

- (a) ensure that the pig is kept in a pigsty on the premises;
- (b) maintain in a clean and sanitary condition and in good repair –
 - (i) the premises; and
 - (ii) any equipment, apparatus, container and receptacle used in connection with the keeping of pigs;
- (c) provide portable manure storage receptacles on the premises, which receptacles must –
 - (i) be of an impervious material and have close-fitting lids; and
 - (ii) be kept on a platform that is constructed of concrete or other durable and impervious material and that is situated adjacent to the pigsty, provided that the provisions of section 9, with the necessary changes, are complied with;
- (d) remove all manure from the pigsty at least once every 24 hours and dispose of the manure in a manner that will not create a nuisance;
- (e) provide –
 - (i) a rodent-proof storeroom on the premises in which storeroom all feed, other than swill, must be stored; and
 - (ii) a number of rodent-proof receptacles with close-fitting lids for the storeroom, in which receptacles must be stored all loose feed; and
- (f) take effective measures to destroy or prevent the harbouring or breeding of flies, cockroaches, rodents and other vermin on the premises.

CHAPTER 5

KEEPING OF GOATS AND SHEEP

9 Requirements for premises

- (1) For the keeping of a goat or sheep on any premises, an enclosure or a building or shed must be provided on the premises.
- (2) An enclosure contemplated in subsection (1) must have an area of at least 1,5m² for every goat or sheep accommodated in the enclosure, with an overall minimum floor area of 30m².
- (3) A building or shed contemplated in subsection (1) must meet the following requirements:
 - (a) Every wall of the building or shed must –
 - (i) be constructed of brick, stone, concrete or other durable material;
 - (ii) have a height of not less than 2m; and
 - (iii) have a smooth internal finish.
 - (b) The floor of the building or shed must be constructed of concrete or other durable and impervious material brought to a smooth finish, be graded to a channel and be drained in accordance with section 43.
 - (c) The floor area of the building or shed must be at least 1,5m² for every goat or sheep accommodated in the building or shed, with an overall minimum floor area of 6m².
 - (d) The building or shed must have lighting and ventilation openings of at least 0,15m² per goat or sheep accommodated in the building or shed.
- (4) No building or shed contemplated in subsection (1) may be situated within 5m and no enclosure contemplated in subsection (1) may be situated within 30m of any boundary of any land, dwelling or any other building or structure used for human habitation and no building or shed and no enclosure may be situated within 50m of any well, watercourse or other source of water supply intended or used for human consumption.
- (5) A potable water supply adequate for drinking and cleaning purposes must be provided in or adjacent to every enclosure, building or shed contemplated in subsection (1) for the goats or sheep accommodated therein.

10 Duties of keepers of goats and sheep

A person keeping any goat or sheep on any premises must –

- (a) ensure that the goat or sheep is kept in an enclosure, building or shed on the premises;
- (b) maintain in a clean and sanitary condition and in good repair –
 - (i) the premises; and
 - (ii) any equipment, apparatus, container and receptacle used in connection with the keeping of goats and sheep;
- (c) provide portable manure storage receptacles on the premises, which receptacles must be of an impervious material and have close-fitting lids;
- (d) remove all manure from the enclosure, building or shed at least once every seven days and place the manure in the manure storage receptacles;
- (e) remove the contents of the manure storage receptacles from the premises at least once every seven days and dispose of the contents in a manner that will not create a nuisance;

- (f) provide –
 - (i) a rodent-proof storeroom on the premises to store concentrates; and
 - (ii) a number of rodent-proof receptacles with close-fitting lids for the storeroom, in which receptacles must be stored the concentrates; and
- (g) take effective measures to destroy or prevent the harbouring and breeding of flies, cockroaches, rodents and other vermin on the premises.

CHAPTER 6

KEEPING OF POULTRY

11 Requirements for premises

- (1) For the keeping of any unit of poultry on any premises, a poultry house, a poultry run or a building or structure housing a battery system must be provided on the premises.
- (2) A poultry house contemplated in subsection (1) must meet the following requirements:
 - (a) Every wall of the poultry house must –
 - (i) be constructed of brick, stone, concrete or other durable material;
 - (ii) have a height of not less than 2 m; and
 - (iii) have a smooth internal finish.
 - (b) The floor of the poultry house must be constructed of concrete or other durable and impervious material brought to a smooth finish.
 - (c) If the poultry house consists of a structure that has two tiers or more, the upper tiers of the structure must be of an impervious material that can be cleaned easily.
 - (d) The poultry house must have an area of at least –
 - (i) 0,20m² for each mature fowl, duck, Muscovy duck or guinea fowl accommodated in the poultry house;
 - (ii) 0,5m² for each mature goose, turkey or peacock accommodated in the poultry house; and
 - (iii) 0,14m² for each mature pigeon accommodated in the poultry house, with an overall minimum area of 4m².
- (3) A poultry run contemplated in subsection (1) must be enclosed with wire mesh or similar durable material.
- (4) A battery system contemplated in subsection (1) must be housed in a building or structure that is constructed and equipped to meet the following requirements:
 - (a) If the building or structure has walls, every wall must –
 - (i) have a height of at least 2,4 m;
 - (ii) be constructed of concrete, stone, brick or other durable material; and
 - (iii) have a smooth internal surface.
 - (b) If the building or structure has walls, the building or structure must be ventilated and illuminated either by means of mechanical ventilation and artificial lighting or by means of natural ventilation and light through openings or windows that can be opened, and the size of the openings or windows must be equal to at least 15% of the floor area of the building or structure.

- (c) The floor of the building or structure must be constructed of concrete or other durable and impervious material brought to a smooth finish and, if required by the health officer, the floor surface must be graded to a channel and be drained in accordance with section 43.
 - (d) If the building or structure has no walls or if the walls are of metal, the floor must be provided with curbing of a height of at least 150 mm around the extremities of the building or structure.
 - (e) In the building or structure, every junction of the floor with the walls and curbing must be coved.
 - (f) The cages of the battery system must be constructed of an impervious material.
 - (g) If required by the health officer, a tray of an impervious material and design must be fitted under every cage for the collection of manure.
 - (h) A washbasin with a constant supply of water laid on must be provided in the building or structure and be drained in accordance with section 43.
- (5) A potable water supply adequate for drinking and cleaning purposes must be provided in or adjacent to the poultry house, poultry run or building or structure contemplated in subsection (1) for the poultry accommodated therein.
- (6) At least 1 m of clear unobstructed space must be maintained between any poultry house, poultry run or building or structure housing a battery system and –
- (a) the nearest point of any dwelling, other building or structure used for human habitation;
 - (b) any place where foodstuffs are stored or prepared for human consumption; and
 - (c) the nearest boundary of any land.
- (7) No poultry may be kept on any business premises.
- (8) (a) A rodent-proof storeroom with a floor area of at least 7m², a width of at least 2,2m and a height of at least 2,4m must be provided on premises referred to in subsection (1) for storing feed.
- (b) If the health officer is satisfied that, having regard to the number of units of poultry being kept on the premises, a storeroom of dimensions less than the minimum dimensions required in terms of paragraph (a) or other storage facilities are adequate, he or she may permit the smaller storeroom or other storage facilities.
- (9) A curbed concrete washing platform or stainless steel trough with a draining board and a constant supply of water laid on must be provided inside or adjacent to a building or structure housing a battery system for the purpose of cleaning and disinfecting the cages and the washing platform or trough must be drained in accordance with section 43.
- (10) If required by the health officer and with due regard to the quantity of manure to be stored on premises referred to in subsection (1) pending removal of the manure from the premises, a storage area must be provided on the premises for the manure.
- (11) The storage area referred to in subsection (10) must comprise a roofed-over platform that –
- (a) is constructed of concrete or other durable and impervious material;
 - (b) has curbing of a height of at least 100 mm around the extremities of the platform;
 - (c) is graded and drained in accordance with section 43; and
 - (d) has a roof extending 1m beyond the extremities of the platform.

12 Duties of keepers of poultry

A person keeping any unit of poultry on any premises must –

- (a) ensure that the unit of poultry is kept on the premises inside a poultry house, poultry run or building or structure housing a battery system;
- (b) maintain in a clean and sanitary condition and in good repair –
 - (i) the premises; and
 - (ii) any equipment, apparatus, container and receptacle used in connection with the keeping of poultry;
- (c) keep the premises free from offensive odours and keep every poultry house, poultry run or building or structure housing a battery system and all cages clean and free from vermin;
- (d) ensure that the poultry do not disturb or hinder the comfort, convenience or peace and quiet of the public;
- (e) provide portable manure storage receptacles on the premises, which receptacles must –
 - (i) be of an impervious material and have close-fitting lids; and
 - (ii) be kept on a platform that is –
 - (aa) constructed of concrete or other durable and impervious material; and
 - (bb) situated adjacent to the poultry house, poultry run or building or structure housing a battery system,

provided that the provisions of section 11(6) are *,with the necessary changes,* complied with;
- (f) having regard to the prevention of a public health nuisance caused by an offensive smell
 - (i) remove all manure and other waste from the poultry house or poultry run at least once every 48 hours; and
 - (ii) remove all manure and other waste from a building or structure housing a battery system once every four days or at longer intervals approved by the health officer;
- (g) place manure and other waste matter in the manure storage receptacles;
- (h) remove the contents of the manure storage receptacles from the premises at least once every seven days and dispose of the contents in a manner that will not create a nuisance;
- (i) store no material or article in any poultry house, poultry run or building or structure housing a battery system, except material or an article that is required for use in the poultry house, poultry run or building or structure housing a battery system;
- (j) provide for the inside of the storeroom contemplated in section 11(8) a number of rodent- proof receptacles with close-fitting lids in which all loose feed must be stored; and
- (k) take effective measures to –
 - (i) destroy or prevent the harbouring or breeding of flies, cockroaches, rodents and other vermin on the premises; and
 - (ii) prevent offensive odours from arising from the keeping of poultry on the premises.

CHAPTER 7

KEEPING OF RABBITS

13 Requirements for premises

- (1) For the keeping of a rabbit on any premises, a rabbit hutch, a rabbit run or a building or structure housing a battery system must be provided on the premises.
- (2) A rabbit hutch contemplated in subsection (1) must meet the following requirements:
 - (a) Every wall of the rabbit hutch must be constructed of brick, stone, concrete or other durable material and have a smooth internal surface.
 - (b) The floor surface of the rabbit hutch must –
 - (i) be at least 150mm above ground level;
 - (ii) be constructed of concrete or other durable and impervious material brought to a smooth finish; and
 - (iii) if required by the health officer, be graded to a channel and be drained in accordance with section 43.
 - (c) Natural light and ventilation must be provided in the rabbit hutch.
 - (d) The rabbit hutch must have a minimum area of at least 0,4m² for every rabbit accommodated in the rabbit hutch.
- (3) A rabbit run contemplated in subsection (1) must be enclosed with wire mesh or similar durable material and be so constructed as to prevent the escape of rabbits from the rabbit run.
- (4) A battery system contemplated in subsection (1) must be housed in a building or structure that is constructed and equipped to meet the following requirements:
 - (a) If the building or structure has walls, every wall must –
 - (i) have a height of at least 2,4m;
 - (ii) be constructed of concrete, stone, brick or other durable material; and
 - (iii) have a smooth internal surface.
 - (b) If the building or structure has walls, the building or structure must be ventilated and illuminated by means of natural openings or windows, and the size of the openings or windows must be equal to at least 15% of the floor area of the building or structure.
 - (c) The floor of the building or structure must be constructed of concrete or other durable and impervious material brought to a smooth finish and, if required by the health officer, the floor surface must be graded to a channel and be drained in accordance with section 43.
 - (d) If the building or structure has no walls or if the walls are of metal, the floor must be provided with curbing of a height of at least 150 mm around the extremities of the building or structure.
 - (e) In the building or structure, every junction of the floor with the walls and curbing must be coved.
 - (f) The cages of the battery system must be –
 - (i) constructed of an impervious material; and
 - (ii) fitted with trays of an impervious material under every cage to receive urine.
 - (g) A washbasin with a constant supply of water laid on must be provided and be drained in accordance with section 43.

- (5) A potable water supply adequate for drinking and cleaning purposes must be provided in or adjacent to the rabbit hutch, rabbit run or building or structure contemplated in subsection (1) for the rabbits accommodated therein.
- (6) At least 1m of clear unobstructed space must be maintained between any rabbit hutch, rabbit run or building or structure housing a battery system and –
 - (a) the nearest point of any dwelling, other building or structure used for human habitation;
 - (b) any place where foodstuffs are stored or prepared for human consumption; and
 - (c) the nearest boundary of any land.
- (7) No rabbits may be kept on any business premises
- (8)
 - (a) A rodent-proof storeroom with a floor area of at least 7m², a width of at least 2,2m and a height of at least 2,4m must be provided on the premises referred to in subsection (1) for storing feed.
 - (b) If the health officer is satisfied that, having regard to the number of rabbits being kept on the premises, a storeroom of dimensions less than the minimum dimensions required in terms of paragraph (a) or other storage facilities are suitable, he or she may permit the smaller storeroom or other storage facilities
- (9) A curbed concrete washing platform or stainless steel trough with a draining board and a constant supply of water laid on must be provided inside or adjacent to a building or structure housing a battery system for the purpose of cleaning and disinfecting the cages.
- (10) The washing platform or trough referred to in subsection (9) must be drained in accordance with section 43.

14 Duties of keepers of rabbits

A person keeping a rabbit on any premises must –

- (a) ensure that the rabbit is kept inside a rabbit hutch, rabbit run or building or structure housing a battery system;
- (b) maintain in a clean, sanitary condition and in good repair –
 - (i) the premises; and
 - (ii) any equipment, apparatus, container and receptacle used in connection with the keeping of rabbits;
- (c) keep the premises free from offensive odours and keep every rabbit hutch, rabbit run or building or structure housing a battery system and all cages clean and free from vermin;
- (d) provide portable manure storage receptacles on the premises, which receptacles must –
 - (i) be of an impervious material and have close-fitting lids;
 - (ii) be kept on a platform that is –
 - (aa) constructed of concrete or other durable and impervious material;
 - (bb) situated adjacent to the rabbit hutch, rabbit run or building or structure housing the battery system,

provided that the provisions of section 13(6) are *with the necessary changes*, complied with;
- (e) at least once every 48 hours remove the droppings and other waste matter from the rabbit hutch, rabbit run or building or structure housing the battery system and place the droppings and other waste matter in the manure storage receptacles;

- (f) remove the contents of the manure storage receptacles from the premises at least once every seven days and dispose of the contents in a manner that will not create a nuisance;
- (g) store no material or article in any rabbit hutch, rabbit run or building or structure housing a battery system, except material or an article that is required for use in the rabbit hutch, rabbit run or building or structure housing the battery system;
- (h) provide for the inside of the storeroom contemplated in section 13(8) a number of rodent- proof receptacles with close-fitting lids in which all loose feed must be stored; and
- (i) take effective measures to –
 - (i) destroy or prevent the harbouring and breeding of flies, cockroaches, rodents and other vermin on the premises; and
 - (ii) prevent offensive odours from arising from the keeping of rabbits on the premises

CHAPTER 8

KEEPING OF BIRDS

15 Requirements for premises

For the keeping of birds in an aviary on any premises, the following requirements must be met:

- (a) The aviary must be –
 - (i) properly constructed of durable material;
 - (ii) rodent-proof; and
 - (iii) provided with an access that is adequate for cleaning purposes.
- (b) If the aviary is constructed above ground level, the base of the aviary must be –
 - (i) constructed of an impervious and durable material; and
 - (ii) not less than 300 mm above ground level.
- (c) No aviary may be situated within 1 m of any building or structure, boundary fence or boundary wall.
- (d) A potable water supply adequate for drinking and cleaning purposes must be provided for the birds accommodated in the aviary.

16 Duties of keepers of birds

Every person who keeps birds in an aviary on any premises must -

- (a) ensure that the aviary and the premises are kept in a clean condition and free from vermin;
- (b) provide rodent-proof facilities for storing bird food and keep the bird food in the facilities;
- (c) take effective measures to destroy or prevent the harbouring and breeding of flies, cockroaches, rodents and other vermin on the premises; and
- (d) ensure that the birds do not disturb or hinder the comfort, convenience or peace and quiet of the public.

CHAPTER 9**DEALERS IN LIVESTOCK AND OTHER BUSINESSES INVOLVING THE KEEPING OF ANIMALS AND POULTRY****17 Requirements for conducting a business**

Every person conducting the business of a dealer or speculator in livestock or conducting any other business involving the keeping of animals or poultry, other than a pet shop or pet salon, must meet the following requirements:

- (a) The provisions of sections 3 to 12 must be complied with in so far as those provisions are applicable to the livestock or the animals or poultry kept.
- (b) The premises on which the business is conducted must –
 - (i) if cattle, horses, mules or donkeys are dealt in, speculated in or kept, have an enclosure with an area of at least 10 m² per head of cattle, horse, mule or donkey to be accommodated in the enclosure at any time; or
 - (ii) if goats or sheep are dealt in, speculated in or kept, have an enclosure with an area of at least 1,5 m² per goat or sheep to be accommodated in the enclosure at any time,provided that such enclosure has an overall minimum area of 50m².
- (c)
 - (i) A separate change-room for each sex, clearly designated, must be provided on the premises on which the business is conducted.
 - (ii) Every change-room must have a floor area of at least 0,5 m² per employee, with an overall minimum area of 6,5 m² and a minimum width of 2,1 m.
 - (iii) Every change-room must be equipped with a metal clothes locker for every employee for keeping personal clothing.
 - (iv) Every change-room must have one washbasin and one shower-bath for every 15 employees, which washbasin and shower-bath must –
 - (aa) be located within or adjacent to the change-rooms;
 - (bb) have a constant supply of hot and cold running water laid on;
 - (cc) be drained in accordance with section 43; and
 - (dd) be provided with soap and towelling.
- (d) Overalls or other protective clothing and, if required by the health officer, protective footwear must be provided for the use of persons employed by the business in the keeping of livestock, animals or poultry.
- (e) In respect of employees resident on or at the premises on which the business is conducted –
 - (i) sleeping accommodation with a bed for each employee must be provided;
 - (ii) ablution facilities comprising one washbasin and one shower-bath or bath, separate for the sexes and clearly designated for each sex, must be provided for every ten employees, which washbasin, shower-bath or bath must have a constant supply of hot and cold running water laid on and be drained in accordance with section 43;
 - (iii) cooking facilities and a scullery for the cleaning of cooking and eating utensils must be provided, which scullery must have a refuse receptacle and be fitted with a double-bowled sink of stainless steel with a constant supply of hot and cold running water laid on and drained in accordance with section 43, and every bowl of such double-bowled sink must –

- (aa) have a minimum capacity of 55 ℓ;
- (bb) be fitted with a 150mm high splash screen on the side nearest the wall; and
- (cc) be positioned at least 100 mm away from any wall surface;
- (iv) laundry facilities consisting of –
 - (aa) a stainless steel laundry trough with a constant supply of hot and cold running water laid on and drained in accordance with section 43; and
 - (bb) storage receptacles for laundry, must be provided; and
- (v) a locker or other approved facility must be provided for storing non-perishable food of every employee, which locker or facility must be situated in the room where the cooking facilities are situated.

CHAPTER 10

DOG KENNELS AND CATTERIES

18 Requirements for premises

No person may maintain a kennels or a cattery on any premises unless the following requirements are met:

- (a) Every dog in the kennels or every cat in the cattery, as the case may be, must be kept in an enclosure meeting the following requirements:
 - (i) The enclosure must be constructed of durable material and have adequate access for cleaning purposes.
 - (ii) The floor of the enclosure must be constructed of concrete or other durable and impervious material brought to a smooth finish and graded to a channel, 100 mm wide, that extends the full width of the floor and is situated within the enclosure, which channel must be graded and drained in accordance with section 43.
 - (iii) Curbing of a height of 150 mm must be provided along the entire length of the channel referred to in subparagraph (ii) and on the side of the channel adjacent to the surrounding outside area so as to prevent stormwater from the outside from entering the channel.
 - (iv) Every enclosure must have a roofed shelter for the accommodation of dogs or cats, as the case may be, and the roofed shelter must meet the following requirements:
 - (aa) Every wall of the shelter must be constructed of brick, stone, concrete or other durable material and have a smooth internal surface without cracks or open joints.
 - (bb) The floor area of the shelter must be of concrete or other impervious and durable material brought to a smooth finish without cracks or open joints.
 - (cc) If the shelter is a permanent structure, every junction of the floor with the walls must be coved.
 - (dd) The shelter must have adequate access for cleaning purposes.
 - (v) In the case of dogs, a movable dog kennel of moulded asbestos or other similar material that is placed on a base constructed of concrete or other durable material with a finish that is easy to clean, without cracks or open joints, may be provided instead of a roofed shelter as contemplated in

- subparagraph (iv), and if the base of the kennel is not water-proof, a sleeping board that will enable the dog to keep dry must be provided in every such kennel.
- (vi) A concrete apron of a width of at least 1 m extending around the extremities of the enclosure must be provided, which apron must be graded so as to drain stormwater away from the enclosure.
 - (vii) A potable water supply adequate for drinking and cleaning purposes must be provided in or adjacent to the enclosure.
- (b) If required by the health officer, a separate room or roofed area meeting the following requirements must be provided on the premises for the preparation of food for the dogs or cats, as the case may be:
- (i) The room or roofed area must have a floor area of at least 6,5 m², a width of at least 2,1 m and a height of at least 2,4 m.
 - (ii) The floor of the room or roofed area must be of concrete or other durable and impervious material brought to a smooth finish.
 - (iii) The internal wall surfaces of the room or roofed area must be smoothly plastered and painted with light-coloured washable paint.
 - (iv) The room or roofed area must be equipped with metal preparation tables and a double-bowled stainless steel sink, which sink must –
 - (aa) have a constant supply of hot and cold water laid on;
 - (bb) be drained in accordance with section 43; and
 - (cc) have a minimum depth of 225 mm and a minimum capacity of 55 l.
- (c)
- (i) A rodent-proof storeroom for the storage of food for the dogs or cats, as the case may be, must be provided on the premises. Such storeroom must have a floor area of at least 6,5 m² and a width of at least 2,1 m.
 - (ii) If the health officer is satisfied that, having regard to the number of dogs or cats being kept on the premises, a storeroom of smaller dimensions than the minimum dimensions required in terms of subparagraph (i) or other storage facilities are adequate, he or she may permit the smaller storeroom or other storage facilities.
- (d) At least 5 m of clear unobstructed space must be maintained between an enclosure referred to in paragraph (a) and the nearest point of any dwelling, building or structure used for human habitation or place where food is stored or prepared for human consumption, or the boundary of any land.
- (e) Isolation facilities for sick dogs or sick cats, as the case may be, must be provided on the premises.
- (f) If the washing, clipping or grooming of pets is done on the premises, the following facilities must be provided on the premises:
- (i) A bathroom with –
 - (aa) a minimum floor area of 9m²;
 - (bb) a width of not less than 2,1m;
 - (cc) a bath or a similar approved fitting and a washbasin; and
 - (dd) a constant supply of hot and cold running water laid on; and
 - (ii) a clipping and grooming room with –
 - (aa) a minimum floor area of 10m²;

- (bb) a width of at least 2,1 m;
 - (cc) approved tables with an impervious top; and
 - (dd) an adequate number of portable storage receptacles of an impervious and durable material with close-fitting lids for storing cut hair pending removal.
- (g) The bathroom and clipping and grooming room referred to in paragraph (f) must –
 - (i) be laid out so as to provide an unobstructed floor area of at least 30%;
 - (ii) have floors that are constructed of concrete or other durable and impervious material brought to a smooth finish, are graded to a channel and are drained in accordance with section 43;
 - (iii) have coving at every junction of the floor with the walls, and the coving must have a minimum radius of 75 mm; and
 - (iv) have walls with an internal wall surface smoothly plastered and painted in light- coloured washable paint.
- (h) If cages are provided for the keeping of cats on the premises, the cages must be of a durable impervious material and be constructed so that they are easy to clean

19 Duties of persons in control of kennels and catteries

Any person in control of a kennels or a cattery on any premises must –

- (a) maintain the premises, equipment and every vessel, receptacle, container and sleeping board used in connection with the kennels or cattery in a clean, sanitary condition and in good repair;
- (b)
 - (i) provide portable storage receptacles of an impervious material with close-fitting lids for storing dog and cat faeces on the premises; and
 - (ii) keep the portable storage receptacles on a platform constructed of concrete or other durable and impervious material adjacent to the enclosure contemplated in section 18;
- (c) remove all faeces and other waste matter from the enclosure contemplated in section 18 at least once every 24 hours and place the faeces and other waste matter in the portable storage receptacles;
- (d) remove the contents of the portable storage receptacles from the premises at least twice every seven days and dispose of the contents in a manner that will not create a nuisance;
- (e) store all loose food in receptacles with close-fitting lids inside the storeroom referred to in section 18(c);
- (f) provide refrigeration facilities on the premises to store all perishable food at a temperature not higher than 10 °C;
- (g) take effective measures to –
 - (i) destroy or prevent the harbouring or breeding of flies, cockroaches, rodents and other vermin on the premises; and
 - (ii) prevent offensive odours from arising from the keeping of dogs or cats on the premises;
- (h) provide refuse receptacles with close-fitting lids in the room or roofed area contemplated in section 18(b);
- (i) keep any sick dog or sick cat in the isolation facilities contemplated in section 18(e) while the sick dog or sick cat is on the premises; and

- (j) ensure that any dog or any cat kept on the premises does not disturb or hinder the comfort, convenience or peace and quiet of the public.

CHAPTER 11

PET SHOPS AND PET SALONS

20 Requirements for premises

- (1) No person may conduct the business of a pet shop or pet salon in or on any premises –
 - (a) in which there is direct internal access to any room or place –
 - (i) which is used for human habitation; or
 - (ii) in which clothing is stored or sold; or
 - (iii) in which food for human consumption is prepared, stored, sold or consumed; and
 - (b) unless the premises meet requirements of this section.
- (2) The premises on which the business of a pet shop or pet salon is conducted must meet the following requirements:
 - (a) Every wall of any building housing the pet shop or pet salon, including any partition of the building, must be constructed of brick, concrete or other durable material, have a smooth internal surface and be painted with light-coloured washable paint or given some other approved finish.
 - (b) The floor of a building contemplated in paragraph (a) must be constructed of concrete or other durable and impervious material brought to a smooth finish.
 - (c) The ceiling of a building contemplated in paragraph (a) must be constructed of a durable material, have a smooth finish, be dust-proof and be painted with light-coloured washable paint.
 - (d) One washbasin with a constant supply of hot and cold running water laid on must be provided on the premises for every 15 persons employed on the premises of the pet shop or pet salon, and the washbasin must be drained in accordance with section 43.
 - (e)
 - (i) A rodent-proof storeroom with a floor area of at least 16 m² must be provided on the premises.
 - (ii) If the health officer is satisfied that, having regard to the extent of the business and the quantity of goods, equipment and pet food to be stored on the premises, a storeroom of smaller dimensions than the minimum dimensions in terms of subparagraph (i) is adequate, he or she may permit a smaller storeroom on the premises.
 - (f) Facilities for the washing of cages, trays and other equipment must be provided on the premises in the form of either –
 - (i) a curbed and roofed-over platform with a surface area of at least 1,5 m², raised at least 100 mm above the floor and constructed of concrete or other durable and impervious material brought to a smooth finish, which platform must be provided with a constant supply of water laid on; or
 - (ii) a stainless steel sink or trough with a drainage board and a constant supply of water laid on.
 - (g) The platform, sink or trough referred to in paragraph (f) must be drained in accordance with section 43, and any wall surface within 0,5 m of such platform, sink or trough must be covered permanently with durable waterproof material to a height of at least 1,4 m above the floor.

- (h) (i) A separate change-room for each sex, clearly designated, must be provided on the premises if more than two persons of the opposite sex are employed on the premises of the pet shop or pet salon.
- (ii) Every change-room must have a floor area of at least 0,5 m² for each employee, with a minimum overall floor area of 6,5 m² and a minimum width of 2,1 m, and the change-room must be equipped with a separate metal clothes locker for the keeping of personal clothing for each employee.
- (iii) If separate change-rooms are not required in terms of subparagraph (i), a metal clothes locker must be provided for each employee.
- (i) No door, window or other opening in any wall of a building contemplated in paragraph (a) may be within 2 m of any door, window or opening to any building in which food is –
 - (i) prepared, stored or sold for human consumption; or
 - (ii) consumed by humans.
- (j) If the washing, clipping or grooming of pets is done on the premises, the provisions of section 18(f) must be complied with.

21 Duties of pet shop and pet salon owners

- (1) Every person who conducts the business of a pet shop or pet salon on any premises must –
 - (a) provide cages for housing animals, poultry and birds on the premises;
 - (b) provide rodent-proof receptacles for storing all loose pet food in the storeroom contemplated in section 20(2)(e), which receptacles must be of an impervious material and have close-fitting lids;
 - (c) provide refrigeration facilities for storing all perishable pet food kept that is kept on the premises, which food must be stored at a temperature not higher than 10 °C;
 - (d) maintain in every room in which pets are kept, an unobstructed floor space of at least 30% of the floor area of such room and a distance of at least 800 mm between rows of cages;
 - (e) maintain in a clean, sanitary condition, free from vermin and in good repair –
 - (i) the premises; and
 - (ii) every cage, tray, container, receptacle, basket and all apparatus, equipment and appliances used in connection with the pet shop or pet salon;
 - (f) take effective measures to –
 - (i) destroy or prevent the harbouring or breeding of flies, cockroaches, rodents and other vermin on the premises; and
 - (ii) prevent offensive odours from arising from the keeping of pets on the premises;
 - (g) provide overalls or other protective clothing for use by persons employed in connection with the pet shop or pet salon and ensure that the overalls or other protective clothing is worn by such persons when on duty;
 - (h) keep no pet in a yard or other open space on the premises unless the approval of the health officer has been obtained;
 - (i) provide isolation facilities in which every pet that is or appears to be sick may be kept while on the premises;
 - (j) ensure that there is a constant and potable supply of water for drinking and cleaning purposes for the pets in the pet shop or pet salon;

- (k) ensure that the premises are at all times so ventilated as to ensure sufficient movement of air for the comfort and survival of the pets; and
 - (l) ensure that the number of pets per cage is not such that the free movement of the pets is impeded.
- (2) The following requirements in respect of the cages referred to in subsection (1)(a) must be met:
- (a) The cages must be constructed entirely of metal or other durable impervious material, and each cage must be fitted with a removable metal tray below the floor of the cage to facilitate cleaning.
 - (b) Every cage must be free from any recess or cavity that is not readily accessible for cleaning, and every tubular or hollow fitting used in connection with the cage must have its interior cavity sealed.
 - (c) Every cage must be of such a size and mass and so placed that the cage can be readily moved.
 - (d) If rabbits are kept in a cage, the metal tray referred to in paragraph (a) must be drained to a removable receptacle.
 - (e) Every cage must be fitted with a drinking vessel filled with water and accessible to the pets kept in the cage.
 - (f) The distance from any cage to the nearest wall must be at least 150 mm.
 - (g) Every cage must be kept at least 450 mm above the floor level, and the space beneath the cage must be unobstructed.

CHAPTER 12

HAWKING OF POULTRY AND RABBITS

22 Requirements for hawking

No person may hawk poultry or rabbits unless the following requirements are met:

- (a) The business of a hawker must be conducted from premises on which poultry or rabbits are kept in compliance with the provisions of Chapters 5 and 6, and facilities must be provided for the parking after normal trading hours of the vehicle that is used for hawking.
- (b) Facilities for the washing and disinfecting of cages, crates and trays must be provided on the premises referred to in paragraph (a). Such facilities must be in the form of either –
 - (i) a curbed platform with a surface area of at least 1,5 m², raised at least 100 mm above the floor and constructed of concrete or other durable and impervious material brought to a smooth finish, which platform must be drained in accordance with section 43; or
 - (ii) a stainless steel sink or trough with a drainage board and a constant supply of water laid on.
- (c)
 - (i) A vehicle of sound construction, painted with an oil-based paint and bearing the name of the hawker, together with his or her residential address and the address of his or her business premises, in clear legible letters of a height of not less than 50 mm on both sides of the vehicle, must be used for hawking.
 - (ii) The part of the vehicle in which poultry or rabbits are conveyed must be provided with a top or cover of heat-resistant material, other than metal, and provision must be made in such part of the vehicle for cross-ventilation.

- (d) (i) Cages or crates of an impervious and durable material must be provided for conveying poultry or rabbits on the vehicle contemplated in paragraph (c).
- (ii) The cages or crates or divisions of the cages or crates must be fitted with removable trays of impervious material for the reception of poultry manure or rabbit droppings, provided that in the case of rabbits, the trays are drained to a removable receptacle.
- (iii) Every cage or crate or division of a cage or crate must be provided with a drinking vessel with a depth of at least 100 mm, filled with water, and the vessel must be fixed to an inside corner of the cage, crate or division.
- (e) Suitable protection must be provided for the poultry against sun and heat.

23 Duties of hawkers

Every person hawking poultry or rabbits must –

- (a) wash and thoroughly clean after each day's trading –
 - (i) every cage, crate and tray used on the vehicle contemplated in section 22(a); and
 - (ii) that part of the vehicle in which poultry or rabbits are conveyed;
- (b) remove from every cage or crate on the vehicle any unit of poultry or rabbit that appears to be sick and place such unit of poultry or rabbit in a separate cage;
- (c) maintain in a clean and sanitary condition, free from vermin and in good repair the premises, vehicle and every cage, crate, tray, vessel, container and receptacle used in connection with the hawking of poultry or rabbits; and
- (d) store all feed for the poultry or rabbits in rodent-proof receptacles.

CHAPTER 13

NUISANCE

24 Nuisance

No person may –

- (a) keep any animal or pet in such a manner as to cause a nuisance; and
- (b) fail to duly dispose of dead animals in a manner prescribed by the health officer.

CHAPTER 14

DOGS

25 Vicious dogs and bitches on heat

- (1) No person may permit any dog, particularly –
 - (a) a dog that is wild or vicious;
 - (b) a dog that has acquired the habit of running after vehicles, animals, poultry, pigeons or persons outside any premises where such a dog is kept;
 - (c) a dog that causes injury to persons or damage to property; or
 - (d) a bitch on heat;to be in a public place.
- (2) No person may bring a dog contemplated in subsection (1) to a public place.
- (3) Any compliance officer may impound a dog referred to in subsection (1) or (2) or have such dog impounded.
- (4) Any person claiming any dog impounded in terms of subsection (3) is not entitled to its return unless and until the pound fees have been paid.

26 Dogs causing a nuisance

- (1) No person may keep a dog if –
 - (a) the dog creates a disturbance or a nuisance by constantly or excessively barking, howling or whirling;
 - (b) the dog suffers from a contagious disease, provided that the dog may be kept in a veterinary surgeon's clinic for treatment;
 - (c) the dog defecates when taken into a public place or road while under the control or supervision of a person and the person fails to dispose of the faeces in a refuse receptacle; and
 - (d) the stench of faeces of the dog kept on the person's property becomes a nuisance to the occupiers of adjacent properties.
- (2)
 - (a) If a compliance officer is of the opinion that a dog is creating a disturbance or a nuisance in terms of subsection (1)(a), he or she may order the owner of the dog by notice in writing to remove the dog from the place from which the dog is creating the disturbance or nuisance.
 - (b) An owner contemplated in subsection (1) must, within 96 hours, calculated from 12:00 on the day on which the notice was served, remove the dog from the place from which the dog is creating the disturbance or nuisance. If the owner fails to comply with the notice, the compliance officer may impound the dog and deal with it in terms of the provisions of Chapters 9 and 12.
- (3) The Municipality is not liable to pay any compensation to any person in respect of any action in terms of this section.

27 Dogs to be led

- (1) No person may permit any dog to be at large in a street or public place unless the dog is kept on a leash or a chain and under the control of such person.
- (2) Any compliance officer may impound a dog that is in a street or public place and is not kept on a leash or a chain, and such dog must be dealt with in accordance with Chapters 9 and 12.

28 Dogs not to be incited

No person, except a person training a dog at a dog training school, may, without reasonable grounds—

- (a) incite a dog against a person, animal or bird; or
- (b) permit a dog in his or her custody or under his or her control to attack or frighten any person, animal or bird.

CHAPTER 15**POUNDS****29 Pound master**

- (1) The pound master must –
 - (a) keep the pound open between 08:00 and 16:30 on every weekday and between 08:00 and 12:00 on Saturdays;
 - (b) keep a register in which the following particulars in respect of every impounded animal are recorded:
 - (i) The name, residential address and telephone number, if any, of the person who impounded the animal;
 - (ii) the time at which and date on which the animal was impounded;
 - (iii) the place where the animal was found immediately before it was seized;

- (iv) the date on which and the time at which the animal was seized;
 - (v) the reason for impounding the animal;
 - (vi) a description of the animal, which description must include the estimated age, breed, sex, colour, markings and any injury found on the animal when the pound master accepted it;
 - (vii) whether the animal was released, sold or destroyed and the date and time of such release, sale or destruction;
 - (viii) the amount of money realised in respect of the animal's release or sale; and
 - (ix) the amount of the veterinary expenses incurred, if any, in respect of the animal;
- (c) ensure that the pound and all instruments and appliances used in connection with impounded animals are at all times kept in a clean condition and free from flies and other vermin to the satisfaction of the environmental health practitioner; and
- (d) take all necessary steps to have an animal destroyed as contemplated in paragraph (b)(vii) and to recover any expenses incurred in this regard from the person referred to in paragraph (b)(ix).
- (2) A person claiming an impounded animal must satisfy the pound master that he or she is the owner of the animal.
- (3) The person claiming an impounded animal must pay to the pound master the pound fees determined by the Municipality from time to time in terms of section 80B of the Local Government Ordinance, 1939 (Ordinance 17 of 1939).
- (4) The pound master must ensure that the provisions of subsection (2) are complied with.

30 Pound procedure

- (1) A compliance officer contemplated in paragraph (a), (b) and (c) of the definition of compliance officer defined in section 1 of this By-law may seize and impound any animal that he or she suspects is ownerless.
- (2) If an owner or occupier of land finds on such land an animal that is not his or her property, the owner or occupier may seize and impound such animal or cause such animal to be seized and impounded.
- (3) Notwithstanding the provisions of subsections (1) and (2), no person may seize and impound any animal if there are reasonable grounds to believe that –
- (a) the animal is a bitch with unwanted young, unless such bitch and unwanted young are impounded together; and
 - (b) the animal is sick, except a dog suffering from an infectious disease or in respect of which the provisions of section 10 of the Animal Diseases Act, 1984 (Act 35 of 1984), apply.
- (4) A person who has seized and impounded an animal in terms of this section must ensure that such animal is not ill-treated and may, if the pound is closed, keep such animal in his or her custody for a period not exceeding 16 hours.

- (5) Subject to the provisions of subsections (1) and (2), no person may rescue or steal any animal that has been seized or is kept in custody or has been impounded in terms of this section.

31 Impounding of animals

- (1) Any compliance officer may impound any animal that –
- (a) is at large and apparently ownerless; or
 - (b) has no metal name tag for identification on its collar; or
 - (c) is being kept in contravention of any part of this By-law.
- (2) An animal referred to in subsection (1) must be detained at the pound until the person claiming the animal has paid to the pound master the pound fees.
- (3) If the name and address of a person appear on the collar of an impounded dog, the pound master must immediately communicate with that person and for the purpose of this section a written communication posted to the address on the collar, micro-chip or tattoo is deemed sufficient communication.
- (4) No person may remove or attempt to remove from the custody of the person in charge of the pound any animal lawfully impounded.
- (5) For the purpose of this section "pound" means a place designated by the Municipality for the detention and destruction of dogs in terms of this By-law.

32 Pound master may recover expenses

The pound master is entitled to recover from the owner of any impounded animal the cost of any reasonable expenses incurred by the pound master in rendering or providing necessary veterinary or medical attention for the animal.

33 Unclaimed animals may be sold or destroyed

- (1) If an impounded animal is not claimed by a person entitled to the animal in terms of section 31(2) within seven days after the day on which the animal was impounded, the pound master may sell or destroy the animal or cause the animal to be sold or destroyed in the manner prescribed in section 5 of the Animals Protection Act, 1962 (Act 71 of 1962).
- (2) The Municipality is not liable for any compensation to any person entitled to an animal contemplated in subsection (1) in respect of any action taken in terms of this section.

CHAPTER 16

LAW ENFORCEMENT

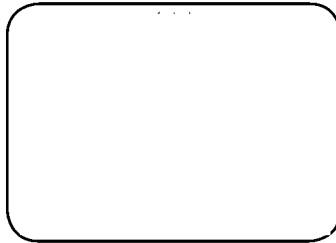
34 Appointment of compliance officer

- (1) The Municipality may appoint or designate a person or employee to serve as a compliance officer for purposes of compliance and enforcement monitoring of this By-law.
- (2) A compliance officer shall take all lawful, necessary and practicable measures to enforce the provisions of this By-law.
- (3) The Municipality shall issue each compliance officer with a written appointment stating that he or she has been appointed for purposes of this By-law or with an identification card that contains the municipal logo, department and name of the officer.

35 Compliance officer may destroy an animal

- (1) Whenever a compliance officer is of the opinion that an animal is so diseased or severely injured or in such a physical condition that it ought to be destroyed, he or she may, if the owner of the animal is absent or refuses to consent to the destruction of the animal, summon a

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veterinarian immediately or, if there is no veterinarian within a reasonable distance, two adult persons whom he or she considers to be reliable and of sound judgement. If such veterinarian or adult persons, after having duly examined the animal, certify that the animal is so diseased or severely injured or in such a physical condition that it would be cruel to keep it alive, the compliance officer may without the consent of the owner destroy the animal or cause it to be destroyed with such instruments or appliances and with such precautions and in such manner as to inflict as little suffering as practicable.

- (2) Any compliance officer who in the absence of the owner of an animal destroys the animal or causes it to be destroyed must, if the owner's name and address are known, advise the owner of the destruction. If the destruction of the animal takes place in a public place or on a public road, the compliance officer must, subject to the provisions of the Animal Diseases Act, 1984, remove the carcass or cause it to be removed from the public place or public road.
- (3) A veterinarian may in respect of any animal exercise the powers conferred by subsection (1) on a compliance officer on the compliance officer's behalf without summoning another veterinarian or compliance officer or any other person and, in respect of the exercising of those powers, the provisions of subsection (2) apply.
- (4) Any expenses which may reasonably be incurred by a compliance officer or veterinarian in carrying out the provisions of this section may be recovered from the owner of the animal in question as a civil debt.
- (5) It is a defence to an action brought against any person arising from the destruction of an animal by him or her or with his or her authority to prove that such animal was so severely injured or so diseased or in such a physical condition that it would have been cruel to have kept it alive, and that to summon a compliance officer or follow the procedure prescribed in this section would have occasioned unreasonable delay and unnecessary suffering to such animal.

36 Powers of compliance officers concerned with prevention of cruelty to animals

- (1) If authorised thereto in writing under the hand of the magistrate of a district, any compliance officer concerned with the prevention of cruelty to animals may in that district –
 - (a) without a warrant and at any time with the consent of the owner or occupier or, failing such consent, on obtaining an order from a magistrate, enter any premises where an animal is kept, for the purpose of examining the conditions under which the animal is kept;
 - (b) without a warrant arrest any person who is on reasonable grounds suspected of having committed an offence under this By-law, if there is reason to believe that the ends of justice would be defeated by the delay in obtaining a warrant;
 - (c) on the arrest of a person on a charge of an offence under this By-law, seize any animal or thing in the possession or custody of that person at the time of the arrest and immediately take it to a police officer, who must deal with the animal or thing in accordance with the provisions of the Criminal Procedure Act, 1977 (Act 51 of 1977); and
 - (d) exercise in respect of any animal the powers conferred by section 35(1) on a compliance officer and in respect of the exercising of those powers, the provisions of section 35(1) apply with the necessary changes.
- (2) Any authority granted under subsection (1) may at any time for good cause be revoked by the magistrate of the district.

- (3) A compliance officer shall show proof of his or her written appointment or identification card contemplated in section 34(3) when required to do so by any person affected by the exercising of a power or show proof that he or she is a law enforcement officer.
- (4) A compliance officer may not investigate a matter in which he or she has a direct or indirect personal interest.
- (5) In ascertaining compliance with this By-law, a compliance officer may:
 - (a) be accompanied by an interpreter, a police officer or any other person who may be able to assist with the inspection;
 - (b) question any person who is or was on that property, who in the opinion of the compliance officer, may be able to furnish information on a matter to which this By-law relates;
 - (c) question any person about any act or omission in respect of which there is a reasonable suspicion that it might constitute:
 - (i) an offence in terms of this By-law; or
 - (ii) a breach of an approval or a term or condition of such approval
 - (d) question a person about any structure, object, document, book or record or inspect any written or electronic information or object which may be relevant for the purpose of investigating any matter in connection with this By-law;
 - (e) examine any book, record or other written or electronic information and make a copy thereof or an extract therefrom and remove such document, book, record or written or electronic information in order to make copies or extracts;
 - (f) require a person to produce or to deliver to a place specified by him or her, any document, book, record, or any written or electronic information referred to in paragraph (e) for inspection;
 - (g) require from such person an explanation of any entry in such document, book, record or written or electronic information;
 - (h) inspect any article, substance, plant or machinery which is or was on the property, or any work performed on the property or any condition prevalent on the property, or remove for examination or analysis any article, substance, plant or machinery or a part or sample;
 - (i) seize any book, record or other document, details or any article, substance, plant or machinery or a part or sample thereof which in his or her opinion may serve as evidence at the trial of any person charged with an offence under this By-law, provided that the user of the article, substance, plant or machinery concerned, as the case may be, may make copies of such book, record or document before such seizure;
 - (j) direct any person to appear before him or her at such time and place as may be determined by him or her and question such person either alone or in the presence of any other person on any matter to which this By-law relates; and
 - (k) take photographs or make audio visual recordings or tape recordings of any person or anything for the purposes of his or her investigation.
- (6) When a compliance officer removes or seizes any article, substance, plant or machinery, book, record or other document as contemplated above, he or she shall issue a receipt to the owner or person in control thereof and return it as soon as practicable after achieving the purpose for which it was removed or seized.

- (7) Where a compliance officer enters any land in terms of subsection (1), a person who controls or manages the land shall at all times provide such facilities as are reasonably required by the compliance officer to enable him or her to perform his or her functions effectively and safely under this By-law.
- (8) A compliance officer who enters and searches any property or private dwelling under this section, shall conduct such search with strict regard for decency and order and with regard for each person's right to dignity, freedom, security and privacy.

37 Owner may be summoned to produce an animal for inspection by court

- (1) A court trying any person for an alleged offence under this By-law may summon the owner of an animal in respect of which such offence is alleged to have been committed to produce that animal for inspection by the court at the time and place stated in the summons.
- (2) Any person who without a satisfactory excuse fails to comply with a summons issued in terms of subsection (1) is guilty of an offence and liable on conviction to a fine or imprisonment or both such fine and imprisonment.

38 Animal fights

- (1) Any person who –
 - (a) possesses, keeps, imports, buys, sells, trains, breeds or has under his or her control an animal for the purpose of fighting any other animal;
 - (b) baits, provokes or incites any animal to attack another animal or to proceed with the fighting of another animal;
 - (c) for financial gain or as a form of amusement promotes animal fights;
 - (d) allows any of the acts referred to in paragraphs (a) to (c) to take place on any premises or place in his or her possession or under his or her charge or control;
 - (e) owns, uses or controls any premises or place for the purpose or partly for the purpose of presenting animal fights on such premises or place or who acts or assists in the management of such premises or place, or who receives any consideration for the admission of any person to such premises or place; or
 - (f) is present as a spectator at any premises or place where any of the acts referred to in paragraphs (b) to (e) is taking place or where preparations are being made for such acts,

is guilty of an offence and liable on conviction to a fine of R20 000,00 (twenty thousand rand) or to imprisonment for a period not exceeding two years.

- (2) In any prosecution it is presumed, unless the contrary is proved, that an animal that is found at any premises or place is the property or under the control of the owner of those premises or that place, or is the property or under the control of the person who uses or is in control of the premises or place.

39 Offences and penalties

- (1) A person is guilty of an offence and liable on conviction to a fine or to imprisonment or both such fine or imprisonment if he or she –
 - (a) overloads, overdrives, overrides, ill-treats, neglects, infuriates, tortures, maims, beats, kicks, goads or terrifies any animal;
 - (b) confines, chains, tethers or secures any animal unnecessarily or under such conditions or in such manner or position as to cause that animal unnecessary suffering, or keeps any animal in a place that has inadequate space, ventilation, light, protection or shelter from heat, cold or extreme weather conditions;
 - (c) unnecessarily starves or insufficiently feeds any animal or deprives any animal of water or food;

- (d) liberates any bird in such manner as to expose the bird to immediate attack or danger of attack by any animal, wild animal or wild bird;
 - (e) drives or works an animal that is so diseased or so injured or in such a physical condition that the animal is unfit to be driven or to do any work;
 - (f) lays any trap or device for the purpose of capturing or destroying an animal, wild animal or wild bird, the capturing or destruction of which is not proved to be necessary for the protection of property or for the prevention of the spread of disease;
 - (g) having laid a trap or device referred to in paragraph (f), fails to inspect and clear such trap or device at least once a day, whether in person or through a competent person;
 - (h) except under the authority of a permit issued by the magistrate of the district in question, sells a trap or device intended for the capture of an animal, including a wild animal (not being a rodent) or wild bird, to any person who is not a bona fide farmer;
 - (i) conveys, carries, confines, secures, restrains or tethers an animal –
 - (i) in conditions in which the animal has inadequate shelter, light or ventilation or in conditions in which the animal is unduly exposed to heat, cold, weather, sun, rain, dust, exhaust gases or noxious fumes;
 - (ii) without making adequate provision for suitable food, potable water and rest for the animal in circumstances where it is deemed necessary; or
 - (iii) in such conditions or in such manner or position or for such period of time or over such distance as to cause the animal unnecessary suffering;
 - (j) without reasonable cause administers to an animal any poisonous or injurious drug or substance;
 - (k) being the owner of an animal, deliberately or without reasonable cause or excuse abandons the animal, whether permanently or not, in circumstances likely to cause that animal unnecessary suffering;
 - (l) causes, procures or assists in the commission or omission of any of the acts contemplated in paragraphs (a) to (k) or, being the owner of an animal, permits the commission or omission of any such act;
 - (m) by wantonly or unreasonably or negligently doing or omitting to do any act or causing or procuring the commission or omission of any act, causes unnecessary suffering to an animal; or
 - (n) slaughters an animal for any reason whatsoever, excluding slaughtering for own use and ritual slaughtering, in a residential area without the prior consent of a compliance officer or environmental health practitioner.
- (2) Notwithstanding anything to the contrary contained in any law, a magistrate's court has jurisdiction to impose any penalty provided for in this section.

40 Costs may be awarded against vexatious complainant

If at the trial of any person on a charge of an offence under this By-law the court is satisfied that a person or body has without reasonable cause and vexatiously lodged or caused to be lodged the complaint which led to the trial, the court may award costs, including attorney and client costs, on the magistrate's court scale, against such person or body as if the proceedings were civil proceedings between the accused and such person or body.

41 Prosecution of corporate body and partnership

A partner in a partnership, a member of the board, executive committee or other managing body or a corporate body is personally guilty of an offence contemplated in terms of this By-law if such offence was committed by:

- (a) a corporate body established in terms of any law; or
 - (b) a partnership; and
- such person failed to take reasonable steps to prevent the offence.

CHAPTER 17

GENERAL PROVISIONS

42 Illnesses attributable to animals

The illness of any person, which is attributable to the keeping of any animal, poultry, bird or pet as contemplated in Chapters 7 to 10, must be reported to the health officer within 24 hours of diagnosis by the person making the diagnosis.

43 Drainage

All sinks, washbasins, baths, shower-baths, troughs, floor surfaces, including channels and washing platforms, required to be drained in terms of this By-law must be drained to an external gully that is connected to the Municipality's sewer or, where no sewer is available or readily accessible, to other means of approved drainage.

44 Discharge of taps

The taps at all water supply points required in terms of this By-law, other than those within a building or structure of which the floors are graded and drained, must be placed in such a way as to discharge directly over and into a dished top fitted to an external gully connected to the Municipality's sewer or, where no sewer is available or readily accessible, to other means of approved drainage.

45 Repeal of by-laws

The By-laws set out in the schedule to this By-law are hereby repealed as specified and to the extent as set out in the schedule.

46 Short title and commencement

This By-law shall be known as the Senqu Municipality: Keeping of Animals, Birds and Poultry and Businesses Relating Thereto By-law, 2017 and shall come into operation on the date of publication thereof in the *Provincial Gazette*.

SCHEDULE
BY-LAWS REPEALED

Notice Number and Year	Title	Extent of repeal
190 of 2005	By-Laws relating to the Keeping of Dogs	The whole
210 of 2005	By-Laws relating to Animals Birds and Domestic Pets	The whole

SENQU MUNICIPALITY MUNICIPAL NOTICE

BY-LAW ON LIQUOR TRADING HOURS

The Municipal Council of Senqu Local Municipality in the Schedule hereto publishes, in terms of section 13 of the Local Government Municipal Systems Act, 2000 (Act 32 of 2000) read with section 162 of the Constitution of the Republic of South Africa Act 1996 (Act 108 of 1996) the By-law on Liquor Trading Hours.

SCHEDULE

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1 Objective

The objective of this By-law is to regulate the hours during which liquor may be sold by a registered person

2 Definitions

In this By-law unless the context otherwise indicates –

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

“**council**” means the Senqu municipal council, a municipal council referred to in section 157(1) of the Constitution;

“**community**” means the residents, school governing bodies or places of worship within a 100m radius from the premises in respect of which the application for registration is made;

“**Council**” means the Senqu municipal council, a municipal council referred to in section 157(1) of the Constitution;

“**departure application**” means a written application in duplicate made on the form approved by the Municipality for the purposes of this By-law;

“**compliance officer**” means a person who is authorised to implement and enforce the provisions of this By-law by virtue of his or her –

- (a) declaration as a peace officer as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977);
- (b) appointment as a police officer as contemplated in the South African Police Service Act, 1995 (Act 68 of 1995);

- (c) a traffic officer appointed in terms of section 3 of the Road Traffic Act, No. 29 of 1989 or section 3A of the National Road Traffic Act No. 93 of 1996 as the case may be;
- (d) appointment as a law enforcement officer or traffic officer by the Municipality and declaration as peace officer as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977); or
- (e) appointment by the Municipality as a compliance officer or an inspector;

“form” means a form approved by the Municipality for the purposes of this By-law;

“Municipality” means the Senqu Municipality and includes the Council, any executive councillor, or committee established by the Municipality, or any employee thereof, or duly authorised agent thereof acting in connection with this By-law by virtue of a power vested in the Municipality and delegated to such employee or agent;

“premises” includes any place, land, building or conveyance, or any part thereof, which is registered in terms of the Act, or in respect of which registration is sought in terms of the Act, to permit trade in liquor;

“registered person” means a registered person as defined in section 1 of the Act; and

“trading hours” means the hours during which trade in liquor on premises is permitted in accordance with Schedule 1.

3 Applicability of By-law

This By-law shall be applicable in respect of all premises situated within the area of jurisdiction of the Municipality where trade in liquor is conducted or is intended to be conducted.

4 Trading hours

- (1) The Municipality has determined the liquor trading hours for the different types of registered persons and premises, listed in the first column of Schedule 1, as the trading hours listed in the second column of the said Schedule 1.
- (2) A registered person may apply to the Municipality for a departure from the trading hours referred to in subsection (1) on the approved form.
- (3) The Municipality may, upon an application by a registered person and after consultation with the South African Police Services, grant written approval for the departure from trading hours referred to in Schedule 1 in the form referred to in Schedule 2 and 3.
- (4) The Municipality may, upon application in the form approved by the Municipality, determine the trading hours for the retail sale and consumption of liquor at a special event contemplated in section 20(d) of the Act for each special event.
- (5) An application for a determination of the trading hours of a special event must be submitted to the Municipality at least 14 days before the special event is to take place.
- (6) The Municipality may depart from the trading hours referred to in Schedule 1 in the interests of the community.

5 Appointment of compliance officer

- (1) The Municipality may appoint or designate a person or employee to serve as a compliance officer for purposes of compliance and enforcement monitoring of this By-law.
- (2) A compliance officer shall take all lawful, necessary and practicable measures to enforce the provisions of this By-law.
- (3) The Municipality shall issue each compliance officer with a written appointment stating that he or she has been appointed for purposes of this By-law or with an identification card that contains the municipal logo, department and name of the officer.

6 Powers and functions of a compliance officer

- (1) A compliance officer may, subject to subsection (2) and (3), at any reasonable time, and without prior notice, enter any land property, building or premises for purposes of ensuring compliance with this By-law.
- (2) An inspection of a private dwelling may only be carried out by a compliance officer at a reasonable time and after reasonable notice has been given to the owner or occupier of the land or building and after obtaining the consent of the owner or lawful occupier or person in control of the building, or with a warrant issued in terms of the Criminal Procedure Act, 1977.
- (3) The compliance officer is not required to give any notice to enter land or a building, other than a private dwelling, and may conduct an inspection or take enforcement action without the consent of the owner or occupier of such land or building and without a warrant if:
 - (a) he or she believes on reasonable grounds that a warrant would be issued to him or her on application; and
 - (b) the delay in obtaining the warrant would defeat the object of the inspection and enforcement action.
- (4) A compliance officer shall show proof of his or her written appointment or identification card contemplated in section 5(3) when required to do so by any person affected by the exercising of a power or show proof that he or she is a law enforcement officer.
- (5) A compliance officer may not investigate a matter in which he or she has a direct or indirect personal interest.
- (6) In ascertaining compliance with this By-law, a compliance officer may:
 - (a) be accompanied by an interpreter, a police officer or any other person who may be able to assist with the inspection;
 - (b) question any person who is or was on that property, who in the opinion of the compliance officer, may be able to furnish information on a matter to which this By-law relates;
 - (c) question any person about any act or omission in respect of which there is a reasonable suspicion that it might constitute:
 - (i) an offence in terms of this By-law; or
 - (ii) a breach of an approval or a term or condition of such approval
 - (d) question a person about any structure, object, document, book or record or inspect any written or electronic information or object which may be relevant for the purpose of investigating any matter in connection with this By-law;
 - (e) examine any book, record or other written or electronic information and make a copy thereof or an extract therefrom and remove such document, book, record or written or electronic information in order to make copies or extracts;
 - (f) require a person to produce or to deliver to a place specified by him or her, any document, book, record, or any written or electronic information referred to in paragraph (e) for inspection;
 - (g) require from such person an explanation of any entry in such document, book, record or written or electronic information;
 - (h) inspect any article, substance, plant or machinery which is or was on the property, or any work performed on the property or any condition prevalent on the property, or remove for examination or analysis any article, substance, plant or machinery or a part or sample;
 - (i) seize any book, record or other document, details or any article, substance, plant or machinery or a part or sample thereof which in his or her opinion may serve as evidence at the trial of any person charged with an offence under this By-law, provided that the user of the article, substance, plant or machinery concerned, as

- the case may be, may make copies of such book, record or document before such seizure;
- (j) direct any person to appear before him or her at such time and place as may be determined by him or her and question such person either alone or in the presence of any other person on any matter to which this By-law relates; and
 - (k) take photographs or make audio visual recordings or tape recordings of any person or anything for the purposes of his or her investigation.
- (7) When a compliance officer removes or seizes any article, substance, plant or machinery, book, record or other document as contemplated above, he or she shall issue a receipt to the owner or person in control thereof and return it as soon as practicable after achieving the purpose for which it was removed or seized.
 - (8) Where a compliance officer enters any land in terms of subsection (1), a person who controls or manages the land shall at all times provide such facilities as are reasonably required by the compliance officer to enable him or her to perform his or her functions effectively and safely under this By-law.
 - (9) A compliance officer who enters and searches any property or private dwelling under this section, shall conduct such search with strict regard for decency and order and with regard for each person's right to dignity, freedom, security and privacy.

7 Offences and penalties

- (1) A person shall be guilty of an offence if such person
 - (a) fails to comply with a decision taken or condition imposed by the Municipality in terms of this By-law;
 - (b) operate a registered premises contrary to the trading hours referred to in Schedule 1;
 - (c) wilfully and with intent provides false or misleading information in connection with an application contemplated in this By-law;
 - (d) unlawfully prevents a compliance officer entry to his or her premises or causes or permits any other person to prevent entry;
 - (e) obstructs or hinders a compliance officer in the performance of his or her duties or causes or permits any other person to so obstruct or hinder the compliance officer;
 - (f) refuses or fails to provide to a compliance officer such information as is required to allow a compliance officer to perform a function in terms of this By-law;
 - (g) furnishes false or misleading information to an official of the Municipality when called upon to furnish information;
 - (h) impersonates a compliance officer;
 - (i) contravenes or fails to comply with any provision of this By-law; or
 - (j) supplies particulars, information or answers in an application or on knowing it to be false, incorrect or misleading.
- (2) Any person convicted of an offence in terms of this By-law, shall be liable upon conviction to a fine or imprisonment or to both such fine and imprisonment.
- (3) A person convicted of an offence under this By-law who, after conviction, continues with the conduct in respect of which he or she was so convicted, is guilty of a continuing offence and upon conviction is liable to a fine or to imprisonment, or to both such fine and imprisonment, in respect of each day on which he or she so continues with that conduct.

8 Temporary exemption pending decision on departure application

The trading hours specified in Schedule 1 shall not apply to a registered person and a registered person shall be exempt from compliance pending the decision on a departure application in respect of the registered premises, provided that –

- (a) a copy of the departure application in respect of the registered premises, endorsed by the Municipality, is kept on the premises; and
- (b) the copy referred to in paragraph (a) is produced for inspection on request of a compliance officer.

9 Appeals

Any person may appeal against any decision taken under this By-law by giving written notice of the appeal in accordance with the provisions of section 62 of the Municipal Systems Act, 2000, as amended.

10 Repeal of by-laws

The Liquor By-laws published in the *Provincial Gazette* by Notice Number 192 of 2005 is hereby repealed.

11 Short title and commencement

This By-law shall be known as the Senqu Municipality: Liquor Trading Hours By-law, 2017 and shall come into operation on the date of publication thereof in the *Provincial Gazette*.

SCHEDULE 1

COLUMN 1	COLUMN 2
CATEGORIES OF REGISTRATION	TRADING HOURS
Section 20(a) of the Act Registration in terms of the Act for the retail sale of liquor for consumption off the premises where the liquor is being sold	Monday to Saturday: 08:00 to 20:00 Sunday: 8:00 to 13:00
Section 20(b) of the Act Registration in terms of the Act for the retail sale of liquor for consumption on the premises where the liquor is being sold	Monday to Saturday: 10:00 to 24:00 Sunday- 10:00 to 22:00
Section 20(c) of the Act Registration in terms of the Act for the retail sale and consumption of liquor on and off the premises where the liquor is being sold	OFF-CONSUMPTION Monday to Saturday: 08:00 to 20:00 Sunday: 08:00 to 13:00 ON-CONSUMPTION Monday to Saturday: 10:00 to 24:00 Sunday: 10:00 to 22:00
Section 20(d) of the Act Registration in terms of the Act for the retail sale of liquor and consumption at special events	Trading hours to be determined by the Municipality
Section 20(e) of the Act Registration in terms of the Act for micro-manufacturing.	Monday to Saturday: 08h00 to 17h00 Sunday: 08h00 to 13h00

SCHEDULE 2

APPROVAL FOR DEPARTURE FROM LIQUOR TRADING HOURS [SECT 4(3)]

Trading hours approved in terms of Section 4(3)

A APPROVAL IN RESPECT OF:

Full Names:

I.D. Number:

Trading Name:

Company Name:

Physical Address:

.....

Erf No:

Registration Certificate No.

[Act No. 10 of 2003 : Eastern Cape Liquor Act, 2003]

B HOURS APPROVED

Monday to

Tuesday to

Wednesday to

Thursday to

Friday to

Saturday to

Sundayto

C APPROVED BY:

SIGNATURE:

INITIALS & SURNAME:

CAPACITY:

DATE:

PLACE:

SCHEDULE 3**APPROVAL OF TRADING HOURS FOR THE SALE OF LIQUOR AT SPECIAL EVENTS [SECT 4(3)]**

Trading hours for the sale of liquor at special events.

A APPROVAL IN RESPECT OF:

Full Name:

I.D. Number:

Physical Address:

Telephone No:

Company Name:

Registration certificate number

[Act No 100 of 2003 : Eastern Cape Liquor Act, 2003]

B LOCALITY OF SPECIAL EVENT

Type of special event:

Physical Address:

.....

.....

Erf No:

C TYPE OF LIQUOR TO BE SOLD

.....

.....

D DATES AND TIMES LIQUOR AUTHORISED TO BE SOLD

DATE DAY TIME

.....

.....

.....

.....

.....

E APPROVED BY:

SIGNATURE:

INITIALS & SURNAME:

CAPACITY:

DATE:

PLACE:

SENQU MUNICIPALITY MUNICIPAL NOTICE**BY-LAW RELATING TO COMMONAGE**

The Municipal Council of Senqu Local Municipality in the Schedule hereto publishes, in terms of section 13 of the Local Government Municipal Systems Act, 2000 (Act 32 of 2000) read with section 162 of the Constitution of the Republic of South Africa Act 1996 (Act 108 of 1996) the By-law on Commonage.

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CHAPTER 1

PURPOSE, DEFINITIONS AND APPLICABILITY OF BY-LAW

1 Objectives

The objectives of this By-law are to -

- (a) set aside land identified as commonage for the pasture of animals and for the purpose of establishing garden allotments;
- (b) provide for the control and administration of animals accommodated on a commonage established by the Municipality;
- (c) assist with local development and provide for an inexpensive portion of land to people with a focus on registered indigents;
- (d) provide for the conservation of the commonage through the prohibition of certain activities; and
- (e) manage land made available by the Province to assist categories of emerging farmers.

2 Definitions

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

"animal" means cattle, sheep, goat (ruminants); horse, mule, donkey (non-ruminants) ostrich (monogastric) and pig or the hybrid of such animal;

"commonage" means any land or portion of land which is in possession or under the control of the Municipality and set aside by the Municipality for the purposes of establishing grazing camps for animals, irrigation land or plots for gardening or other economic activity, excluding any farm the Municipality is leasing to a commercial farmer as an entity;

"commonage management committee" means a representative management body comprising at least 1 member but not more than 2 members of the owner, X members of the beneficiary group and X other persons agreed to by the Owner and the Beneficiary Group;

"commonage manager" means a manager appointed in terms of Section 56 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) by the Municipality;

"compliance officer" means a person who is authorised to implement and enforce the provisions of this By-law by virtue of his or her -

- (a) declaration as a peace officer as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977);
- (b) appointment as a police officer as contemplated in the South African Police Service Act, 1995 (Act 68 of 1995);
- (c) a traffic officer appointed in terms of section 3 of the Road Traffic Act, No. 29 of 1989 or section 3A of the National Road Traffic Act No. 93 of 1996 as the case may be;
- (d) appointment as a law enforcement officer or traffic officer by the Municipality and declaration as peace officer as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977); or
- (e) appointment by the Municipality as a compliance officer or an inspector;

"Constitution" means the Constitution of the Republic of South Africa, 1996;

"Council" means the Senqu municipal council, a municipal council referred to in section 157(1) of the Constitution;

"Department of Agriculture" means the National Department responsible for Agriculture;

"fee" means any fee, charge or deposit determined for purposes of this By-law, by the Municipality in terms of the Senqu Municipality: Tariff By-law, 2017;

"form" means a form approved by the Municipality for the purposes of this By-law;

"indigent household" means an indigent household as defined in section 1 of the Senqu Municipality: Indigent Support By-law, 2017;

"municipal area" means any land situated inside the area of jurisdiction of the Municipality of which the Municipality is the owner, but outside the boundaries of any residential area;

"Municipal Systems Act" means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), as amended;

"Municipality" means the Senqu Municipality and includes the Council, any executive councillor, or committee established by the Municipality, or any employee thereof, or duly authorised agent thereof acting in connection with this By-law by virtue of a power vested in the Municipality and delegated to such employee or agent;

"permit holder" means the person to whom a permit has been issued by the Municipality in terms of this By-law; and

"plot" means any portion of a commonage set aside by the Municipality for purposes other than grazing or irrigation farming.

3 Applicability of By-law

In the event of any conflict with any other by-law which directly or indirectly, within the jurisdiction of the Municipality, regulates land owned by the Municipality, the provisions of this By-law shall prevail to the extent of the inconsistency.

CHAPTER 2

ESTABLISHING A COMMONAGE AND ELIGIBILITY CRITERIA FOR USE THEREOF

4 Establishing commonage

- (1) The Municipality may by resolution, subject to the provisions of any law or any restrictions regarding the use of land in the title deed of that land -
 - (a) reserve suitable municipal land as commonage;
 - (b) at any time add defined municipal land to the commonage so reserved; and
 - (c) at any time withdraw any land which forms part of a commonage.
- (2) If the Municipality decides to withdraw any land which forms part of a commonage as contemplated in subsection (1)(c) and such land was made available by the Province, such withdrawal may only take place after consultation with the Province,

- (3) The Municipality must, subject to the provisions of any law or any restrictions regarding the use of land in the title deed of that land, manage land reserved by it as a commonage for the purpose for which it was reserved.
- (4) If the Province has purchased land and made it available to the Municipality in terms of section 10 of the Provision of Land and Assistance Act, 1993 (Act 126 of 1993) for the purpose of farming activities by categories of emerging farmers or provided funding for the Municipality to acquire land to be used as a commonage, the Municipality must manage such land in accordance with the provisions of this By-law and any conditions which may imposed by the Province.

5 Purposes for which commonage may be used

- (1) the grazing of animals;
- (2) gardening plots; and
- (3) irrigation.

6 Eligibility criteria to use commonage

The following persons are eligible to use the commonage:

- (a) a resident of the town or village where the commonage is situated; and
- (b) who is a member of an indigent household.

CHAPTER 3

MANAGEMENT AND MAINTENANCE OF COMMONAGE

7 Management and maintenance of commonage

- (1) The Municipality is responsible for the proper management and maintenance of all land, infrastructure and equipment forming part of the commonage.
- (2) The Municipality shall establish and maintain a budget for municipal commonages and develop a commonage management plan that is linked to the municipal integrated development plan in accordance with the Municipal Systems Act;
- (3) The Municipality must register and keep record of all animals kept on the commonage in terms of a valid permit or lease or rental agreement.
- (4) The Municipality has the right to gather all animals on the commonage from time to time to ascertain if the animals are registered with the Municipality and all animals, which are not registered, must be impounded by a compliance officer.
- (5) It is the owner's responsibility to mark and register his or her animals.

8 Appointment of municipal commonage management official

The Municipality may appoint an official or suitable person as a municipal commonage management official with agricultural-, business- and communication skills to fulfil the functions determined by the Municipality.

9 Prevention of veld fires

The Municipality must provide a firebreak to a permit holder, lessee or renter.

10 Commonage management committee

- (1) Users of a commonage must establish a commonage management committee facilitated by the Municipality as set out in Annexure A.
- (2) The Municipality may lease the commonage as a unit to a commonage management committee established in terms of subsection (1) under such conditions as determined by the Municipality.
- (3) The commonage management committee must sub-let grazing camps or irrigation land for farming activities to specific interest groups and or farmers recognised by that commonage management committee in respect of the specific categories of users and farmers identified in sections 15 or 16 for a period of not less than one year but not exceeding five years.

- (4) The original lease or rent agreement mentioned in subsection (4) must be handed to the Municipality for safekeeping.
- (5) The lessee of a camp, plot, or land on the commonage shall not sublease such camp land or field.
- (6) The lease agreements contemplated in subsection (4) shall not lapse when the commonage management committee ceases to exist.
- (7) If the commonage management committee ceases to exist, the Municipality must forthwith facilitate the election of a new commonage management committee in terms of Annexure A to take over the powers, functions, assets, liabilities and budget of the previous commonage management committee and he or she shall, until such time as a new commonage management committee is elected, perform the powers and duties of the commonage management committee contemplated in section 11.

11 Functions of the commonage management committee

- (1) The commonage management committee must in consultation with and assistance of the Municipality –
 - (a) divide each piece of land reserved as commonage in terms of section 4, in separate camps suitable for the grazing of animals, gardening plots, or irrigational land allocating a number to each camp, garden plot and irrigational land;
 - (b) provide in each camp, plot or irrigational land such facilities as may be necessary for the maintenance of animals, gardening or irrigation in that camp plot or land;
 - (c) compile a map of each piece of land reserved as part of the commonage, indicating at least the boundaries of each camp, plot, gate and waterhole;
 - (d) keep a register of all registered animals kept on municipal commonages;
 - (e) allocate the animals of each permit holder, lessee or renter to a specific camp or camps and notify such permit holder accordingly;
 - (f) develop and implement a proper program of rotation of grazing on land reserved as commonage by the Municipality.
- (2) The commonage management committee must ensure that –
 - (a) the necessary infrastructure, including fences, water and roads, is in place before any permit is issued or lease or rental agreements are entered into by the Municipality;
 - (b) the minimum water requirements as set out in Annexure B are met, and in the event where available water for grazing animals falls below the minimum requirements, the Municipality will support commonage users to restore the recommended levels subject to the availability of funds and resources;
 - (c) a lease or rental agreement are fair and fully understood by the lessee or renter;
 - (d) the permit holders, lessees and renters adhere to the commonage management plan;
 - (e) the commonage is accessible to a member of an indigent household and endeavour to terminate as soon as possible any lease or user agreement with any institution or person other than a member of an indigent household or the commonage management committee.

CHAPTER 4

GRAZING PERMIT

12 Grazing permit required to graze animals on commonage

- (1) No person may graze animals on the commonage unless –
 - (a) he or she is the holder of a grazing permit issued by the Municipality after consultation with the commonage management committee, in respect of a category 1 user as identified in section 15, subject to the conditions of such permit stipulating the camp number in the commonage and the number and kind of animals to be kept in the camp;
 - (b) he or she has paid the applicable fees determined by the Municipality in respect of the period for which the grazing permit was issued.
- (2) A permit holder may partly or wholly be exempted from the payment of such commonage fees in terms of the indigent policy of the Municipality.

13 Application for and issue of grazing permit

- (1) An application for a grazing permit by a category 1 user referred to in section 15 must -
 - (a) be submitted to the Municipality;
 - (b) be on the approved form;
 - (c) contain adequate proof that the applicant is a South African citizen and a permanent resident within the area of jurisdiction of the Municipality and a member of an indigent household; and
 - (d) contain such further particulars as the Municipality may require.
- (2) When considering an application, the Municipality, after consultation with the commonage management committee, must take into account the availability and condition of land to accommodate the required number of animals for which application is made.
- (3) After due consideration of the application, the Municipality must -
 - (a) issue the permit as applied for by the applicant;
 - (b) issue a permit for a lesser number of animals than applied for; or
 - (c) give written notification to the applicant that his or her application was unsuccessful and state the reasons thereof.
- (4) A permit for the grazing of animals on the commonage is —
 - (a) valid for not less than one year or more than 5 years and all permits shall lapse on the 30th June of the year of termination;
 - (b) subject to the conditions set out in the permit, and;
 - (c) subject to the prior payment of the applicable fees determined by the Municipality.
- (5) The Municipality, after consultation with the commonage management committee, may withdraw a permit for the grazing of animals on the commonage if the permit holder contravenes or fails to—
 - (a) comply with a condition subject to which the permit was issued;
 - (b) comply with any provision of this By-law;
 - (c) comply with a lawful direction by the Municipality or by the veterinary surgeon appointed by the Municipality, or
 - (d) pay the applicable fees as determined by Municipality within 30 days after becoming due, Provided a permit holder had been given a 14-day notice to comply or provide reasons why his or her permit should not be withdrawn.
- (6) A permit to graze animals on the commonage of the Municipality is not transferable and may not be subleased.
- (7) The Municipality shall keep proper records, open for public inspection, regarding-
 - (a) each permit, leaseholder or renter;
 - (b) the date of expiry of a permit, lease or agreement;
 - (c) any payment or exemption from payment of a permit or lease holder or renter; and
 - (d) any other matter which, in the opinion of the Municipality, needs to be recorded.

14 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 it deems necessary to recover such grazing fee, including the power to impound the animals found on the commonage and owned by that person provided for in its Credit Control and Debt Collection By-law.

15 Categories of commonage users and pasture farming

- (1) Only a person or farmer falling within one of the categories contemplated in this section may obtain a grazing permit from the Municipality or enter into a livestock farming agreement with the commonage management committee.
- (2) A category 1 user is -
 - (a) any new entrant into the commonage farming system;
 - (b) any subsistence or indigent user using commonage land to supplement his or her income but are not able to graduate to commercial farming.
- (3) A category 2 user is a farmer -

- (a) who is sharing a piece of the commonage with a maximum number of 4 other commonage farmers in terms of a lease agreement with the commonage management committee, and
- (b) who has at least 5 cattle, or 30 sheep or 30 goats or a combination of animals that is equivalent to 5 cattle; but not more than 15 cattle, or 90 sheep or 90 goats or a combination that is equivalent to 15 cattle.
- (4) A category 3 user is a farmer -
 - (a) who is renting or leasing his or her own piece of land from the commonage management committee, and
 - (b) who has at least 15 cattle, or 90 sheep or 90 goats or a combination of animals equal to 15 cattle but not more than 30 cattle, or 180 sheep or 180 goats or a combination of animals equal to 30 cattle.
- (5) In order to qualify as category 1 user the new entrant or subsistence or indigent user must -
 - (a) be the owner of the animals;
 - (b) be resident in the town where the commonage is situated; and
 - (c) have a maximum number of 5 cattle, or 30 sheep or 30 goats or a combination of animals equal to 5 cattle.
- (6) Any farmer with more livestock than mentioned in subsection (4)(b) may not use the commonage.

16 Categories of farmers and irrigation farming

- (1) Only a farmer falling within one of the categories contemplated in this section may enter into an irrigation farming agreement with the commonage management committee for a period not less than one year but not exceeding five years.
- (2) A category 1 farmer is a farmer -
 - (a) who belongs to a farming co-operative;
 - (b) who has a constitution approved by the Municipality; and
 - (c) who has a maximum allocation of 3ha irrigational land.
- (3) A category 2 farmer is a farmer who has been allocated not less than 3ha and not more than 10ha irrigational land.
- (4) Any farmer with more than 10ha irrigational land may not use the commonage.

CHAPTER 4

PROHIBITED ACTIONS AND LIABILITY

17 Prohibited actions

- (1) A person is not allowed to keep any animal in any residential area or on the boundaries thereof.
- (2) A person is not allowed to keep a pig on the commonage in any place other than in an enclosure or cage as approved by the Municipality.
- (3) A person is not allowed to keep on the commonage any animal of which he or she is not the *bona fide* owner.
- (4) A person is not allowed to kill and or slaughter any animal on the commonage, save for the purpose of disposing of the carcass of a dead animal in accordance with section 20.
- (5) A person is not allowed in, on or at any of the Municipality's water resources without prior written approval from the Municipality.
- (6) A person must not erect any hut, shelter, kraal, habitation or structure of any kind nor occupy, camp or squat on any portion of the commonage and the Municipality may demolish any such hut, shelter, kraal, habitation or structure.
- (7) A person must not accumulate, dump or deposit or cause to be accumulated, dump or deposited on any portion of the commonage any scrap or waste.
- (8) A person must not on the commonage dig or remove soil, clay, sand, gravel or boulders without a valid and current permit issued by the Municipality.

- (9) A person must not make bricks, or erect brick-, lime - or charcoal kilns, on any portion of the commonage.
- (10) A person must not 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 grazing camps on the commonage without prior written permission of the Municipality.
- (11) A person must not 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.
- (12) A person shall only make use of roads that are provided by the Municipality in its commonage management plan from time to time and if no roads are provided no person shall drive a motor vehicle on or over the commonage.
- (13) A person must not deposit or in any way leave any poison for whatever purpose on the commonage without the written permission of the Municipality.
- (14) The Municipality may cause traps to be set for vermin on the commonage and any person interfering with or damaging such traps in any way or letting loose or removing or causing to be loosened or removed any vermin from such traps or in any way disposing of any bodies from such a trap without the prior approval of the Municipality, is guilty of an offence.
- (15) A person must not kill, catch, capture, hunt, remove or attempt to kill, any game on the commonage.
- (16) A person must not set traps of whatsoever description on the commonage without the prior written consent of the Municipality.
- (17) A person must not remove any bees, hives or honey from the commonage without the written permission of the Municipality.
- (18) A person is not allowed to make an open fire on the commonage, unless it is for the purpose of making or maintaining a fire break.
- (19) A person must not hunt, shoot, catch, disturb or kill any wild bird on the commonage or destroy or disturb the nest of any wild bird, nor shall any person remove the eggs or young thereof from such nest.

18 Exemption

If the Municipality is of the opinion that it is in the public interest, it may, for such period and subject to such conditions as it may deem fit, exempt any person, group or category of persons in writing from compliance with any prohibited action in terms of section 17.

19 Infected or contagious animal

- (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 the veterinary surgeon finds that the disease is contagious or infectious, he or she may cause such stock to be isolated or destroyed.

20 Carcass of animal

The owner of an animal which has died on the commonage, must immediately cause the carcass of such animal to be buried, and should the owner fail to do so, the Municipality may bury the carcass of such animal and claim the expenses for such burial from the owner.

21 Liability

The permit holder, lessee or renter is liable for -

- (a) any damage or claims, which originate from damage caused by his or her animal or animals outside the commonage, and.
- (b) any damage to or loss of the infrastructure or installations on a grazing camp, irrigation field or plot on a commonage at the expiry of the permit or lease agreement.
- (c) any damages resulting from non-compliance of the conditions of the permit.

CHAPTER 5

LAW ENFORCEMENT

22 Appointment of compliance officer

- (1) The Municipality may appoint or designate a person or employee to serve as a compliance officer for purposes of compliance and enforcement monitoring of this By-law.
- (2) A compliance officer shall take all lawful, necessary and practicable measures to enforce the provisions of this By-law.
- (3) The Municipality shall issue each compliance officer with a written appointment stating that he or she has been appointed for purposes of this By-law or with an identification card that contains the municipal logo, department and name of the officer.

23 Offences and penalties

- (1) A person shall be guilty of an offence if such person –
 - (a) keeps more than the determined number of animals as contemplated in section 15 on a commonage;
 - (b) fails to keep an animal in a healthy condition;
 - (c) fails to register an animal with the Municipality;
 - (d) provides false information to the Municipality;
 - (e) contravenes or fails to comply with section 17; or
 - (f) fails to obtain a permit after the expiry of 36 hours as contemplated in section 26(2) or (5);
 - (g) contravenes or fails to comply with any other provision of this By-law or any condition of his or her permit,
 - (h) wilfully and with intent provides false or misleading information in connection with an application contemplated in this By-law;
 - (i) obstructs or hinders a compliance officer in the performance of his or her duties or causes or permits any other person to so obstruct or hinder the compliance officer;
 - (j) refuses or fails to provide to a compliance officer such information as is required to allow a compliance officer to perform a function in terms of this By-law;
 - (k) furnishes false or misleading information to an official of the Municipality when called upon to furnish information;
 - (l) impersonates a compliance officer;
 - (m) supplies particulars, information or answers in an application or on knowing it to be false, incorrect or misleading.
- (2) Any person convicted of an offence in terms of this By-law, shall be liable upon conviction to a fine or imprisonment or to both such fine and imprisonment.
- (3) A person convicted of an offence under this By-law who, after conviction, continues with the conduct in respect of which he or she was so convicted, is guilty of a continuing offence and upon conviction is liable to a fine or to imprisonment, or to both such fine and imprisonment, in respect of each day on which he or she so continues with that conduct.
- (4) The owner or person who is found guilty of a contravention of this By-law is, in addition to the fine imposed, responsible for all the costs incurred and damages sustained by the Municipality, and such costs and damages may be recovered by the Municipality in terms of the Senqu Municipality: Credit Control and Debt Collection By-law, 2017.

24 Notice of contravention

- (1) The Municipality may serve a notice of contravention on a person who has committed an offence in terms of this By-law.
- (2) A notice of contravention must-
 - (a) specify, at the time when the notice is issued, the name and residential and postal address, if either or both of these be known, of the person on whom the notice is served;
 - (b) state the particulars of the contravention;

- (c) specify the amount of the penalty payable in respect of that contravention and the place where the penalty may be paid; and
- (d) inform the person that the person must-
 - (i) within 28 calendar days of the date of service of the notice, pay the penalty; or
 - (ii) within 7 calendar days of the notice, inform the Municipality in writing that he or she elects to be tried in court on a charge of having committed an offence.

CHAPTER 5

GENERAL MATTERS

25 Branding of stock

- (1) A person who depastures any stock on the commonage must register on the approved form with the Municipality a distinctive brand for large stock and a distinctive brand for small stock which must be approved by the Municipality.
- (2) All stock must bear such registered brand at all times.
- (3) Stock found on the commonage without such distinct brand, must forthwith be impounded by the compliance officer.
- (4) A person may not register stock belonging to another person.
- (5) The Municipality must keep a register of all brands registered in terms of subsection (1).

26 Draught animals

- (1) A person who, during a break in a journey and for the purpose of allowing an animal to graze, unharnesses the animal, may do so on a site on the town lands set apart for that purpose only.
- (2) A person contemplated in subsection (1) is allowed free grazing and water for the draught animal for 36 hours only, calculated from the time the person breaks the journey.
- (3) The Municipality may, on submission of an application and payment of the fee determined by the Municipality, grant a permit for a further period not exceeding 48 hours, in addition to the period allowed in subsection (2) if it is satisfied of the necessity thereof.
- (4) Upon the expiration of the period allowed under subsection (2) or of the additional period granted under subsection (3), an animal of such person found on any part of the town lands must be impounded by a compliance officer.
- (5) A person in good faith visiting, travelling through, or bringing produce into the municipal area is allowed to depasture necessary draught animals on a site on town land as contemplated in subsection (1) for a period of not more than 36 hours, and upon the expiration of such period, must obtain from the Municipality a permit to further so keep the animal, and pay to the Municipality in advance the fee determined by the Municipality, and such permit shall in no case be for a longer period than seven days, after the expiration of which the animal of such person found on the town lands must be impounded by a compliance officer.
- (6) A person passing through the town lands with an animal contemplated in subsection (5) must keep such animal along and within 30 metres of the edge of a public road, and such animal must be under the care and supervision of a sufficient and competent herdsman.
- (7) Where a person has to acquire a permit as contemplated in subsection (2), (3) or (5), the person must complete and submit the form determined by the Municipality and pay the fee determined by the Municipality, and the permit may be granted subject to such conditions as the Municipality may found to be necessary under the circumstances.
- (8) The permit serves as proof of payment of any fee.

27 Appeals

Any person may appeal against any decision taken under this By-law by giving written notice of the appeal in accordance with the provisions of section 62 of the Municipal Systems Act.

28 Transitional Arrangements

Any permission obtained, right granted, condition imposed, activity permitted or anything done under a repealed law, is deemed to have been obtained, granted, imposed, permitted or done under the corresponding provision (if any) of this By-law, as the case may be.

29 Repeal of by-laws

The By-Laws Relating to Commonage published in the *Provincial Gazette* by Notice Number 188 of 2005 is hereby repealed.

30 Short title and commencement

This By-law shall be known as the Senqu Municipality: Municipal Commonage By-law, 2017 and shall come into operation on the date of publication thereof in the *Provincial Gazette*.

ANNEXURES**Annexure A****Commonage Management Committee Structure**

1. The Municipality must facilitate the establishment of interest groups of commonage users in each town to form interest groups representative of all like-minded users who must develop a constitution, ground rules, and an informed leadership structure who will manage the group's production and financial affairs positively;
2. Each interest group must in consultation with the Department of Agriculture develop and maintain a management plan for the respective enterprises of that interest group;
3. Two members of an interest group should be elected to a Commonage Management Committee;
4. The Commonage Management Committee should elect three or four representatives (or one each from the interest groups) to the Municipal Commonage Management Committee;
5. Each Commonage Management Committee must in consultation with the Department of Agriculture develop and maintain an overall management plan for its area, and
6. The Municipal Commonage Committee is accountable for all lease agreements, commonage management plans, maintenance of assets, collecting of rentals from the interest groups and the payment thereof to the Municipality.

Annexure B

Daily water requirements of grazing animals

Animal	Age	Weight kg	Condition	Water requirements litres per day
Cattle	4 weeks	51	growing	0.3-5.7
	8 weeks	69	growing	5-7
	12 weeks	93	growing	8-9
	16 weeks	119	growing	11-13
	20 weeks	148	growing	15-17
	26 weeks	189	growing	17-23
	60 weeks	354	growing	23-30
	84 weeks	464	pregnant	30-38
	1-2 months	464-545	fattening	30-34
	2-8 months	545-726	lactating	39-95
Pigs	2-8 months	545-726	growing	17-34
		14	growing	1-4
		27-36	growing	2.6-4.5
		36-57	growing	4.0-7.5
		91-180	maintenance	5.7-13
		91-180	pregnant	15-19
Sheep and Goats		91-180	lactating	19-25
		9	growing	1.9
		23	growing	1.5
		68-91	growing	1.9-5.7
		68-91	growing (salty)	8
		68-91	hay and grain	0.4-3.0
Horses		68-91	good pasture	<1.9
			45	

SENQU MUNICIPALITY MUNICIPAL NOTICE**BY-LAW ON NUISANCE CONTROL**

The Municipal Council of Senqu Local Municipality in the Schedule hereto publishes, in terms of section 13 of the Local Government Municipal Systems Act, 2000 (Act 32 of 2000) read with section 162 of the Constitution of the Republic of South Africa Act 1996 (Act 108 of 1996) the By-Law on Nuisance Control.

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CHAPTER 1

OBJECTIVES, DEFINITIONS AND APPLICABILITY OF BY-LAW

1 Objectives

The objectives of this By-law are to provide –

- (a) measures to regulate and control conduct or behaviour which causes or is likely to cause discomfort, annoyance or inconvenience to the public or users of any public place, so as ensure that any such discomfort, annoyance or inconvenience is avoided, and where total avoidance is impossible or impractical, that it is minimised and managed; and
- (b) penalties for breach of its provisions.

2 Definitions

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

"building" has the meaning assigned thereto in section I of the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977), as amended;

"compliance officer" means a person who is authorised to implement and enforce the provisions of this By-law by virtue of his or her –

- (a) declaration as a peace officer as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977);
- (b) appointment as a police officer as contemplated in the South African Police Service Act, 1995 (Act 68 of 1995);
- (c) a traffic officer appointed in terms of section 3 of the Road Traffic Act, No. 29 of 1989 or section 3A of the National Road Traffic Act No. 93 of 1996 as the case may be;
- (d) appointment as a law enforcement officer or traffic officer by the Municipality and declaration as peace officer as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977); or
- (e) appointment by the Municipality as a compliance officer or an inspector;

"council" means the Senqu municipal council, a municipal council referred to in section 157(1) of the Constitution;

"erf" means any land, whether vacant, occupied or with buildings thereon;

"municipal area" means the area of jurisdiction of the Municipality;

"Municipality" means the Senqu Municipality and includes the Council, any executive councillor, or committee established by the Municipality, or any employee thereof, or duly authorised agent thereof acting in connection with this By-law by virtue of a power vested in the Municipality and delegated to such employee or agent;

"noise nuisance" means any sound which disturbs or impairs or may disturb or impair the convenience or peace of any person;

"objectionable material" means garden litter, rubbish, waste material, rubble, scrap metal, article or thing, disused motor cars, machinery or other vehicles, as well as the disused parts thereof, refuse from any building operations, or any refuse capable of being dumped on any land or premises, including new or used building materials not necessarily required in connection with bona fide building operations actually in progress on any land, and includes any solid, liquid or gas which is or may become offensive or dangerous or injurious to health or which materially interferes with the ordinary comfort or convenience of the public;

"owner" means -

- (a) the person in whom from time to time is vested the legal title to premises;
- (b) in the case where the person in whom the legal title is vested is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration of and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;
- (c) in the case where the Municipality is unable to determine the identity of such person, a person who is entitled to the benefit of such premises with a building thereon;
- (d) in the case of premises for which a lease of 30 years or more has been entered into, the lessee thereof;
- (e) in relation to -
 - (i) a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act 1986, (Act 95 of 1986), and without restricting the above, the developer or the body corporate in respect of the common property or a section as defined in that Act, the person in whose name such a section is registered under a sectional title deed and includes the lawfully appointed agent of such a person;
 - (ii) any legal person including but not limited to a company registered in terms of the Companies Act, 2008 (Act 71 of 2008), a Trust, a closed corporation registered in terms of the Closed Corporations Act, 1984 (Act 69 of 1984) and a voluntary association;
 - (iii) any organ of state;
 - (iv) any council or board established in terms of any legislation applicable to the Republic of South Africa; or
 - (v) any embassy or other foreign entity.

"premises" means any land, whether vacant, occupied or with buildings thereon, situated within the municipal area;

"public nuisance" means any act, omission or condition which is offensive and/or injurious and/or dangerous to health and/or which materially interferes with the ordinary comfort, convenience, peace or quiet of the public and/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;

"public road" means any road, street or thoroughfare or any other place, whether a thoroughfare or not, which is commonly used by the public or any section thereof or to which the public or any section thereof has a right of access, and includes:

- (a) the verge of any such road, street or thoroughfare;
- (b) any bridge, ferry or drift traversed by any such road, street or thoroughfare, and
- (c) any other work or object forming part of or connected with or belonging to such road, street or thoroughfare.

3 Applicability of By-law

This By-law applies to all areas which fall under the jurisdiction of the Municipality.

CHAPTER 2 PROHIBITED CONDUCT

4 General prohibition and nuisance behaviour

- (1) No person shall in a public place—
 - (a) act in a manner which is dangerous to life or which may damage property;
 - (b) unlawfully enter a public place to which access has been restricted in terms of this By-law or any other law;
 - (c) cause a nuisance; or
 - (d) behave in an indecent, offensive or objectionable manner.
- (2) Notwithstanding the provisions of any other by-law, no person shall –
 - (a) dump, accumulate or place or cause or permit to be dumped, accumulated or placed objectionable material in or on any street, drain, water furrow, sewer, thoroughfare, public square or commonage except at such place or places as the Municipality may from time to time set aside or approve for such purposes, provided however that the Municipality may permit public garages, workshops and other trades, subject to such conditions as may be imposed in each case, to keep, store, repair, dismantle or re-assemble any motor vehicle or other vehicle or apparatus on premises approved by the Municipality;
 - (b) deposit, leave, spill, drop or place any fruit or vegetable peels, broken bottles, glass, refuse or any objectionable material or thing which is offensive or likely to cause annoyance, danger or injury to persons in or upon any erf, street or public place;
 - (c) disturb the public peace in any street or public place by making unseemly noises or by shouting, insistent hooting, wrangling or quarrelling, or by collecting a crowd or by organising any demonstration or by fighting or challenging to fight, or by striking with or brandishing or using in a threatening manner any stick or other weapon or by any other riotous, violent or unseemly behaviour at any time of the day or night, or by loitering in any street or public place or by gathering in crowds on pavements;
 - (d) defoul, misuse or damage any public convenience or any convenience provided in any public building or place of public entertainment;
 - (e) carry or convey, or cause or permit to be carried or conveyed through or in any street or public place, any objectionable material or thing, liquid or solid, which is or may become offensive or dangerous or injurious to health, unless such objectionable material or thing is covered with a suitable material to prevent the creation of any nuisance;
 - (f) bury or dispose of any dead body in any unauthorised place;
 - (g) permit the carcass of any animal, being his or her property or of which he or she is in charge, and which has died on his or her premises or elsewhere in the municipal area, to remain unburied;
 - (h) commit or cause or permit to be committed, any act which may pollute any water which inhabitants of the Municipality have the right to use or which is provided or deserved for the use of such inhabitants;
 - (i) bathe or wash himself or herself in any public stream, pool or water trough or at any public hydrant or fountain or at any place which has not been set aside by the Municipality for any purpose, except as part of a religious or cultural ceremony in an area where such ceremony is lawfully taking place and provided no nuisance is caused thereby;

- (j) bathe or wash any animal or article or clothing or any other article or thing in any public stream, pool or water trough or at any public hydrant or fountain or at any place which has not been set aside by the Municipality for any purpose;
 - (k) in any street or public place use any abusive or threatening language or commit any act which may or is calculated to cause a breach of the peace;
 - (l) solicit alms in any street or public place or endeavour by the exposure of wounds, sores, injuries or deformities or the production of begging letters to obtain alms, or
 - (m) cleanse or wash any vehicle or part in any street or public place;
 - (n) perform any sexual act;
 - (o) appear in the nude or expose his or her genitalia;
 - (p) consume any liquor or be in a state of intoxication;
 - (q) use any drugs or be under the influence of drugs;
 - (r) solicit or importune any person for the purpose of prostitution, human trafficking or other illegal business;
 - (s) engage in gambling or wagering;
 - (t) discharge fireworks except in accordance with approval of the Municipality or other applicable law; and
 - (u) lie or sleep on any bench, seating place, street or sidewalk, or use it in such a manner that it prevents others from using it.
- (3) The Municipality may erect signage indicating prohibited or permissible conduct in a public place for the purposes of section 4.

5 Prohibition relating to vegetation, animals and objectionable material on premises

- (1) No person shall allow any tree or other growth on any premises under his or her control to interfere with –
 - (a) any public service infrastructure; or
 - (b) communal services infrastructure such as, but not limited to, overhead wires, storm water drainage or sewerage system.
- (2) No person shall allow any premises under his or her control to be overgrown with bush, weeds or grass or other vegetation except cultivated trees, shrubs and grass to such extent that, in the opinion of the Municipality or any duly authorised employee of the Municipality, it may –
 - (a) be used as a shelter by vagrants, wild animals or vermin;
 - (b) threaten the public health or the safety of any member of the community;
 - (c) promote the spread of fires; or
 - (d) become a source of annoyance, danger, inconvenience or discomfort to persons using a public road.
- (3) No person shall allow any premises under his or her control to be dirty, neglected or infested with rodents, snakes, mosquitoes, flies, ticks, bugs or other insects harmful to health, or allow any offensive odours or gasses to emanate from such premises.
- (4) No person shall allow the fencing of any premises under his or her control to fall into a state of disrepair or to become unsightly or dilapidated.
- (5) No person shall dump, accumulate or place or cause or permit to be dumped, accumulated or placed objectionable material in or on any premises under his or her control.
- (6) No person shall do work on any premises or use any building or land for purposes calculated, in the opinion of the Municipality, to depreciate or to disfigure such erf or to interfere with the convenience or comfort of the neighbours thereof or to become a source of danger to any person.
- (7) No person shall carry on any trade, business or profession on any erf or land in the municipal area which may in the opinion of the Municipality be a source or become a source of discomfort or annoyance to the neighbourhood.
- (8) No person shall deposit or keep or cause or suffer to be deposited or kept any night soil on any premises under his or her control, except in a proper sanitary convenience approved by the Municipality and in

accordance with any by-law of the Municipality.

- (9) No person shall keep or cause or suffer to be kept on any premises under his or her control any sanitary convenience of such nature that it is a nuisance or is offensive or injurious or dangerous to health.
- (10) No person shall cause or permit any stream, pool, ditch, drain, gutter, watercourse, sink, bath, cistern, water closet, privy or urinal on any premises owned or occupied by him or her or under his or her control, to be or become so foul or in such a state or to be so situated or constructed as to be offensive or dangerous or injurious to health.
- (11) No person shall cause or permit any foul or polluted water or any foul liquid or objectionable material to run or flow from any premises owned or occupied by him or her or under his or her control, whether occupied for trade, business, manufacturing, dwelling or any other purpose, into any street or on any land.

6 Prohibition relating to shop and business premises

- (1) No person shall use, cause or permit to be used –
 - (a) any verandah of any shop or business premises or vacant land adjoining such shop or business premises for the purpose of storing, stacking, dumping, disposing, displaying, keeping, selling or offering for sale any goods, articles or merchandise; or
 - (b) any shop or business premises or vacant land adjoining such shop or business premises or any portion thereof which is open or visible to the public for the purpose of storing, stacking, dumping, disposing, or keeping any waste material, refuse, cartons, crates, containers or other articles of a like nature
- (2) No person shall enclose or cause or permit the enclosing of any verandah of any shop or business premises by means of movable or immovable structures, objections, articles or devices otherwise than by such means as the Municipality may approve;

7 Prohibition relating to unsightly buildings

No person shall allow any building or structure or any portion thereof on any premises to fall into a dilapidated, neglected or unsightly state, or fail to maintain the roof-water disposal system, pipes, sewers, drains, water fittings, waste water fittings, water closet fittings and all other appurtenances forming part of or attached to any building or structure in good and sound repair, or fail to maintain the walls of any building or structure free from dampness.

8 Prohibition relating to excavation in public places

- (1) No person may make or cause to be made an excavation, a pit, trench or hole in a public place–
 - (a) except with the written permission of the Municipality; and
 - (b) otherwise than in accordance with the requirements prescribed by the Municipality or authorised in terms of the applicable By-law of the Municipality or any other law.
- (2) The provisions of subsection (1) do not prevent a person from erecting an umbrella or any other similar object in a public place: Provided that the manner in which it is erected does not result in damage to the vegetation or anything forming part of the public place concerned.

9 Prohibition relating to municipal property

- (1) No person, unless authorised by the Municipality or in terms of any other law, may within a public place–
 - (a) deface, damage, destroy or remove any property or part thereof which is affixed, placed or erected in or on a public place;
 - (b) paint or draw graffiti or other form of art or hobby on any property which forms part of a public place;
 - (c) erect, build or assemble any structure, including a hut, tent, screen, bulletin board, pole, stand or stage;
 - (d) affix or place on any municipal property, or distribute, any printed matter; or plug, tamper with, or in any way damage any plumbing, electrical, heating or other fixtures or installations;

- (e) plant a tree or plant in a public place, or in any way cut down a tree or shrub in a public place or remove it therefrom;
 - (f) climb, break or damage a tree growing in a public place; or
 - (g) in any way mark or paint any tree growing in a public place or attach any advertisement or notice thereto.
- (2) The provisions of subsection (1) do not apply to any person who is employed or authorised by the Municipality for the purposes of fixing, repairing, demolishing, renovating or providing any such service for or on behalf of the Municipality.

CHAPTER 3

NOISE NUISANCE

10 Noise in public place

- (1) No person shall in a public place cause or permit to be caused any disturbance or impairment of the convenience or peace of any person by shouting, screaming or making any other loud or persistent noise or sound, including amplified noise or sound, except where such noise or sound is exempt as contemplated in section 14.
- (2) No person may place or position any loudspeaker or any sound equipment at, near or outside the entrance or door of any premises or on top or the inside of a motor vehicle for the purposes of using that loudspeaker or sound equipment to—
- (a) make any public announcements, unless permission is obtained from the Municipality;
 - (b) invite or lure customers or any persons into that premises or other premises; or
 - (c) entertain any person who is in a public place.

11 Noise emanating from premises

No person shall permit noise or sound from a private residence or business premises under his or her control to be audible to users outside of such premises to such an extent that it reasonably interferes with the use and enjoyment by an owner or occupier of his or her property, except for places of entertainment as defined in the planning scheme on zoned premises where noise or sound is normally associated with the normal use of such place and in accordance with the conditions of authorisation of that business.

12 Noise disturbance by animals

No person shall keep on his or her premises any animal or bird which creates a disturbance or a nuisance to the neighbours by making frequent and excessive noise.

13 Timeframes

Notwithstanding any sections of this Chapter, no person shall cause or permit to be caused any disturbance or impairment of the convenience or peace of any person within the following times:

- (a) from Sunday to Thursday, between 21h30 to 07h00; and
- (b) from Friday to Saturday, between 00h00 to 08h00.

14 Exempt noise

The provisions of this bylaw shall not apply to -

- (a) the use, in a reasonable manner, of any apparatus or mechanism for the amplification of the human voice or of music in a public park or square in connection with any duly authorised public meeting, public celebration or other public gathering;
- (b) any duly authorised parade or performance by a military or other band.
- (c) any vehicle or equipment of the Municipality, the Police Department or any other public body engaged in carrying out a public service or carrying out work in or on a highway, park or the Municipal Public Works Yard.

- (d) the sounding of a horn or other signaling device upon any vehicle, boat or train, where such sounding is properly and necessarily used as a danger or warning signal.
- (e) persons and their agents, servants, and employees or independent contractors under contract therewith and their agents, servants, and employees who are engaged in work of an essential or emergency nature and being done for the primary purpose of ensuring the health, safety or welfare of the residents of the Municipality.
- (f) the use of bells or chimes on churches or any public body.
- (g) any delivery or collection service between the hours of 06h00 and 21h00 on each day except Sunday and any public holiday in any area zoned as a commercial, industrial or public zone in the Land Use Scheme of the Municipality.
- (h) any sound or noise caused by a farming activity carried out in a reasonable manner on farmland between the hours of 07h00 and 21h00.
- (i) any sound or noise caused by a farming activity carried out in a reasonable manner on farmland between the hours of 06h00 and 21h00 if:
 - (i) in the circumstances it is essential that the activity take place during such hours; or
 - (ii) the activity must, in accordance with sound farming practice, take place between such hours.
- (j) the use of a lawnmower between the hours of 08h00 and 21h00 on any day; and
- (k) any sound or noise caused by blasting or the operation of drills, compressors or other equipment used to prepare land for blasting between the hours of 08h00 and 17h00 on each day except Sunday or a public holiday.

CHAPTER 4

CONSTRUCTION

15 Prohibition on undertaking of construction at certain times

No person may engage in any construction or cause or allow such construction to occur, in a residential area—

- (a) before 07h00 and after 21h00 from Monday to Saturday; and
- (b) at any time on any Sunday or public holiday, except—
 - (i) under circumstances where such construction is necessary in order to preserve property or the life, safety or health of persons; or
 - (ii) where a written exemption from paragraphs (a) and (b) were obtained from the Municipality for a specified period of time.

16 Sanitary facilities at construction sites

Every person engaged in building operations, road construction or construction work of any nature shall, when required to do so by the Municipality, provide adequate sanitary accommodation for himself or herself and his or her employees to the satisfaction of and in accordance with any requirements specified by the Municipality.

CHAPTER 5

CONDUCT REGARDING MOTOR VEHICLES AND OBSTRUCTION OF TRAFFIC

17 Noise nuisance prohibited

- (1) No person shall blow, or cause to be blown, a hooter of a motor vehicle in a public place in such a manner or frequency that it creates a nuisance, unless the blowing of a hooter is necessary to alert any pedestrian or any user of another motor vehicle of any danger or to alert any user of a motor vehicle to any act or to desist from an act which is connected with the flow of traffic or parking of motor vehicles.
- (2) No person shall run up the revolutions of the engine of a stationary motor vehicle in such a way that it causes nuisance in a public place: Provided that a person may do so for the purposes of repairing such motor vehicle which has broken down in or near a public place.
- (3) No driver or person in control of a motor vehicle shall permit any amplified sound or noise to emanate from the motor vehicle such that it is audible at a distance of more than 50 meters.

18 Conduct regarding motor vehicles

- (1) No person shall in a public place -
 - (a) wash or clean any motor vehicle, except in an area designated by the Municipality for that purpose; or
 - (b) effect any repairs to a motor vehicle or boat, except where repairs are necessary for the purpose of removing such motor vehicle from the place where it was involved in an accident or had a breakdown.
- (2) No person may in a public place—
 - (a) sleep in a stationary motor vehicle except in an emergency, or where such person is the driver of a public transportation motor vehicle and is guarding a motor vehicle, or is in a designated rest area; or
 - (b) reside in a motor vehicle for longer than 24 hours, unless that person sleeps for the purposes of resting after a long journey using that vehicle: Provided that a compliance officer may at any time direct that person to move the vehicle away from such place or to desist from sleeping or residing in the vehicle.
- (3) Unless permitted to do so by the Municipality or in terms of any land use scheme or legislation, no person may park a heavy-duty vehicle overnight on private premises or vacant land.

19 Obstructing, blocking or disturbing of traffic and pedestrians

- (1) No person shall –
 - (a) in a public place, intentionally block or interfere with the safe or free passage of a pedestrian or motor-vehicle, unless to the extent authorised by law; or
 - (b) approach any pedestrian or a person inside a motor vehicle on any public road or public road intersection or any other public place for the purposes of begging from such pedestrian or person in a motor vehicle.
- (2) Any person, who unlawfully blocks, occupies or reserves a public parking space, or begs, stands, sits, lies in a public place, or does anything which hinders or disturbs the flow of pedestrian or road traffic must immediately cease to do so when directed by a compliance officer.

CHAPTER 6**DESIGNATED AREAS AND RESTRICTION OF ACCESS****20 Designated areas**

The Municipality may in relation to any public place, to the extent empowered by law—

- (a) designate a public place or part thereof for a specific function or use at designated times or at all times, and prohibit certain activities or conduct in respect of any such public place;
- (b) develop any public place in the interest of the public;
- (c) erect, construct, establish or demolish municipal property; or
- (d) exercise any other power reasonably necessary for the discharge of its obligations in terms of this By-law relating to the management of public places or otherwise in terms of any other law.

21 Restricted access

The Municipality may, by appropriate signage, restrict access to any part of a public place for a specified period of time to—

- (a) protect any aspect of the environment within a public place;
- (b) reduce vandalism and the destruction of property;
- (c) improve the administration of a public place;
- (d) develop a public place;
- (e) enable a special event which has been permitted in terms of this By-law or any other law to proceed; or
- (f) undertake any activity which the Municipality reasonably considers necessary or appropriate to achieve the purposes of this By-law.

CHAPTER 7

ENFORCEMENT

22 Appointment of compliance officer

- (1) The Municipality may appoint or designate a person or employee to serve as a compliance officer for purposes of compliance and enforcement monitoring of this By-law.
- (2) A compliance officer shall take all lawful, necessary and practicable measures to enforce the provisions of this By-law.
- (3) The Municipality shall issue each compliance officer with a written appointment stating that he or she has been appointed for purposes of this By-law or with an identification card that contains the municipal logo, department and name of the officer.

23 Powers of compliance officer

- (1) The compliance officer may, in respect of premises, at all reasonable times enter any land or premises on which a nuisance in terms of this By-law occurs or is alleged to occur or to have occurred and—
 - (a) inspect or monitor the land or premises;
 - (b) question the owner, occupier or person in control of the land or premises;
 - (c) serve any compliance notice to the owner, occupier or person in control;
 - (d) take samples or other evidence in respect of any nuisance caused;
 - (e) be accompanied by an interpreter, a police officer or any other person who may be able to assist with the inspection;
 - (f) question any person who is or was on that property, who in the opinion of the compliance officer, may be able to furnish information on a matter to which this By-law relates;
 - (g) question any person about any act or omission in respect of which there is a reasonable suspicion that it might constitute :
 - (i) an offence in terms of this By-law; or
 - (ii) a breach of an approval or a term or condition of such approval
 - (h) question a person about any structure, object, document, book or record or inspect any written or electronic information or object which may be relevant for the purpose of investigating any matter in connection with this By-law;
 - (i) examine any book, record or other written or electronic information and make a copy thereof or an extract therefrom and remove such document, book, record or written or electronic information in order to make copies or extracts;
 - (j) require a person to produce or to deliver to a place specified by him or her, any document, book, record, or any written or electronic information referred to in paragraph (e) for inspection;
 - (k) require from such person an explanation of any entry in such document, book, record or written or electronic information;
 - (l) inspect any article, substance, plant or machinery which is or was on the property, or any work performed on the property or any condition prevalent on the property, or remove for examination or analysis any article, substance, plant or machinery or a part or sample;
 - (m) seize any book, record or other document, details or any article, substance, plant or machinery or a part or sample thereof which in his or her opinion may serve as evidence at the trial of any person charged with an offence under this By-law, provided that the user of the article, substance, plant or machinery concerned, as the case may be, may make copies of such book, record or document before such seizure;
 - (n) direct any person to appear before him or her at such time and place as may be determined by him or her and question such person either alone or in the presence of any other person on any matter to which this By-law relates; and

- (o) take photographs or make audio visual recordings or tape recordings of any take photos of any items used on the land or in the premises to cause a nuisance for the purposes of his or her investigation.
- (2) When a compliance officer removes or seizes any article, substance, plant or machinery, book, record or other document as contemplated above, he or she shall issue a receipt to the owner or person in control thereof and return it as soon as practicable after achieving the purpose for which it was removed or seized.
- (3) A compliance officer may, in respect of a nuisance caused or alleged to be caused in a public place, instruct a person to cease an act or conduct which causes such nuisance, with immediate effect.
- (4) If it appears to the compliance officer that it is not possible for the offending person to comply with his or her instructions forthwith, the enforcement officer must issue a warning notice in the form prescribed by the Municipality, instructing the offending person to cease an act or conduct causing nuisance within a reasonable time period.
- (5) When issuing a warning notice the compliance officer must procure the signature of the offending person confirming receipt of a warning notice.
- (6) The compliance officer must inform the offending person that—
 - (a) a signature of the offending party in terms of subsection (3) does not on its own constitute an admission of guilt; and
 - (b) it is an offence in terms of this By-law to refuse to sign a warning notice issued by a compliance officer.

24 Notice to comply

- (1) Where any material, article or thing of whatsoever nature has been accumulated, dumped, stored or deposited on any erf, or where there is an overgrowth of bush, weeds, grass or vegetation on any erf in contravention of sections 5(2)(a) and (b) and the Municipality may serve a notice on -
 - (a) the person directly or indirectly responsible for such accumulation, dumping, storing or depositing;
 - (b) the owner of such material, article or thing, whether or not he or she is responsible for such accumulation, dumping, storage or depositing;
 - (c) the owner, occupier or person in control of the premises on which such accumulation, dumping, storage or depositing takes place, whether or not he or she is responsible therefore, or
 - (d) the owner, occupier or person in control of the premises on which there is an overgrowth of bush, weeds, grass or vegetation, requiring such persons or owners to dispose of, destroy or remove such material, article or thing or to clear such overgrowth to the satisfaction of the Municipality.
- (2) Should any person or owner fail to comply with the requirements of a notice in terms of subsection (1) within the period stipulated by the Municipality, the Municipality may itself dispose of or destroy or remove such material, article or thing, or clear the overgrowth from any premises at the cost of any one or more of the persons or owners mentioned in subsection (1).
- (3) Where on any premises there is a contravention of section 5 or 7 the Municipality may at its discretion serve a notice on the owner, occupier or person who is control of the premises, to abate the nuisance within a defined period to be stated in such notice.

25 Offences and penalties

- (1) A person shall be guilty of an offence if such person
 - (a) fails to comply with a decision taken or condition imposed by the Municipality in terms of this By-law.
 - (b) wilfully and with intent provides false or misleading information in connection with an application contemplated in this By-law;
 - (c) unlawfully prevents an compliance officer entry to his or her premises or causes or permits any other person to prevent entry;

- (d) obstructs or hinders a compliance officer in the performance of his or her duties or causes or permits any other person to so obstruct or hinder the compliance officer;
 - (e) refuses or fails to provide to a compliance officer such information as is required to allow a compliance officer to perform a function in terms of this By-law;
 - (f) furnishes false or misleading information to an official of the Municipality when called upon to furnish information;
 - (g) impersonates a compliance officer;
 - (h) contravenes or fails to comply with any provision of this By-law; or
 - (i) supplies particulars, information or answers in an application or on knowing it to be false, incorrect or misleading.
- (2) Any person convicted of an offence in terms of this By-law, shall be liable upon conviction to a fine or imprisonment or to both such fine and imprisonment.
- (3) A person convicted of an offence under this By-law who, after conviction, continues with the conduct in respect of which he or she was so convicted, is guilty of a continuing offence and upon conviction is liable to a fine or to imprisonment, or to both such fine and imprisonment, in respect of each day on which he or she so continues with that conduct.

CHAPTER 8

GENERAL MATTERS

26 Appeals

Any person may appeal against any decision taken under this By-law by giving written notice of the appeal in accordance with the provisions of section 62 of the Municipal Systems Act, 2000.

27 Repeal of by-laws

The By-Laws set out in the schedule to this By-law are hereby repealed as specified and to the extent as set out in the schedule.

28 Short title and commencement

This By-law shall be known as the Senqu Municipality: By-law relating to Nuisance Control and shall come into operation on the date of publication thereof in the *Provincial Gazette*.

SCHEDULE

BY-LAWS REPEALED

Notice Number and Year	Title	Extent of repeal
191 of 2005	By-Laws relating to Dumping and Littering	The whole
194 of 2005	By-Laws relating to Noise Pollution	The whole
195 of 2005	By-Laws relating to the Prevention of Nuisances	The whole
200 of 2005	By-Laws relating to Unsightly and Neglected Buildings and Premises	The whole

SENQU MUNICIPALITY MUNICIPAL NOTICE**BY-LAW ON OUTDOOR ADVERTISING AND SIGNAGE**

The Municipal Council in the Schedule hereto publishes, in terms of section 13 of the Local Government Municipal Systems Act, 2000 (Act 32 of 2000) read with section 162 of the Constitution of the Republic of South Africa Act 1996 (Act 108 of 1996) the By-law on Outdoor Advertising and Signage.

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OBJECTIVES, DEFINITIONS AND APPLICABILITY OF BY-LAW**1 Objectives**

The purpose of this By-law is to provide a set of regulations governing the use of land and buildings for outdoor advertising and signage and for matters incidental thereto.

2 Definitions

In this By-law, unless the context otherwise indicates:

"advertising structure" means any physical structure built or capable of being used to display 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 blown from within the Municipality's area of jurisdiction;

"approval" means approval by the Municipality or by officials or executive councillors by virtue of powers delegated to them; and "approve" has a corresponding meaning;

"area of control" means an area of control determined by the Municipality in accordance with the provisions of Chapter 4 of this By-law where a proposed sign may be erected or displayed and which shall be graphically depicted by way of maps prepared by the Municipality from time to time;

"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 flagstaves projecting vertically, horizontally or at an angle, or attached to buildings or special structures, but excludes banners carried as part of a procession. A flag which is not displayed on an approved flag pole shall for the purposes of this By-law, be deemed to be a banner;

"billboard" means any screen or board which stands free and is larger than 4.5 m² in total area; which is supported by, or consists of, a structure used, or intended to be used, for the purpose of posting, displaying or exhibiting a sign;

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

"compliance officer" means a person who is authorised to implement and enforce the provisions of this By-law by virtue of his or her –

- (a) declaration as a peace officer as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977);
- (b) appointment as a police officer as contemplated in the South African Police Service Act, 1995 (Act 68 of 1995);
- (c) a traffic officer appointed in terms of section 3 of the Road Traffic Act, No. 29 of 1989 or section 3A of the National Road Traffic Act No. 93 of 1996 as the case may be;
- (d) appointment as a law enforcement officer traffic officer by the Municipality and declaration as peace officer as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977); or
- (e) appointment by the Municipality as a compliance officer or an inspector;

"composite sign" means a single advertising structure for the display of more than one advertising sign, either freestanding or affixed to a building;

"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 continues to exist, after the expiry of the notice period referred to in a notice served in terms of this By-law;

"Council" means the Senqu municipal council, a municipal council referred to in section 157(1) of the Constitution;

"custom made design" means the design of any sign, which features special effects such as specialist character cut outs and/or shapes and/or three dimensional presentations or moving parts and which is uniquely designed and/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. This excludes contract boards for building and civil engineering projects as required in terms of the National Building Regulations and Building Standards 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, in addition, 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" means an assessment carried out in accordance with the Municipality's guidelines for outdoor advertising;

"estate agency" means a person who markets and/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;

"fee" means any fee, charge or deposit determined for purposes of this By-law, by the Municipality in terms of the Senqu Municipality: By-law on Tariffs, 2017;

"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;

"form" means a form approved by the Municipality for purposes of this By-law;

"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;

"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" 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 (that subject to an encroachment fee) such a sign on municipal owned land, adjacent to, abutting on and/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 Senqu Municipality and includes the Council, any executive councillor, or committee established by the Municipality, or any employee thereof, or duly authorised agent thereof acting in connection with this By-law by virtue of a power vested in the Municipality and delegated to such employee or agent;

"new sign" means any sign first displayed after the promulgation of this By-law;

"non-profit body" is 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 organisations. 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;

"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;

"poster" means temporary signs capable of being attached to the Municipal electrical light standards and/or pasted to fixed structures to advertise events or campaigns;

"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 facade" means any façade that has windows or other architectural articulation;

"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 93 of 1996;

"road authority" means the road authority as defined in Section 2 of the Roads Ordinance (Ordinance 19 of 1976);

"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 No 93 of 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 from time to time;

"security sign" means an outdoor sign for neighbourhood 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;

"signalized traffic intersection" means an intersection controlled by traffic signals;

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

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

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

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

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

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

"third-party advertising" means the advertising of goods or services that are not made, procured, sold or delivered from the property on which the sign and/or sign advertising of those goods or services is fixed or placed, and includes advertising which is not locality bound as well as the display of a sign which is made, procured or sold from the property but advertises goods or services which are not made, procured, sold or delivered from that property;

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

"traffic impact assessment" 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/cyclist safety and traffic operation. The 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 No. 93 of 1996;

"traffic signal" means a road traffic signal as prescribed in the National Road Traffic Act No. 93 of 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 from time to time, 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; and

"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.

3 Applicability of By-law

- (1) This By-law shall not apply in respect of signs which are not visible from beyond the boundaries of the property on which they are displayed.
- (2) Nothing contained in this By-law shall be construed as being in derogation of any law enacted by a national or provincial authority, in particular, the provisions of the Advertising on Roads and Ribbon Development Act, 1940 (Act 21 of 1940), as amended, or any regulations made in terms thereof in its application to the advertisement to which it refers.
- (3) All applications for outdoor advertising signs in conservation areas shall require the input of the relevant local body concerned with environmental and conservation matters.

CHAPTER 2

APPLICATIONS FOR APPROVAL TO ERECT OR DISPLAY SIGNS

4 Approval required

No person may, except as otherwise provided for in section 84 of this By-Law, erect or display or cause or permit to be erected or displayed any outdoor sign without the written approval of the Municipality.

5 Application for approval

- (1) A person who intends to erect or display a sign or to alter an existing approved sign, for which the approval of the Municipality is required, must apply to the Municipality on the application form determined by the Municipality.
- (2) The application form must be duly completed, signed by the applicant and accompanied by –
 - (a) proof of payment of the application fee;
 - (b) if the applicant is not the owner of the property, a power of attorney signed by the owner of the property, except if the Municipality is the owner of such property, in which case no such power of attorney is required;
 - (c) full specifications showing the dimensions and design of such sign, its location or proposed location on a building or other supporting structure, the materials of construction, the name and address of the contractor erecting the sign, and, where applicable, the number of electric lights and electrical details in regard thereto;
 - (d) a plan indicating the position of such sign on the site, detail drawings drawn to an appropriate scale; and
 - (e) in the case of a projecting sign or free-standing sign, information in regard to the size of all members of supporting frameworks and anchorages and, if required by the Municipality, all calculations upon which such size is based; and
 - (f) where more than one enterprise or business is operating on a single property or in a single building, a signage master plan must be submitted by the by the owner of the property.
- (3) The Municipality may require the submission of any or all or specific phases of the following:
 - (a) an environmental impact assessment;
 - (b) a heritage impact assessment; and
 - (c) a traffic impact assessment.
- (4) If in the Municipality's opinion, 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 shall comply with the Municipality's policy on public participation.
- (5) 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.
- (6) If the Municipality requires any additional information as contemplated in subsection (5), the applicant must submit such information within the period provided for in the notice referred to in subsection (5) or such other period as the Municipality and the applicant may agree to.

- (7) If the applicant does not submit the additional information within the period referred to in subsection (6), the application is deemed to be withdrawn by the applicant and if the applicant wishes to continue with the erection, display or alteration of a sign, he or she must submit a new application and pay the application fee.

6 Decision of Municipality

- (1) The Municipality may refuse any application or grant an application subject to such conditions as it may deem necessary.
- (2) If an application is refused or is granted conditionally by the Municipality, the applicant may appeal against such decision as contemplated in section 82.

7 General criteria for consideration and determination of application by Municipality

- (1) When the Municipality considers an application submitted in terms of this By-law it must, in addition to the requirements of Chapter 3, section 11 and sections 13 to 15, have regard to the following:
- (a) The area of control where the proposed sign is to be erected or displayed;
 - (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 property and in the area surrounding that property;
 - (d) the findings of any traffic impact assessment, environmental impact assessment or heritage impact assessment and more specifically any such finding as to whether the proposed sign will be detrimental to the environment or adversely affect the amenity of the locality or neighbourhood or affected properties;
 - (e) locality bound signs must relate to the lawful use of a property provided that no such sign may be affixed to or placed on residential premises or portions thereof other than is permitted by or for home industries and legal temporary uses;
 - (f) the outcome of any process of public participation regarding the proposed sign;
 - (g) that no sign or advertisement may be designed or displayed that -
 - (i) will constitute a danger to any person or property;
 - (ii) will display any material or graphic which, whether in form, content or both, may reasonably be expected to cause offence to the public or an identifiable class of persons;
 - (iii) will be detrimental to the environment or amenity of the neighbourhood by reason of either its size, intensity, frequency, illumination, quality of design, material, proposed graphic, locality or for any other reason;
 - (iv) will obscure any other signs approved in terms of this By-law or the by-law repealed by this By-law; and
 - (v) will be detrimental or otherwise negatively impact on the environment, whether artificial or natural.
- (2) In considering a proposal for new graphics in respect of a sign approved in terms of this By-law, the Municipality must have regard to the factors referred to in subsections 1(d), (e), (f) and (g).

8 Extension of approval period

- (1) The Municipality will only consider an application for the extension of an approval period granted in terms of this By-law on condition that the said sign complies with the provisions of this By-law as at the date of application for such an extension.
- (2) The Municipality will have regard to the factors referred to in section 7 in assessing an application for an extension of the approval period.
- (3) In the event of the approval period being extended by the Municipality, the extension period shall not exceed a further period longer than the period for which the original approval was granted for.
- (4) Any application for an extension of an approval period in terms of this section must be accompanied by the applicable fee.

9 General prohibitions

- (1) No property may be used for the primary purpose of erecting advertising signage.

- (2) Signs on a property may only relate to the business operated thereon and the products processed, produced or sold thereon.
- (3) The content of a sign may not be offensive, but must be tasteful, simple and informative.
- (4) Illumination may not be a source of light pollution, visual nuisance or interference.
- (5) A sign or a portion thereof may not protrude above the main roof-line or parapet wall of a building, or beyond the edges of the particular portion of the building to which it is attached, nor conceal architectural detail of façades on buildings.
- (6) A sign that is affixed to a building may not contain obtrusive visible struts or anchors and the electricity supply to illuminated signs shall be concealed.
- (7) Illumination shall be limited to the face of the sign and where illumination is by external means or spotlight, such illumination will be directed downwards onto the face of the sign and may not cause nuisance to passing traffic or to other properties.
- (8) A minimum clear height of 2,3m shall be adhered to for all signs over public walkways and accesses, except for road traffic signs.
- (9) A sign or a portion thereof may not be placed within 300mm of the vertical line formed by the roadside edge of a kerbed-stone.
- (10) Any sign, including those utilized for advertising of events of a civic, cultural, religious, social, sporting or welfare-related nature may display a sponsor's logo not greater than one-third of the area of the advertising sign.
- (11) An information "i" sign may only be displayed by an enterprise accredited as an information bureau in terms of applicable tourism legislation.
- (12) All signs on main roads must comply with the provisions of the Advertising of Roads and Ribbon Development Act, 1940.
- (13) No advertising pamphlet may be pasted on any wall or structure without the express permission of the owner thereof and the advertiser shall be liable for any costs involved in removing such advertisements, including where littering has occurred as a result of unauthorized placing of such pamphlets or posters.

10 Removal of sign on municipal property

A sign that has not been erected or placed in accordance with the provisions of this By-law and which is on municipal property, may be removed by the Municipality without notice to the advertiser and at his or her expense and the sign will only be returned to the advertiser upon payment of a release fee.

CHAPTER 3

GENERAL CONDITIONS OF APPROVAL

11 Safety and construction of sign

- (1) No advertisement or advertising structure, as permitted by this By-law, may -
 - (a) be displayed or placed so as to constitute a danger to any person or property;
 - (b) be so placed or contain an element which distracts the attention of drivers in a manner likely to lead to unsafe driving conditions;
 - (c) be illuminated to the extent that it causes discomfort to or inhibits the vision of approaching pedestrians or drivers;
 - (d) be attached to a road traffic sign or signal, combined with a road traffic sign or signal, unless specifically provided for in the South African Road Traffic Signs Manual, obscure a road traffic sign or signal, create confusion with a road traffic sign or signal, interfere with the functioning of a road traffic sign or signal or create a road safety hazard in the opinion of the relevant roads authority;
 - (e) obscure the view of pedestrians, road and features of the road, or pavement such as junctions, bends and changes in width;
 - (f) exceed the minimum clearance with regard to overhead power lines as prescribed in regulation 15 of the Electrical Machinery Regulations, No R1593 in GG. 11458 of 12 August 1988; and
 - (g) be erected in a power line servitude without the permission of the controlling authority and a copy of such permission must be made available to the Municipality.

- (2) A sign or advertisements positioned along a road and specifically targeting the road user must be concise and legible and must comply with the following requirements:
- (a) No sign displaying a single advertisement or message may exceed 15 "bits" of information;
 - (b) no combination sign or any other sign displaying more than one advertisement or message may contain more than 6 "bits" of information per enterprise, service or property or per individual advertisement or message displayed on a combination sign;
- (3) The "bit" values contemplated in subsection 2(b) must be calculated as follows:
- (i) Words of up to 8 letters, inclusive 1 bit;
 - (ii) Numbers of up to 4 digits, inclusive 0.5 bit
 - (iii) Numbers of 5 - 8 digits, inclusive 1 bit
 - (iv) Symbol, logo or abbreviation 0.5 bit
- (4) Any sign permitted by this By-law must -
- (a) be neatly and properly constructed and executed and finished in a workmanlike manner;
 - (b) consist of durable materials in accordance with the function, nature and permanence of the advertisement, sign or structure and materials such as cloth, canvas, cardboard, paper or synthetic cardboard should be used only when essential to the nature and function;
 - (c) have a neat appearance in terms of advertisement content and sign writing;
 - (d) be rigidly and securely attached, supported and anchored in a safe manner so that unwanted movement in any direction is prevented;
 - (e) be capable of effectively securing, supporting and maintaining not less than twice its mass with the addition of any force to which the sign may be subjected, including wind pressure;
 - (f) wherever necessary in accordance with the nature of the sign and when attached to brickwork, masonry or concrete, be securely and effectively attached thereto by means of bolts securely embedded in such brickwork, masonry or concrete or passing through the same and secured on the opposite side; and
 - (g) when attached to conservation-worthy buildings, be attached with the necessary expert advice in order to prevent damage to such buildings.
- (5) Glass used in signs (other than glass tubing used in neon and similar signs) must be safety glass, at least 6mm thick and glass panels used in signs may not exceed 0,900 m² in area, each panel being securely fixed in the body of the sign, structure or device independently of all other panels.
- (6) Every illuminated sign and every sign in which electricity is used must be in accordance with the requirements of the Municipality or any other electricity regulator and must -
- (a) have power cables and conduit containing electrical conductors positioned and fixed so that they are not unsightly;
 - (b) (2) be constructed of material which is not combustible;
 - (c) (3) be provided with an external switch in an accessible position whereby the electricity supply to the sign may be switched off; and
 - (d) be properly wired and constructed.
- (7) All signs must comply with the relevant provisions of the National Building Regulations.

12 Maintenance of signs

- (1) The owner of the property on which any sign is erected or displayed and the advertiser are jointly and severally responsible for the maintenance of such a sign, together with all its supports, braces, guys and anchors, and to service it on a regular basis and to maintain it in good repair according to the highest standards for quality of structures, posting and sign writing.

- (2) Whenever any alteration is made to the ground level adjacent to any sign, such owner and advertiser are jointly and severally responsible for the alteration of the height of such sign.
- (3) Should any sign become dangerous or a nuisance, the owner or advertiser must immediately remove the source of danger or the nuisance and failure to do so shall constitute an offence.
- (4) Should an owner or advertiser fail to comply with the terms of a notice issued by the Municipality to remove such source of danger or nuisance, the Municipality may remove the sign concerned at the expense of the owner or the advertiser and no compensation or damages shall be payable by the Municipality to any person in consequence of such removal.

13 Positioning of signs

Unless otherwise provided for in this By-law, a sign permitted by this By-law may:

- (a) not be positioned on a road island or road median, with the exception of street name advertisements;
- (b) not be suspended across a road except with the written approval of the Municipality, and subject to any conditions imposed by the Municipality;
- (c) not be erected within or suspended above a road reserve, except for signs that relate to road construction;
- (d) not be erected within an area formed by a square with sides measured 10m long the edge of a kerb from any urban street corner, or within the road reserve for a distance of 25m from urban street corner, with the exception of signs which are attached to buildings, and illuminated signs allowed within the area formed by a square with sides measured 15m along edge of kerb from any signalized street corner, may not contain the colours red, green or amber.

14 Illumination

- (1) In areas of sensitivity, downward-directed external lighting must be utilized.
- (2) The light source emanating from floodlights may not cause any nuisance to passing traffic.
- (3) Floodlighting must be so positioned to ensure effective distribution and minimize light wastage.
- (4) No illuminated flashing sign in the colours red, amber or green may be erected within 20 metres of a traffic light.

15 Damage or defacement by removal of sign

Any damage or defacement of any building or site caused by or resulting from the removal of any sign must be repaired to the satisfaction of the Municipality at the owner's cost.

CHAPTER 4

AREAS OF CONTROL

16 Categories of control

The four categories of control are –

- (a) prohibited area;
- (b) maximum control;
- (c) partial control; and
- (d) minimum control.

17 Prohibited area

No sign may be erected or is permitted in a prohibited area.

18 Maximum control in residential area, sensitive area and area of civic interest

- (1) A sign may be permitted under strict control of the design, size, location, colour and number of sign, but the Municipality reserves the right to prohibit a sign other than those giving the name of the owner or main tenant or the name of the building.

- (2) In a sensitive area and an area of civic interest the following controls apply in addition to those set out in subsection (1):
 - (a) Only one sign will be permitted for each street frontage of a property;
 - (b) the materials and colours of the sign must harmonize with the building;
 - (c) only concealed backlighting or floodlighting of signs will be permitted.

19 Partial control

- (1) A sign in a partial control area is controlled in terms of size, position and subject matter and where required, in terms of colour.
- (2) The owner of a business has the right to make his or her presence and the nature of the service known.
- (3) Partial control applies within a school or educational institution, sports field and stadium, office block, commercial centre in a residential area, a government enclave and commercial ribbon development.

20 Minimum control

- (1) In an area in which this category applies the main consideration is public safety.
- (2) Minimum control would apply within an industrial area, a commercial enclave, shopping centre, entertainment complex, transport nodes such as taxi and bus ranks, airfields and railway stations.

21 General matters pertaining to areas of control

- (1) A street is deemed to fall within the area of stricter control of the property fronting it.
- (2) The perimeter of an area will be dealt with as for the adjacent area of stricter control.
- (3) In a case where areas of control overlap, the stricter control category applies.
- (4) If a sign falls into more than one possible area of control or if a proposed sign site located in one area of control may impact on an adjacent area of control, the Municipality may determine the area of control pertaining to that application.

CHAPTER 5

BILLBOARDS

22 Area of control where billboard may be erected and displayed

Subject to approval in terms of this By-law, the erection and display of a billboard, whether custom made or of a standard design, is permitted only in an area of minimum control.

23 Requirements for billboard

- (1) A billboard -
 - (a) if the proposed erf where the billboard is to be erected, borders on a designated urban road and furthermore if the buildings on that erf are more than 50m from the road reserve line, may not be placed less than 50m from the road reserve line this same distance to be calculated at 90° to the nearest point of the road reserve;
 - (b) must comply with the standard conditions for approval set out in this By-law;
 - (c) may not encroach over the boundary line of the property on which it is erected, whether such encroachment is aerial or on ground level;
 - (d) must 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) may not exceed a maximum total size of 36m² provided that on any V-shaped single structure, two such panels may be permitted;
 - (f) must have a minimum letter or number height of 285mm;
 - (g) must be displayed between the angles of 90° and 60° to the direction of oncoming traffic;
 - (h) must be spaced a minimum distance apart as may be required for road traffic safety requirements;
 - (i) may be externally or internally illuminated;
 - (j) must not be any form of flashing sign;

- (k) if located at signalized traffic intersections, may not be erected or displayed within 50m of the perimeter of the intersection if not illuminated; and within 80m of the perimeter of the intersection if illuminated.
- (2) The distance referred to in subsection (2)(a) may be waived to a distance no less than the alignment of the public facades of building on the erf or adjacent erven, if such adjacent buildings or if the buildings on the erf are less than 50m from the road reserve upon receipt of an environmental impact assessment and traffic impact assessment indicating no detrimental impact.
- (3) If the proposed site of erection of a billboard has been designated as a gateway then no billboard will be permitted within such gateway.
- (4) Any billboard erected along the right hand side of a section of road, such that its graphics are visible to a driver travelling on the left hand side of the road, is deemed to have replaced the advertising opportunity that existed on the left hand side of the road.
- (5) A billboard that is owned by the Municipality and leased to an advertiser, may only be approved through the tender process as required in terms of Municipality's procurement procedures, and only for sites to be approved by the Municipality taking into consideration various factors such as urban aesthetics, traffic safety and environmental impact.

24 Bit weights

- (1) The information content of a proposed advertisement is measured in bits and the total bits in a proposed advertisement may not exceed 15.
- (2) In calculating the information content of a proposed advertisement the bit weights shown in the table below must be used:

Elements of the Advertisement		Bits per element
Words	Up to 4 letters	0.5
	5 to 8 letters	1.0
	More than 8 letters	2.0
Numbers	Up to 4 digits	0.5
	5 to 8 digits	1.0
	More than 8 digits	2.0
Logos, symbols and graphics	Smaller than 9m ²	0.5
	Between 9 and 18 m ²	1.0
	Between 18 and 27 m ²	1.5
	Larger than 27 m ²	2.0

CHAPTER 6

LOCALITY BOUND FREESTANDING AND COMPOSITE SIGNS

25 Area of control where locality bound freestanding and composite sign may be erected and displayed

Subject to approval in terms of this By-law, the erection and display of a locality bound freestanding sign is only permitted in urban areas of maximum, partial and minimum control.

26 Requirements for locality bound freestanding and composite sign

- (1) A locality bound freestanding sign is only permitted where -
 - (a) the business premises is set back 15m or more from the boundary of the road reserve;
 - (b) it is not reasonably possible to affix the relevant sign to a building;
 - (c) such a sign is necessary to allow the public to locate the entrance to the business premises; or
 - (d) the existence of a freestanding composite sign may prevent the proliferation of signs
- (2) A locality bound freestanding composite sign may not exceed 7.5m in height and may not exceed 4.5m² in total area.

- (3) The height restriction referred to in subsection (2) may be waived by the Municipality to a maximum height of 10m and a maximum total area of 15 m² 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 and exit routes to the site in question;
 - (e) the applicable zoning of the area surrounding the site in question.
- (4) A service station free standing sign must be locality-bound and may only be erected or displayed at the service stations adjacent to and directly accessible from the public road at which such a sign is directed and only one service station free standing facility sign per street boundary is permitted.
- (5) A service station free standing sign must not exceed 7.5m in height and may not consist of more than eight advertising panels of 4.5m² each in total area.
- (6) The height restriction referred to in subsection (5) may be waived by the Municipality to a maximum height of 16m and eight advertising panels not exceeding 6m² each in total area having regard to the factors mentioned in subsection (3) above.

CHAPTER 7

SIGNS ATTACHED TO WALLS OF BUILDINGS: FLAT AND PROJECTING SIGNS

27 Area of control where sign attached to wall of building may be erected and displayed

Subject to approval in terms of this By-law, the erection and display of a flat and projecting sign is permitted in all areas of maximum, partial or minimum control.

28 Requirements for flat and projecting sign attached to wall of building

- (1) A flat and projecting sign -
 - (a) is not allowed within 0,6 m of the edge of a roadway nor it may not extend to within 0,6 m of the edge of a roadway;
 - (b) may not project in front of a wall more than 1,5 m in the case of a sign which has a clear height of more than 7.5 m or more than 1 m in the case of any lesser clear height;
 - (c) may not project more than 250 mm over a footway unless such sign has more than 2.4 m clear height;
 - (d) may not obstruct the view from any window or any other external opening of any building and no portion of any such sign shall be affixed over or onto any window, door or any other openings;
 - (e) may not exceed 54m² in total area and may not exceed one-quarter of the overall area of the surface to which they are affixed or painted whichever is the lesser.
- (2) The size restriction referred to in subsection (1)(e) may be waived by the Municipality on condition that:
 - (a) An environmental impact assessment is submitted to the Municipality indicating no detrimental environmental impact is envisaged;
 - (b) if it is proposed to erect a flat or projecting sign in a conservation area, a heritage impact assessment is submitted indicating no detrimental impact in respect of heritage resources is envisaged,
 - (c) the graphics which are proposed for the proposed sign will be fixed for the period of display of the sign.
 - (d) the proposed sign only displays graphics designed and created by a suitably qualified creative consultant.
- (3) A flat and projecting sign may be considered for approval on blank common boundary facades of non-residential buildings.
- (4) If a flat and projecting sign is to be located on the public facades of a building it must –
 - (a) be so designed as to become an integral part of the building design;
 - (b) and when advertising a third party, only be permitted if it is custom-made and the requirements of this section apply.

CHAPTER 8**SKY SIGNS****29 Area of control where sky sign may be erected and displayed**

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

30 Requirements for sky sign

- (1) A sky sign may not -
 - (a) exceed a maximum total size of 4.5m²; and
 - (b) obstruct the view from any other building.
- (2) The size restriction referred to in subsection (1)(a) may be waived by the Municipality up to a maximum of 18m² on condition that an environmental impact assessment is submitted to the Municipality indicating no detrimental environmental impact is envisaged.
- (3) A sky sign along the top edge of the roof of a cultural, historic or architecturally significant building is only permitted if it is locality bound, not illuminated and it consists of individual cut-out letters or logos.

31 Bit weights for sky sign

- (1) The information content of a proposed advertisement is measured in bits and the total bits in a proposed advertisement may not exceed 15.
- (2) In calculating the information content of a proposed advertisement the bit weights shown in the table below must be used:

Elements of the Advertisement		Bits per element
Words	Up to 4 letters	0.5
	5 to 8 letters	1.0
	More than 8 letters	2.0
Numbers	Up to 4 digits	0.5
	5 to 8 digits	1.0
	More than 8 digits	2.0
Logos, symbols and graphics	Smaller than 9m ²	0.5
	Between 9 and 18 m ²	1.0
	Between 18 and 27 m ²	1.5
	Larger than 27 m ²	2.0

CHAPTER 9**ROOF SIGNS****32 Area of control where roof sign may be erected and displayed**

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

33 Requirements for roof sign

- (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 a roof sign is attached to the bottom edge of a roof or vertically midway on the roof of a building, that sign may not exceed 1m in height and its total area may not exceed 25% of the area to which it is affixed.
- (3) It is permissible to affix a roof sign along the edge of a roof of a building, if that sign is composed of a single line of individual, cut-out letters, without visible bracing or support but may not be erected along more than two edges of such roof and may not exceed 3.6m² in total area, with a maximum height of 1m.

CHAPTER 10**SIGNS ON A VERANDAH, BALCONY, CANOPY, SUPPORTING COLUMNS, PILLARS AND POSTS****34 Area of control where sign on verandah, balcony, canopy supporting column, pillar and post may be erected and displayed**

Subject to approval in terms of this By-law, the erection and display of a sign on a verandah, balcony, canopy, supporting column, pillar and post is permitted in all areas of control.

35 Requirements for sign on verandah, balcony, canopy supporting column, pillar and post

- (1) A sign on a verandah, balcony, canopy, supporting column, pillar and post –
 - (a) when 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, 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 250 mm in front of the surface to which it is affixed or project over a roadway or within 0,6m of the edge of a roadway;
 - (b) when affixed flat onto or painted on supporting columns, pillars and posts, may not extend beyond any of the extremities of such column, pillar or post.
- (2) Signs affixed flat onto non-rectangular supporting structures must be curved to fit the form of such structure.
- (3) Only one sign is allowed per column, pillar or post.
- (4) A sign suspended below the roof of a verandah, canopy or the floor of a balcony –
 - (a) may not exceed 1.8 m in length or 600 mm in height;
 - (b) must be at right angles to the building line
- (5) No sign suspended under a canopy may extend beyond the external edge of the canopy or verandah to which it is attached.
- (6) A sign 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 the roof of that verandah or balcony.
- (7) No sign on a verandah, balcony, canopy, supporting column, pillar and post is allowed on or over architectural features of the building.

CHAPTER 11**SIGNS ON BOUNDARY WALLS AND FENCES AND ON CONSTRUCTION SITE HOARDINGS****36 Area of control where sign on boundary wall and fence and on construction site hoarding may be erected and displayed**

Subject to approval in terms of this By-law, the erection and display of a sign on a boundary wall and fence is permitted only if it is a locality bound sign in an urban area of maximum, minimum or partial control.

37 Requirements for sign on boundary wall and fence and on construction site hoardings

- (1) In an urban area 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, non-illuminated cut-out letters or symbols fixed flat on such wall not projecting more than 50mm from the face of such wall.
- (2) In areas of minimum control, the Municipality may approve -
 - (a) an application to affix a locality bound sign flat onto a boundary wall only if it does not project more than 50mm from the face of such wall; and
 - (b) an application to affix a locality bound flat sign with a maximum size of 0.5m² onto the permanent fence of an erf.

- (3) Third party and locality bound advertising on a construction site hoarding and a fence must comply with the following conditions:
 - (a) Any one sign may not exceed a vertical dimension of 3m and total area of 18m²;
 - (b) it may not project more than 100mm in front of the hoarding or fence to which it is affixed;
 - (c) it may not be illuminated if it is in an area of maximum and partial control;
- (4) No advertising is permitted on a construction site hoarding and fence within the cone of vision of a driver of a motor vehicle at a signalised traffic intersection.

CHAPTER 12

HEADLINE POSTERS

38 Area of control where headline poster may be affixed and displayed

Subject to approval in terms of this By-law, the attachment and display of a headline poster is permitted in all areas of control except a natural and rural area of maximum control.

39 Requirements for headline poster

- (1) A headline poster may not exceed 0.7m x 0.45m in area.
- (2) The commercial content of a headline 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) A headline poster may only be affixed to a municipal electric light pole.
- (4) A headline poster may not to be affixed to a traffic signal pole or other pole which carry a road traffic sign, a pole erected for any other purpose, or any other street furniture, wall, fence, tree, rock or other natural feature.
- (5) A headline poster may not be pasted on municipal electric light pole but must be mounted on board and affixed securely with stout string or plastic ties unless the Municipality has approved a permanent frame for this purpose.
- (6) Only one headline poster may be affixed per pole and per street block regardless of the number of applicants.
- (7) A headline poster must be affixed a minimum of 2.2m above the ground level and a minimum of 2m below the light fixture.
- (8) The number of posters as well as the designated areas for the display of headline posters as submitted by each applicant must be strictly adhered to.
- (9) A headline poster advertising a special event must comply with the following:
 - (a) the name of the applicant, the special event and the date of the special event must appear on the poster in letters not less than 50mm in height and
 - (b) it may not be displayed more than seven days before the date of the special event and it must be removed within 24 hours after the date of the special event shown on the poster.
- (10) A headline poster and fastenings, with the exception of a special event poster must be removed on a daily basis.
- (11) 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.
- (12) The Municipality must remove any poster that is displayed in contravention of the above-mentioned conditions.

- (13) Any poster not removed on a daily basis or a poster relating to a special event by due date referred to in subsection (9)(b) must be removed by the Municipality and such removal will be at the expense of the applicant, in accordance with the fee determined by the Municipality for the removal of posters.
- (14) An application for the display of a headline poster must be made on an annual basis, and in addition to the application fee, the applicant must pay a deposit against which a charge for the removal of any sign which contravenes this By-law may be levied
- (15) In the event that the deposit referred to in subsection (14) –
 - (a) is exhausted, permission to display such signage is to be withdrawn by the Municipality until a further deposit is paid to the Municipality; or
 - (b) is not used or only partially used in the year for which it is paid, the applicant must be reimbursed by the Municipality.

CHAPTER 13

ADVERTISING ON BANNERS

40 Permitted location for banner

Subject to approval in terms of this By-law, the erection and display of a banner is only permitted in locations approved by the Municipality.

41 Requirements for banner

- (1) The Municipality may only grant approval for advertising on a banner 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) Only one banner per organisation is allowed per location.
- (3) A banner, other than a banner for election and referendum purposes, may be displayed for a maximum period not exceeding 14 days.
- (4) The permitted size of a banner must be determined by the Municipality.
- (5) A banner may not be attached so as to interfere with or constitute a danger to passing pedestrians or vehicular traffic.
- (6) A banner may not be affixed to a tree, traffic signal pole, electrical or service authority distribution box, or any other pole which carry a road traffic sign, rock, other natural feature, street furniture or other Municipal property.
- (7) A locality bound banner may only be affixed to the premises concerned.
- (8) Only one locality bound banner is permitted per premises.

CHAPTER 14

POSTERS

42 Applicable area for poster

Subject to approval in terms of this By-law, the erection and display of a poster is permitted in all areas of control except natural and rural areas of maximum control.

43 Requirements for poster

- (1) No poster may be displayed unless approval has been granted by the Municipality.
- (2) In addition to the application fee, an applicant must pay a deposit.
- (3) A poster may be displayed for a maximum period of 14 days before the event, or such other time as is stipulated by the Municipality.
- (4) A poster must be removed within three days after the date of the event and if it is not removed the Municipality must remove it and use the deposit to cover the costs of removing such posters.

- (5) The display of an unauthorised poster is illegal and may must be removed by the Municipality.
- (6) The display of a poster purely for commercial advertising is not permitted, provided that any poster erected or displayed by a person, for a commercial advantage, which relates to a sport, the arts, or cultural event may be permitted, despite the display of that poster being purely for commercial advertising and approval may only be granted to non-profit organisations.
- (7) No poster relating to a parliamentary or municipal election, referendum or registration process may be displayed for longer than the period extending from the beginning of the date of proclamation in the *Government Gazette* of an upcoming referendum or election to the end of the fourteenth day after the date of such election or referendum.
- (8) Only a registered political party contesting the election is permitted to display election posters.
- (9) No more than an aggregate of 500 posters per function or group of related functions or event may be displayed at any one time, except posters referred to in subsection (10).
- (10) A political party may display 300 posters per ward for election or referendum purposes.
- (11) If a poster is affixed to an electric light standards -
 - (a) a suitable cord must be used and metal clamps or wire may not be used in any circumstances for such purposes;
 - (b) it must be affixed above the level of the red, green, yellow and black painted stripes on electricity standards indicating fire hydrants.
- (12) A poster must be affixed a minimum of 2.2m above the ground and a minimum of 2m below the light fixture.
- (13) No poster may be erected on an electric light standard within 40m of a busy or signalised intersection.
- (14) No steel or aluminium ladder may be placed against an electric light standard on which a poster is to be erected.
- (15) No poster may be affixed to a tree or power line standard, or erected on a bridge.
- (16) No paper poster may be stuck on a wall, electricity box or on an electric light standard.
- (17) A poster may not exceed 900 x 600mm in size.
- (18) The name of the organisation, the date of the function and the venue must appear on the poster in letter not less than 50mm in height.
- (19) Only one poster per organisation per occasion may be displayed on an electric light standard.
- (20) The Municipality may recover the costs of and as a result of the removal of an illegal poster, and the reinstatement of the surface from which such posters were removed, from the person responsible for the display of such poster.
- (21) The Municipality or its agent must remove any poster displayed in contravention of the abovementioned conditions.
- (22) The Municipality is absolved from all liability that may arise as a result of the erection and presence of the posters in question.
- (23) The Municipality is entitled, without giving notice to anyone, itself to remove and destroy any poster or advertisement displayed without its permission having been obtained or in contravention of any provision of this section or which has not been removed within the period specified of which constitutes in any respect a contravention of the provisions of this section and the person who displayed, any posters or advertisement or caused permitted or suffered it to be displayed must refund the Municipality the cost to be assessed and deducted by the Municipality from the deposit made, of the said removal and destruction and in addition is guilty of an offence.

CHAPTER 15

ESTATE AGENT SIGNS

44 Area of control where estate agent sign may be erected or displayed

- (1) Subject to approval in terms of this By-law, the erection and display of estate agent signs is permitted in all areas except natural areas of maximum control.
- (2) An estate agent sign may not be displayed along a scenic drive or on any bridge, public park or public open space.

45 Requirements for estate agent sign

- (1) An estate agent sign may not exceed 600 mm x 450mm in size.
- (2) An estate agent may apply for approval for a larger board which will be considered on the merit of the particular application.
- (3) "Sold" / "For Sale" / "To let" signs must be erected flush against the fence or wall of the property failing which they may be erected not more than 1m from such boundary unless shrubs prevent this.
- (4) "Sold" signs may be displayed flush against the fence or wall of the property for a maximum of three weeks only failing which they may be erected not more than 1m from such boundary unless shrubs prevent this.
- (5) No Estate agent sign may obscure a road traffic sign.
- (6) No Estate agent sign may be erected on a centre island.
- (7) No Estate agent sign may be erected in such a way that any part of it is closer than 1.5 m from a road verge.
- (8) No Estate agent sign may be erected on any tarred area of a pavement.
- (9) An estate agent directional sign indicating that a house, flat or plot is on show –
 - (a) may be displayed only on the day of the show;
 - (b) must display the wording "On Show" "Show House", "Show Flat" or "Show Plot" with the name of the estate agent and a directional arrow;
 - (c) may be displayed along main routes only, being the shortest route from a main road to the property;
- (10) Only one directional sign per show house, show flat or show plot may be displayed along any proclaimed main road.
- (11) Not more than two estate agent directional signs is permitted in total per show house, show plot or block of flats in which a show flat is on display.
- (12) The period of validity of an approval for the display of an estate agent sign is one year calculated from the date of approval.
- (13) In addition to the application fee, the applicant must pay a deposit against which a charge for the removal of any sign which contravenes this By-law will be levied and in the event of the deposit being exhausted, permission to display such sign will be withdrawn until a further deposit is paid to the Municipality.
- (14) Any estate agent sign unlawfully erected, or in contravention of the provisions of this Chapter is subject to a charge by the Municipality.
- (15) The Municipality may remove any estate agent sign unlawfully erected.

CHAPTER 16

LOOSE PORTABLE SIGNS

46 Prohibition on loose portable sign

- (1) In terms of this By-law, the erection and display of a loose portable sign on a public walkway, public space or pavement is prohibited.
- (2) A loose portable sign includes a sandwich board, rotating or spinning board, flag or similar fabric sign.

CHAPTER 17

AERIAL SIGNS

47 Applicable area for aerial sign including balloon and kite

Subject to approval in terms of this By-law, the erection and display of an aerial sign is permitted only in urban areas of partial or minimum control.

48 Requirements for aerial sign

- (1) An aerial sign affixed to any building or structure may not be flown at a height of more than 45m from the surface measured from ground level.
- (2) The Municipality may not approve the display of an aerial sign –
 - (a) unless approval has been granted by the Civil Aviation Authority, if required;
 - (b) unless the applicant indemnifies the Municipality.
- (3) A balloon or any other aerial sign must be located at least 100m away from any arterial route or 500m away from any airfield flight path.
- (4) An aerial sign must –
 - (a) not be flown above a public road;
 - (b) be affixed with two anchor ropes;
 - (c) incorporated metal strips in the body so that it will be visible on radar;
 - (d) be flown during daylight hours only;
 - (e) be temporary of nature; and
 - (f) erected for periods not exceeding one week.

CHAPTER 18**TRANSIT ADVERTISING SIGNS****49 Area of control where transit advertising sign may be erected and displayed**

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

50 Requirements for transit advertising sign

- (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.
- (2) A transit advertising sign parked on private property for the purposes 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 must not exceed a cumulative total of 18m² in an area of partial control, which size may be increased to a maximum size of 36m² in an area of minimum control.
- (4) Notwithstanding any provisions of this By-law, the Municipality may without prior notice carry out the removal of any unauthorized transit advertising sign from Municipal property, and, in the case of unauthorized transit advertising on private property, the Municipality may serve a notice calling for removal in terms of this By-law.

CHAPTER 19**SIGNS ON MUNICIPAL LAND AND BUILDINGS****51 Sign land or building owned by Municipality**

Other than as is set out in this Chapter, no sign other than a locality bound sign, temporary sign, estate agent sign, newspaper headline poster and poster may be erected on land owned by the Municipality.

52 Commercially sponsored sign

Notwithstanding the area of control within which it is proposed to erect a commercially sponsored sign on municipal land, 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:

- (a) Public or community needs or goals shall be identified by the Municipality and/or adopted by it 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 shall be entitled to call for proposals or counter proposals for such public or community needs or goals and the related advertising opportunities.
- (b) in order to identify such public or community needs or goals, the relevant Municipal department and other interested authorities will be consulted prior to proposals being invited, so as to establish conditions, criteria and constraints in respect of such advertising.
- (c) the procurement regime of the Municipality will be applied and the extent of involvement of previous disadvantaged persons, small businesses, job creation and empowerment will be considered in any proposal.
- (d) any proposal will be evaluated based on the requirements of the By-law and *inter alia* on the best public or community benefit offered, the design contribution, the creativity and public safety and the adherence to the principals and/or stipulations in the By-law as opposed to the largest advertising opportunity and/or financial gain. In addition, the permanence of the contribution to the public or community goal or need will be taken into account, as will the recovery cost over the period of the erection of the sign.
- (e) the relevant municipal departments shall jointly evaluate the proposal and approval will be given when such evaluation process is complete.
- (f) 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.
- (g) 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 which agreement will contain the rights and obligations of both parties but which will not derogate from any of the obligations on either party in terms of this By-law. No sign may be erected or displayed in terms of this schedule until such agreement has been concluded and signed.

53 Sponsored sign

Notwithstanding the area of control within which it is proposed to erect such a sign on Municipal owned land and subject to compliance with all other provisions of the By-law, the Municipality may consider a sponsored sign for approval on condition that:

- (a) In the application to be submitted in terms of Chapter 2 of this By-law, written details are delivered clearly indicating the recognized public or community goal which will be promoted by the erection and/or display of the proposed sign;
- (b) no sign with a political content is permitted;
- (c) no more than 5% of the total surface of the sign is used for third party advertising;
- (d) 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;
- (e) an application for a billboard to be erected in terms of this section must comply with the requirements as set out in Chapter 4.
- (f) No sign erected in terms of this section may be located within 5m of a property's boundary lines.

54 Non-profit 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 Chapter 20.

CHAPTER 20

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

55 Requirements for sign by or for benefit of non-profit body

- (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) In the application to be submitted in terms of Section 2 of this By-law, 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 2 of the By-law.
- (b) The extent of involvement of previous disadvantaged communities, small businesses, job creation and empowerment will be considered in any proposal.
- (c) Any proposal will be evaluated based on the requirements of the By-law and the public or community goal benefit which is being met, the design contribution, the creativity and public safety and the adherence to the principals and/or stipulations in the By-law as opposed to the largest advertising opportunity and/or financial gain. In addition, the permanence of the contribution to the goal of the non-profit body will be taken into account.
- (d) In the event of it being proposed that the said sign will be erected on municipal land;
 - (i) the relevant municipal departments shall jointly evaluate the proposal and approval will be given when such evaluation process is complete.
 - (ii) The Municipality as landowner reserves the right not to proceed with any proposal prior to final approval thereof;
 - (iii) If accepted, any such sign to be erected in terms of this Schedule, on municipal land must be the subject of a written agreement between the Municipality, the person responsible for the erection of the sign and the non-profit body which agreement contains the rights and obligations of all parties but which will not derogate from any of the obligations on any party in terms of this By-law. No such sign may be erected until such an agreement has been concluded and a copy delivered to the Director of Development Planning.
- (2) In addition the following conditions will apply:
 - (a) Signs with a political content will not be permitted.
 - (b) 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.
 - (c) Applications for billboards to be erected in terms of this section must comply with the requirements as set out in Schedule 2.
 - (d) No sign erected in terms of this clause shall be located within 5m of a property's boundary lines.
 - (e) The name of the non-profit body must be displayed prominently along the top width of the sign with a maximum 300mm lettering height.
 - (f) A public participation process has been held with all parties to be affected by the erection and/or display of such sign.
 - (g) The Municipality may require submission of an environmental impact assessment and/or traffic impact assessment and/or heritage impact assessment in accordance with its guidelines thereon.
 - (h) No more than two individual signs of 6m x 3m each shall be permitted, or alternatively one V-shaped sign with a maximum size of two panels of 6m x 3m each on any one property. In addition, only one sign per street frontage will be permitted.

CHAPTER 20

SIGNS ON BRIDGES, TOWERS, TELECOMMUNICATION MASTS OR PYLONS

56 Prohibition on sign on bridge, tower, telecommunication mast or pylon

In terms of this By-law, the erection and or display of a sign, including a banner, on a bridge, tower, telecommunication mast or pylon is prohibited.

CHAPTER 21

PERMANENT LAMP POST POSTERS

57 Area where permanent lamp post poster may be erected and display

Subject to approval in terms of this By-law, the erection and display of permanent lamp post posters is permitted only in areas approved by the Municipality.

58 Requirements for permanent lamp post poster

- (1) A permanent lamp post sign -
 - (a) may only be affixed only to the electric lights standards;
 - (b) may not exceed 900mm x 600mm in size;
 - (c) may only be erected at an interval of two electric lights standards and only one poster may be displayed per such standard;
 - (d) a poster must be affixed a minimum of 2.4m above ground level and a minimum of 2m below the light fixture;
 - (e) may not be illuminated;
- (2) No steel or aluminium ladders may be placed against standards when erecting a poster.
- (3) The Municipality must use its supply chain process for the placement of permanent lamp posts posters.

CHAPTER 22

ILLUMINATED STREET SIGNS

59 Requirements for illuminated street signs

- (1) An illuminated street name and advertising sign may only be erected at an intersection with a maximum of two illuminated signs per intersection at opposite corners thereof.
- (2) The advertising section of an illuminated street name and advertising sign may not exceed 1,033m x 1,585m.
- (3) The street name section on an illuminated street name and advertising sign –
 - (a) must be below the advertising section but not lower than 300mm from the advertising section;
 - (b) the street name must be black letters on a yellow background;
 - (c) the street name letters shall be in standard capital letters
- (4) The total height of an illuminated street name and advertising sign may not exceed 5m.
- (5) The degree of intensity of both parts of an illuminated street name and advertising sign must be equal.
- (6) An illuminated street name and advertising sign the letters and numbers on may not be smaller than 100mm high.
- (7) An illuminated street name and advertising sign may not flash.
- (8) An illuminated street name and advertising sign may not bear an illustration but may bear a logo and an arrow indicating of an undertaking in the adjoining side street but not in the direction of the main road but distance may not be indicated.
- (9) A maximum of five words in three rows plus a logo are permitted, however a telephone number or distance is not permitted.
- (10) The Municipality must use its supply chain process for the placement of illuminated street name and advertising signs.

CHAPTER 23

ADVERTISING BOARDS AT SCHOOLS, SPORTS CLUBS AND INSTITUTIONS IN RESIDENTIAL AREAS

60 Advertising board at school, sports club and institution in residential area

Subject to approval in terms of this By-law, the erection and display of an advertising board at a school, sports club and an institution in a residential area is permitted

61 Requirements for advertising board at school, sports club and institution in residential area

- (1) Not more than 10 advertising boards with a maximum size of 2.5m x 1.25m may be erected at a school, sports club and an institution.
- (2) An advertising board must be at least 5m inside the boundary adjoining a proclaimed main road.

- (3) Where more than one advertising board is erected and displayed, the advertising board must be of the same size, depth and height.
- (4) Written consent must be obtained from every resident in the street facing the signage.
- (5) Only one advertising board per advertiser is allowed per school, sports club and institution.

CHAPTER 24

SIGNS ADVERTISING A PRODUCT OR SERVICE NOT AVAILABLE ON A PROPERTY

62 Prohibition on sign advertising product or service not available on property

Except in the case of a sports club, school and institution, in terms of this By-law the erection and display of an advertising sign that advertises a product or service not available during normal working hours on a property is prohibited.

CHAPTER 25

SUBURBAN ADVERTISING SIGNS

63 Area of control where suburban advertising sign may be erected and display

Subject to approval in terms of this By-law, the erection and display of suburban advertising signs is permitted only in urban areas of maximum, partial and minimum control.

64 Requirements for suburban advertising sign

- (1) A suburban advertising sign must be rectangular, 400mm high and equal to the length of the suburb name sign and must be smaller and less conspicuous than the suburb name sign.
- (2) A suburban advertising sign is permitted within the road reserve of a proclaimed main road other than a freeway.
- (3) No colours that may, in the opinion of the road authority, cause confusion with road traffic signs, must be used.
- (4) The principal area (background) of a suburban advertising sign must not be reflective or fluorescent.
- (5) No illumination or animation is permitted on a suburban advertising sign.
- (6) The Municipality must use its supply chain process for the placement of suburban advertising signs.

CHAPTER 26

LITTER BIN ADVERTISING SIGNS

65 Area of control where litter bin advertising sign may be erected and displayed

Subject to approval in terms of this By-law, the erection and display of a litter bin and litter bin advertising sign is permitted only in an urban area of maximum, partial and minimum control but may not be displayed in a residential area.

66 Requirements for suburban advertising sign

- (1) A litter bins must have a nominal capacity of 100 litres.
- (2) A litter bin must be manufactured from low density polyethylene, or other suitable material and the material must contain a UV stabilising agent that approves its resistance to deterioration when exposed to sunlight.
- (3) The construction of a litter bin must be such that it comprises of an inner and outer skin, both of which are smooth and non-porous.
- (4) The top of a litter bin must be open, with provision of a rim for refuse bag to be pulled over.
- (5) The base of a litter bin must be of such a design that it ensures a firm footing for the bin and is to be filled with concrete or any suitable material which will prevent it from blowing over on windy days.
- (6) A litter bin may not be used or positioned for the primary or sole purpose of advertising.
- (7) A litter bin may not be placed in such a way as to obstruct any pedestrian movement.

- (8) Litter bins may not be less than 100 metres apart.
- (9) A litter bin may not be positioned on a street corner.
- (10) A litter bin advertising sign must be directed to pedestrians and not to vehicular traffic.
- (11) The Municipality must use its supply chain process for the placement of litter bins and litter bins advertising signs.

CHAPTER 27

SIGNS EXEMPTED FROM THIS BY-LAW

67 Signs for which no approval is required

- (1) No approval is required for the erection or display of a sign contemplated in this Chapter, provided that such sign must comply with the conditions required for it in terms of this Chapter.
- (2) If a sign contemplated in this Chapter does not comply with the relevant conditions, an application for approval of such sign must be submitted as contemplated in Chapter 2.

68 Development board

- (1) A development board must be removed immediately 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 relates has ceased.
- (2) The Municipality may order the removal of any such sign 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 for all practical purposes ceased, and such sign must thereupon be forthwith removed but no later than five days after the date of the order for removal thereof.
- (3) 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 three m² in total area.
- (4) 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 five m² in total area.
- (5) If the sign, whether on a freestanding board, or flexible building covering material, includes any other form of third party advertising, such sign must then comply with the provisions of Chapter 10 hereto and Municipal approval for the display thereof must first be obtained in terms of this By-law.

69 To let or for sale sign

A "To Let" sign or a "For Sale" sign may not exceed 400mm x 500mm in total area displayed at existing premises or on land on which a new building is being erected and relating to accommodation being offered to rent or purchase in the building, on condition that any such sign must be removed within 60 days after the date upon which the accommodation to which it relates is capable of occupation.

70 On-premises business sign

- (1) An on-premises business sign may not -
 - (a) be illuminated;
 - (b) project over a public road;
 - (c) exceed 0,2 m² in total area.
- (2) An on-premises business sign may only display -
 - (a) the types of trade, business, industry or profession lawfully conducted by any occupant or permanent resident of the premises to which it is attached;
 - (b) the name of such occupant;
 - (c) the address and telephone number of such premises; and
 - (d) the hours of attendance.
- (3) Only one on-premises sign per occupant may be displayed.

71 Window sign

- (1) A window sign is a locality bound sign which is 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 2m of any window or external opening through which it can be seen from the outside such a building.
- (2) In any area of maximum control, a window sign may not exceed 4.5 m².

72 Sign incorporated in face of building

- (1) A sign incorporated in the face of a building is any sign that forms an integral part of the fabric of a building, but excludes a painted sign or a sign affixed in any manner onto the building.
- (2) No municipal approval is required if a sign incorporated in the face of a building does not exceed 0,2 m² in total area.

73 Sign on sports field

- (1) A sign erected around the perimeter of a sports field, provided further that larger signs which face inwards onto the field and are not visible from any other public place, shall also be permitted.
- (2) A sign referred to in subsection (1) may be no bigger than a maximum size of 2 x 1m.
- (3) Approval for a sign on a sports field is required when that sign is visible from a scenic drive.

74 Security sign

- (1) A security sign is a sign 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.
- (2) A security sign may not -
 - (e) project over a public road; and
 - (f) may not exceed 0.2 m².
- (3) Only one security sign may be displayed on any public road or each street frontage of the premises on which the sign is displayed.
- (4) A security sign may only display the name, logo, address and telephone number of the security company contracted to protect the premises on which the sign is displayed.

75 Sponsored, commercially sponsored and non-profit body sign less than 4.5 m2

- (1) A sign in connection with, advertising or erected for purposes of a non-profit body may not –
 - (a) exceed 4.5 m² in total area
 - (b) use more than 5% of the total surface area of the sign for third party advertising; and
 - (c) be illuminated.
- (2) A sign referred to in subsection (1), may only be erected on municipal land once agreement has been concluded with the Municipality
- (3) An agreement referred to in subsection (2) must contain the extent of the community or public benefit and the terms of the erection of the sign.
- (4) Only one sign as contemplated in this section may be displayed per erf.
- (5) All sponsored signs, other than a sign contemplated in this section, are dealt with in Chapters 18 and 19.

76 Advertising on flag

- (1) An advertising flag may only be displayed on a flag pole.
- (2) No more than three flag poles of 3m each in total height, is permitted on any one property on which they are displayed.

77 Advertising on vehicle

No municipal approval is required for a sign painted or affixed directly onto the body of a motor vehicle.

CHAPTER 28
LAW ENFORCEMENT

78 Appointment of compliance officer

- (1) The Municipality may appoint or designate a person or employee to serve as a compliance officer for purposes of compliance and enforcement monitoring of this By-law.
- (2) A compliance officer shall take all lawful, necessary and practicable measures to enforce the provisions of this By-law.
- (3) The Municipality shall issue each compliance officer with a written appointment stating that he or she has been appointed for purposes of this By-law or with an identification card that contains the municipal logo, department and name of the officer.

79 Powers and functions of a compliance officer

- (1) A compliance officer may, subject to subsection (2) and (3), at any reasonable time, and without prior notice, enter any land property, building or premises for purposes of ensuring compliance with this By-law.
- (2) An inspection of a private dwelling may only be carried out by a compliance officer at a reasonable time and after reasonable notice has been given to the owner or occupier of the land or building and after obtaining the consent of the owner or lawful occupier or person in control of the building, or with a warrant issued in terms of the Criminal Procedure Act, 1977.
- (3) The compliance officer is not required to give any notice to enter land or a building, other than a private dwelling, and may conduct an inspection or take enforcement action without the consent of the owner or occupier of such land or building and without a warrant if:
 - (a) he or she believes on reasonable grounds that a warrant would be issued to him or her on application; and
 - (b) the delay in obtaining the warrant would defeat the object of the inspection and enforcement action.
- (4) A compliance officer shall show proof of his or her written appointment or identification card contemplated in section 78(3) when required to do so by any person affected by the exercising of a power or show proof that he or she is a law enforcement officer.
- (5) A compliance officer may not investigate a matter in which he or she has a direct or indirect personal interest.
- (6) In ascertaining compliance with this By-law, a compliance officer may:
 - (a) be accompanied by an interpreter, a police officer or any other person who may be able to assist with the inspection;
 - (b) question any person who is or was on that property, who in the opinion of the compliance officer, may be able to furnish information on a matter to which this By-law relates;
 - (c) question any person about any act or omission in respect of which there is a reasonable suspicion that it might constitute:
 - (i) an offence in terms of this By-law; or
 - (ii) a breach of an approval or a term or condition of such approval
 - (d) question a person about any structure, object, document, book or record or inspect any written or electronic information or object which may be relevant for the purpose of investigating any matter in connection with this By-law;
 - (e) examine any book, record or other written or electronic information and make a copy thereof or an extract therefrom and remove such document, book, record or written or electronic information in order to make copies or extracts;
 - (f) require a person to produce or to deliver to a place specified by him or her, any document, book, record, or any written or electronic information referred to in paragraph (e) for inspection;
 - (g) require from such person an explanation of any entry in such document, book, record or written or electronic information;
 - (h) inspect any article, substance, plant or machinery which is or was on the property, or any work performed on the property or any condition prevalent on the property, or remove for examination or analysis any article, substance, plant or machinery or a part or sample;

- (i) seize any book, record or other document, details or any article, substance, plant or machinery or a part or sample thereof which in his or her opinion may serve as evidence at the trial of any person charged with an offence under this By-law, provided that the user of the article, substance, plant or machinery concerned, as the case may be, may make copies of such book, record or document before such seizure;
 - (j) direct any person to appear before him or her at such time and place as may be determined by him or her and question such person either alone or in the presence of any other person on any matter to which this By-law relates; and
 - (k) take photographs or make audio visual recordings or tape recordings of any person or anything for the purposes of his or her investigation.
- (7) When a compliance officer removes or seizes any article, substance, plant or machinery, book, record or other document as contemplated above, he or she shall issue a receipt to the owner or person in control thereof and return it as soon as practicable after achieving the purpose for which it was removed or seized.
- (8) Where a compliance officer enters any land in terms of subsection (1), a person who controls or manages the land shall at all times provide such facilities as are reasonably required by the compliance officer to enable him or her to perform his or her functions effectively and safely under this By-law.
- (9) A compliance officer who enters and searches any property or private dwelling under this section, shall conduct such search with strict regard for decency and order and with regard for each person's right to dignity, freedom, security and privacy.

80 Offences and penalties

- (1) A person shall be guilty of an offence if such person
- (a) fails to comply with a decision taken or condition imposed by the Municipality in terms of this By-law;
 - (b) willfully and with intent provides false or misleading information in connection with an application contemplated in this By-law;
 - (c) unlawfully prevents a compliance officer entry to his or her premises or causes or permits any other person to prevent entry;
 - (d) obstructs or hinders a compliance officer in the performance of his or her duties or causes or permits any other person to so obstruct or hinder the compliance person;
 - (e) refuses or fails to provide to a compliance officer such information as is required to allow a compliance officer to perform a function in terms of this By-law;
 - (f) furnishes false or misleading information to an official of the Municipality when called upon to furnish information;
 - (g) impersonates a compliance officer;
 - (h) contravenes or fails to comply with any provision of this By-law;
 - (i) supplies particulars, information or answers in an application or on knowing it to be false, incorrect or misleading; or
 - (j) undertakes or proceeds with the installation or display of a sign in conflict with the provisions of this By-law.
- (2) Any person convicted of an offence in terms of this By-law, shall be liable upon conviction to a fine or imprisonment or to both such fine and imprisonment.
- (3) A person convicted of an offence under this By-law who, after conviction, continues with the conduct in respect of which he or she was so convicted, is guilty of a continuing offence and upon conviction is liable to a fine or to imprisonment, or to both such fine and imprisonment, in respect of each day on which he or she so continues with that conduct.

81 Prosecution of corporate body and partnership

A partner in a partnership, a member of the board, executive committee or other managing body or a corporate body is personally guilty of an offence contemplated in terms of this By-law if such offence was committed by:

- (a) a corporate body established in terms of any law; or
 - (b) a partnership; and
- such person failed to take reasonable steps to prevent the offence.

CHAPTER 29

GENERAL MATTERS

82 Appeals

Any person may appeal against any decision taken under this By-Law by giving written notice of the appeal in accordance with the provisions of section 62 of the Municipal Systems Act, 2000.

83 Repeal of by-laws

The By-Laws Relating to Advertising Signs and the Disfigurement of the Front or Frontages of Streets published by in the *Provincial Gazette* by Notice Number 183 of 2005 is hereby repealed.

84 Transitional provisions

- (1) This By-law shall not, from the date of commencement hereof, apply to any sign lawfully in existence at that date, if such sign is continuously displayed without alteration, re-erection or reconstruction and if at all times it complies with this By-law and is maintained in a proper and safe condition.
- (2) All other signs must be removed or made to comply with this By-law within a period of twelve months from date of promulgation hereof, unless more immediate removal or amendment is required by written notification of the Municipality.

85 Exemptions

- (1) The Municipality may, on application –
 - (a) exempt the applicant from compliance with one or all of the provisions of this By-law
 - (b) exempt the applicant in respect of the sign types or areas of control set out in Chapters 13, 14 and 15 hereto having regard to –
 - (i) the area of control where it is proposed to display the sign/s;
 - (ii) nature of the event;
 - (iii) duration of the erection or display of the sign;
 - (iv) size of the proposed sign;
 - (v) any traffic and/or safety and/or environmental or heritage impact assessment;
 - (vi) the outcome of any public participation process;
 - (c) substitute alternative requirements for the placement of signs; or
 - (d) withdraw an exemption granted in terms of paragraph (a).
- (2) The exemption or withdrawal of exemption contemplated in subsection (1) may be made subject to such conditions as the Municipality considers appropriate.

86 Indemnification

Any approval granted by the Municipality is subject to the condition that the applicant indemnifies the Municipality against any consequences flowing from the erection, display or alteration of an existing approved sign or the mere presence of such sign.

87 Short title and commencement

This By-law shall be known as the Senqu Municipality: Outdoor Advertising and Signage By-law, 2017 and shall come into operation on the date of publication thereof in the *Provincial Gazette*.

SENQU MUNICIPALITY**BY-LAW ON THE PREVENTION OF TAMPERING WITH ELECTRICAL INSTALLATIONS AND THE IMPROPER AND UNAUTHORISED USE OF SUCH INSTALLATIONS**

The Municipal Council of Senqu Local Municipality in the Schedule hereto publishes, in terms of section 13 of the Local Government Municipal Systems Act, 2000 (Act 32 of 2000) read with section 162 of the Constitution of the Republic of South Africa Act 1996 (Act 108 of 1996) the By-law on the Prevention of Tampering with Electrical Installations and the Improper and Unauthorised Use of such Installations.

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CHAPTER 1

PURPOSE, DEFINITIONS AND APPLICABILITY OF BY-LAW

1 Objectives

The objectives of this By-law are to provide, in conjunction with the Senqu Municipality: Electricity Supply By-law, 2017 a legal framework to control tampering with and improper and unauthorised use of electrical installations.

2 Definitions

In this By-law any word or expression to which a meaning has been assigned in the Electricity Act, 1987 (Act 41 of 1987) and the Senqu Municipality: Electricity Supply By-law, 2017 shall have that meaning assigned to it in that Act and By-law and, unless the context otherwise indicates:

"authorised person" means a person authorised by the Municipality to implement the provisions of this By-law or a specific section of this By-law in accordance with the standards and procedures required by the Municipality, and includes a compliance officer defined in paragraph (e) of the definition of "compliance officer";

"compliance officer" means a person who is authorised to implement and enforce the provisions of this By-law by virtue of his or her –

- (a) declaration as a peace officer as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977);
- (b) appointment as a police officer as contemplated in the South African Police Service Act, 1995 (Act 68 of 1995);
- (c) a traffic officer appointed in terms of section 3 of the Road Traffic Act, No. 29 of 1989 or section 3A of the National Road Traffic Act No. 93 of 1996 as the case may be;
- (d) appointment as a law enforcement officer or traffic officer by the Municipality and declaration as peace officer as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977); or
- (e) appointment by the Municipality as a compliance officer or an inspector;

"consumer" in relation to premises means the owner of the premises;

"Council" means the Senqu municipal council, a municipal council referred to in section 157(1) of the Constitution;

"credit meter" means a meter where an account is issued subsequent to the consumption of electricity;

"electrical installation" means an electrical installation as defined in the Regulations;

"fee" means any fee, charge or deposit determined for purposes of this By-law, by the Municipality in terms of the Senqu Municipality: Tariff By-law, 2017;

"law" means any applicable law, proclamation, ordinance, act of parliament or enactment having force of law;

"meter" means a device which records the demand and the electrical energy consumed and includes conventional and prepayment meters;

"Municipality" means the Senqu Municipality and includes the Council, any executive councillor, or committee established by the Municipality, or any employee thereof, or duly authorised agent thereof acting in connection with this By-law by virtue of a power vested in the Municipality and delegated to such employee or duly authorised agent

or any legal entity duly authorised or contracted by the Municipality to provide an electricity service within the jurisdiction of the Municipality;;

"occupier" in relation to any premises means-

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

"owner" in relation to premises means the person in whom is vested the legal title thereto; provided that-

- (a) in the case of immovable properly-
 - (i) leased for a period of not less than 30 years, whether the lease is registered or not, the lessee thereof, or
 - (ii) beneficially occupied under a servitude or right analogous thereto, the occupier thereof;
- (b) if the owner -
 - (i) is deceased or insolvent, has assigned his or her estate for the benefit of his or her creditors, has been placed under curatorship by order of court or is a company being wound up or under judicial management, the person in whom the administration of such property is vested as executor, administrator, trustee, assignee, curator, liquidator or judicial manager, as the case may be, or
 - (ii) is absent from the Republic of South Africa, or if his or her address is unknown to the Municipality, any person who as agent or otherwise receives or is entitled to receive the rent in respect of such property; and
 - (iii) if the Municipality is unable to determine who such person is, the person who is entitled to the beneficial use of such property, shall be deemed to be the owner thereof, to the exclusion of the person in whom is vested the legal title thereto;

"premises" means any land or any building or structure above or below ground level and includes any vehicle, aircraft or vessel;

"prepayment meter" means a meter that can be programmed to allow the flow of the pre-purchased amounts of energy in an electrical circuit;

"Regulations" means Regulations made in terms of the Occupational Health and Safety Act, 1993 (Act 85 of 1993);

"service connection" means all cables and equipment required to connect the supply mains to the electrical installation of the consumer at the point of supply;

"service protective device" means any fuse or circuit breaker installed for the purpose of protecting the Municipality's equipment from overloads or faults occurring on the installation or on the internal service connection;

"tariff" means the Municipality's tariff of charges for the supply of electricity and includes any fee, charge, levy and surcharge; and

"tampering" means any unauthorised interference with the Municipality's electricity supply, seals and metering equipment;

"token" means the essential element of a prepayment metering system used to transfer information from a point of sale for electricity credit to a prepayment meter and vice versa;

3 Applicability of By-law

- (1) This By-law must be read with the Senqu Municipality: Electricity Supply By-law, 2017.

- (2) In the event of any conflict with any other by-law which directly or indirectly regulates tampering or improper or unauthorised use of electrical installation, the provisions of this By-law shall prevail to the extent of the inconsistency.

CHAPTER 2

ELECTRICITY SERVICES

4 Provisions of electricity services

The Municipality shall supply or contract for the supply of electricity within the jurisdiction of the Municipality in accordance with section 4 of the Senqu Municipality: Electricity Supply By-law, 2017.

CHAPTER 3

IMPROPER USE, TAMPERING, UNAUTHORISED CONNECTION AND RE-CONNECTION

5 Improper use

- (1) If a consumer uses the electricity for any purpose or deals with the electricity in any manner which the Municipality has reasonable grounds for believing interferes in an improper or unsafe manner or is calculated to interfere in an improper or unsafe manner with the efficient supply of electricity to any other consumer, the Municipality may, with or without notice, disconnect the electricity supply but such supply shall be restored as soon as the cause for the disconnection has been permanently remedied or removed.
- (2) The applicable fee for the disconnection and reconnection of the electricity supply shall be paid by the consumer before the electricity supply is restored, unless it can be shown that the consumer did not use or deal with the electricity in an improper or unsafe manner.

6 Tampering with service connection or supply mains

- (1) No person shall in any manner or for any reason whatsoever tamper or interfere with any meter or metering equipment or service connection or service protective device or supply mains or any other equipment of the Municipality.
- (2) Where prima facie evidence exists of a consumer or any other person having contravened subsection (1), the Municipality shall have the right to disconnect the supply of electricity immediately and without prior notice to the consumer.
- (3) The consumer or other person concerned shall be liable for all fees and charges approved by the Municipality for such disconnection.
- (4) Where a consumer or any other person has contravened subsection (1) and such contravention has resulted in the meter recording less than the true consumption, the Municipality shall have the right to recover from the consumer the full cost of his or her estimated consumption as assessed by the Municipality and in accordance with the applicable tariff of charges approved by the Municipality.
- (5) This section does not derogate from the right of the Municipality to institute criminal proceedings in accordance with any law against a consumer or any other person who has contravened subsection (1).

7 Tampering with seal or lock of Municipality

No person, other than an authorised person, shall in any manner or for any reason whatsoever remove, break, deface, tamper or interfere with the seal or lock of a meter, service protective device or other apparatus which belongs to the Municipality.

8 Unauthorised connection

No person, other than an authorised person, shall directly or indirectly connect, attempt to connect or cause or permit to be connected any electrical installation or part thereof to the supply mains or service connection of the Municipality.

9 Unauthorised reconnection

- (1) No person, other than an authorised person, shall reconnect, attempt to reconnect or cause or permit to be reconnected to the supply mains or service connection any electrical installation or installations which has or have been disconnected by the Municipality.
- (2) Where the supply of electricity that has previously been disconnected is found to have been reconnected, the consumer using the supply of electricity shall be liable for all charges for electricity consumed between the date of disconnection and the date the electricity supply was found to be reconnected and any other charges raised in this regard.
- (3) The Municipality may remove part or all of the supply equipment until such time as payment contemplated in subsection (2) has been received in full.
- (4) The consumer shall be responsible for all the costs associated with the reinstatement of supply equipment contemplated in this section.
- (5) This section does not derogate from the right of the Municipality to institute criminal proceedings in accordance with any law against a consumer or any other person who has contravened subsection (1).

CHAPTER 4

INSPECTION, TEST AND MAINTENANCE

10 Right of entry to inspect, test and do maintenance work

- (1) An authorised person shall have access to or over any property for the purposes of:
 - (a) doing anything authorised or required to be done by the Municipality under this By-law or any other law;
 - (b) inspecting and examining any service mains and anything connected therewith;
 - (c) enquiring into and investigating any possible source of electricity supply or the suitability of immovable property for any work, scheme or undertaking of the Municipality and making any necessary survey in connection therewith.
- (2) An authorised person may, by notice in writing served on the owner or occupier of any property, require such owner or occupier to provide, on the day and at the hour specified in such notice, access to such property to a person and for a purpose referred to in subsection (1).
- (3) The Municipality may gain access to or over any property without notice and may take whatever action as may, in its opinion, be necessary or desirable in consequence of the existence of a state of war or the occurrence of any calamity, emergency or disaster.
- (4) The Municipality shall pay compensation to any person suffering damage as a result of the exercise of the right of access contemplated by subsection (1), except where the Municipality is authorised to execute on the property concerned any work at the cost of such person or some other person or to execute on such property any work and recover the cost thereof from such person or some other person,
- (5) Compensation referred to in subsection (4) shall be an amount as may be agreed upon by the Municipality and such person or, in the absence of agreement, as may be determined by arbitration or by a court of law.

11 Refusal or failure to give information

No person shall refuse or fail to give such information as may be reasonably required of him or her by any authorised person or render any false information to any such person regarding any electrical installation work completed or contemplated or any unauthorised use of or tampering with any electrical installation.

12 Refusal of admittance

No person shall wilfully hinder, obstruct, interfere with or refuse admittance to any authorised person in the performance of his or her duty under this By-law or of any duty connected therewith or relating thereto.

CHAPTER 5

LAW ENFORCEMENT**13 Appointment of compliance officer**

- (1) The Municipality may appoint or designate a person or employee to serve as a compliance officer for purposes of compliance and enforcement monitoring of this By-law.
- (2) A compliance officer shall take all lawful, necessary and practicable measures to enforce the provisions of this By-law.
- (3) The Municipality shall issue each compliance officer with a written appointment stating that he or she has been appointed for purposes of this By-law or with an identification card that contains the municipal logo, department and name of the officer.

14 Powers and functions of a compliance officer

- (1) A compliance officer may, subject to subsection (2) and (3), at any reasonable time, and without prior notice, enter any land property, building or premises for purposes of ensuring compliance with this By-law.
- (2) An inspection of a private dwelling may only be carried out by a compliance officer at a reasonable time and after reasonable notice has been given to the owner or occupier of the land or building and after obtaining the consent of the owner or lawful occupier or person in control of the building, or with a warrant issued in terms of the Criminal Procedure Act, 1977.
- (3) The compliance officer is not required to give any notice to enter land or a building, other than a private dwelling, and may conduct an inspection or take enforcement action without the consent of the owner or occupier of such land or building and without a warrant if:
 - (a) he or she believes on reasonable grounds that a warrant would be issued to him or her on application; and
 - (b) the delay in obtaining the warrant would defeat the object of the inspection and enforcement action.
- (4) A compliance officer shall show proof of his or her written appointment or identification card contemplated in section 14(3) when required to do so by any person affected by the exercising of a power or show proof that he or she is a law enforcement officer.
- (5) A compliance officer may not investigate a matter in which he or she has a direct or indirect personal interest.
- (6) In ascertaining compliance with this By-law, a compliance officer may:
 - (a) be accompanied by an interpreter, a police officer or any other person who may be able to assist with the inspection;
 - (b) question any person who is or was on that property, who in the opinion of the compliance officer, may be able to furnish information on a matter to which this By-law relates;
 - (c) question any person about any act or omission in respect of which there is a reasonable suspicion that it might constitute:
 - (i) an offence in terms of this By-law; or
 - (ii) a breach of an approval or a term or condition of such approval
 - (d) question a person about any structure, object, document, book or record or inspect any written or electronic information or object which may be relevant for the purpose of investigating any matter in connection with this By-law;
 - (e) examine any book, record or other written or electronic information and make a copy thereof or an extract therefrom and remove such document, book, record or written or electronic information in order to make copies or extracts;
 - (f) require a person to produce or to deliver to a place specified by him or her, any document, book, record, or any written or electronic information referred to in paragraph (e) for inspection;

- (g) require from such person an explanation of any entry in such document, book, record or written or electronic information;
 - (h) inspect any article, substance, plant or machinery which is or was on the property, or any work performed on the property or any condition prevalent on the property, or remove for examination or analysis any article, substance, plant or machinery or a part or sample;
 - (i) seize any book, record or other document, details or any article, substance, plant or machinery or a part or sample thereof which in his or her opinion may serve as evidence at the trial of any person charged with an offence under this By-law, provided that the user of the article, substance, plant or machinery concerned, as the case may be, may make copies of such book, record or document before such seizure;
 - (j) direct any person to appear before him or her at such time and place as may be determined by him or her and question such person either alone or in the presence of any other person on any matter to which this By-law relates; and
 - (k) take photographs or make audio visual recordings or tape recordings of any person or anything for the purposes of his or her investigation.
- (7) When a compliance officer removes or seizes any article, substance, plant or machinery, book, record or other document as contemplated above, he or she shall issue a receipt to the owner or person in control thereof and return it as soon as practicable after achieving the purpose for which it was removed or seized.
- (8) Where a compliance officer enters any land in terms of subsection (1), a person who controls or manages the land shall at all times provide such facilities as are reasonably required by the compliance officer to enable him or her to perform his or her functions effectively and safely under this By-law.
- (9) A compliance officer who enters and searches any property or private dwelling under this section, shall conduct such search with strict regard for decency and order and with regard for each person's right to dignity, freedom, security and privacy.

15 Offences and penalties

- (1) A person shall be guilty of an offence if such person -
- (a) Uses or interferes with municipal equipment or consumption of services supplied;
 - (b) tampers or breaks any seal on a meter or on any equipment belonging to the Municipality, or for any reason as determined by the Municipality causes a meter not to properly register the service used;
 - (c) unlawfully prevents an authorised person and a compliance officer entry to his or her premises or causes or permits any other person to prevent entry;
 - (d) obstructs or hinders an authorised person or a compliance officer in the performance of his or her duties or causes or permits any other person to so obstruct or hinder the authorised person or compliance officer;
 - (e) refuses or fails to provide to an authorised person or a compliance officer such information as is required to allow a compliance officer to perform a function in terms of this By-law;
 - (f) furnishes false or misleading information to an authorised person the Municipality when called upon to furnish information;
 - (g) impersonates an authorised person or a compliance officer;
 - (h) contravenes or fails to comply with any provision of this By-law; or
 - (i) supplies particulars, information or answers in an application or on knowing it to be false, incorrect or misleading.
- (2) Any person convicted of an offence in terms of this By-law, shall be liable upon conviction to a fine or imprisonment or to both such fine and imprisonment.
- (3) A person convicted of an offence under this By-law who, after conviction, continues with the conduct in respect of which he or she was so convicted, is guilty of a continuing offence and upon conviction is liable to a fine or to imprisonment, or to both such fine and imprisonment, in respect of each day on which he or she so continues with that conduct.

- (4) Every person committing a breach of the provisions of this By-law shall be liable to recompense the Municipality for any loss or damage suffered or sustained by it in consequence of such breach.

16 Right to disconnect supply

- (1) The Municipality shall have the right to disconnect the supply of electricity to any premises if the person liable to pay for such supply fails to pay any charge due to the Municipality in connection with any supply of electricity which he or she may at any time have received from the Municipality in respect of such premises, provided that such disconnection shall take place in accordance with the provisions of the Senqu Municipality: Credit Control and Debt Collection By-law, 2017 and upon the failure of the person concerned to adhere to the provisions of such policy or any agreement entered into between him or her and the Municipality in terms of such policy.
- (2) In the case where an installation has been illegally reconnected on a consumer's premises after having been previously disconnected by the Municipality, or in the case where the Municipality's electrical equipment has been tampered with to prevent the full registration of consumption by the meter, the electricity supply may be physically removed from those premises.

17 Service of notice

- (1) Any notice or other document that is served on a person in terms of this By-law is regarded as having been served-
- (a) when it has been delivered to that person personally;
 - (b) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of sixteen years;
 - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic and an acknowledgement of the posting thereof from the postal service is obtained;
 - (d) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided by paragraphs (a), (b) or (c); or
 - (e) if that person's address and agent or representative in the Republic is unknown, when it had been posted in a conspicuous place on the property or premises, if any, to which it relates.
- (2) When any notice or other document must be authorised or served on the owner, occupier or holder of any property or right in any property, it is sufficient if that person is described in the notice or other document as the owner, occupier or holder of the property or right in question, and it is not necessary to name that person.
- (3) Any legal process is effectively and sufficiently served on the Municipality when it is delivered to the municipal manager of the Municipality or a person in attendance at the municipal manager's office.

18 Compliance with notice

Any person on whom a notice duly issued or given under this By-law is served shall, within the time specified in such notice, comply with its terms.

CHAPTER 6

GENERAL PROVISIONS

19 Prevention of tampering with service connection or supply mains

If the Municipality decides that it is necessary or desirable to take special precautions in order to prevent tampering with any portion of the supply mains, service connection or service protective device or meter or metering equipment,

the consumer shall either supply and install the necessary protection or pay the costs involved where such protection is supplied by the Municipality.

20 Non-liability of Municipality

The Municipality shall not be liable for any loss or damage, direct or consequential, suffered or sustained by a consumer as a result of or arising from the cessation, interruption or any other abnormality of the supply of electricity, unless caused by negligence on the part of the Municipality.

21 Prima facie evidence

A certificate under the hand of the municipal manager reflecting the amount due and payable to the Municipality shall upon mere production thereof be accepted by any court of law as prima facie evidence of the indebtedness reflected therein.

22 Appeals

Any person may appeal against any decision taken under this By-law by giving written notice of the appeal in accordance with the provisions of section 62 of the Municipal Systems Act, 2000.

23 Repeal of by-laws

This By-law repeals and replaces any other by-law relating to the tampering with electrical installations and improper and unauthorised use of electrical installations only which were promulgated by the Municipality before commencement of this By-law.

24 Short title and commencement

This By-law shall be known as the Senqu Municipality: Prevention of Tampering with Electrical Installations and the Improper and Unauthorised Use of such Installations By-law, 2017 and shall come into operation on the date of publication thereof in the *Provincial Gazette*.

SENQU MUNICIPALITY MUNICIPAL NOTICE**BY-LAW ON PROPERTY RATES**

The Municipal Council of Senqu Local Municipality in the Schedule hereto publishes, in terms of section 13 of the Local Government Municipal Systems Act, 2000 (Act 32 of 2000) read with section 162 of the Constitution of the Republic of South Africa Act 1996 (Act 108 of 1996) the By-law on Property Rates.

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CHAPTER 1

OBJECTIVES, DEFINITIONS AND APPLICABILITY OF BY-LAW

1 Objectives

The objectives of this By-Law are to:

- (a) give effect to the right contained in section 229 of the Constitution of the Municipality to impose rates on property in its area of jurisdiction;
- (b) give effect to the provisions of the Act;
- (c) ensure the equitable treatment of persons liable for rates;
- (d) determine criteria to be applied for the levying of differential rates for different categories of properties;
- (e) determine or provide criteria for the determination of categories of properties and categories of owners of properties;
- (f) determine criteria to be applied for granting exemptions, rebates and reductions;
- (g) determine how the Municipality's powers must be exercised in relation to multiple use properties; and
- (h) identify which categories of properties the Municipality has elected not to rate as provided for in section 7 of the Act.

2 Definitions

In this By-Law any word or expression to which a meaning has been assigned in the By-law and the Act shall have the meaning so assigned to it and, 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;

“agricultural property” means agricultural land as defined in the Subdivision of Agricultural Land Act, 1970 (Act 70 of 1970, and includes all land situated in the municipal area except such land included in the boundaries of a former disestablished municipality now falling within the Municipality and which was not zoned for agricultural purposes in terms of a town planning scheme or land use scheme of that municipality and a smallholding;

“agricultural purpose” in relation to the use of a property, excludes the use of a property for the purpose of eco-tourism or for the trading in or hunting of game;

“agricultural use” means the cultivation and farming of agricultural property for crops and plants or for the breeding thereon of animals (excluding game) and includes only such activities and buildings as are reasonably connected with such use;

“billing cycle” means the date on which the written account is printed by the Municipality to the date on which the account is due and payable by the owner;

“billing date” means the start of the billing cycle;

“budget process” means the budget process of the Municipality in terms of sections 22 and 23 of the Municipal Finance Management Act;

“commercial” means the activity of buying, selling of trade in goods or services and includes any office or accommodation on the same erf, the use of which is incidental to such business, excluding the business of mining, farming or agriculture, or any other business consisting of cultivation of soils, the gathering in of crops or the rearing of livestock or consisting of the propagation and harvesting of fish or other aquatic organisms;

“Council” means the Senqu municipal council, a municipal council referred to in section 157(1) of the Constitution;

“day care centre” means a childcare facility as defined in the Senqu Municipality: Childcare Services by-law, 2017 or a facility where care is provided during the day for the infirm;

“exemption” in relation to the payment of a rate, means an exemption granted by the Municipality in terms of section 15 of the Act;

“financial year” means the period starting from 1 July in a year to 30 June the next year;

“form” means a form approved by the Municipality for the purposes of this By-law;

“indigent owner” means an owner of property registered as an indigent debtor in terms of the Indigent Support and Basic Services Subsidy By-law, 2017;

“industrial” means a branch of trade or manufacturing, production, assembling or processing of finishing products from raw material or fabricated parts, on so large scale that capital and labour are significantly involved;

“market value”, in relation to a property, means the value of the property determined in accordance with section 46 of the Act;

“mining” means any operation or activity for the purpose of extracting any mineral on, in or under the earth, water or any residue deposit, whether by underground or open working or otherwise and includes any operation or activity incidental thereto;

“Municipal Finance Management Act” means the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003);

“Municipal Systems Act” means Local Government: Municipal Systems Act, 2000 (Act 32 of 2000);

“Municipality” means the Senqu Municipality and includes the Council, any executive councillor, or committee established by the Municipality, or any employee thereof, or duly authorised agent thereof acting in connection with this By-law by virtue of a power vested in the Municipality and delegated to such employee or agent;

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

“owner” –

- (a) in relation to a property referred to in paragraph (a) of the definition of “property”, means a person in whose name ownership of the property is registered;
- (b) in relation to a right referred to in paragraph (b) of the definition of “property”, means a person in whose name the right is registered;
- (c) in relation to a land tenure right referred to in paragraph (c) of the definition of “property”, means a person in whose name the right is registered or to whom it was granted in terms of legislation; or
- (d) in relation to public service infrastructure referred to in paragraph (d) of the definition of “property”, means the organ of state which owns or controls that public service infrastructure as envisaged in the definition of “publicly controlled”, provided that a person mentioned below may for the purposes of this Act be regarded by a municipality as the owner of a property in a trust excluding state trust land:
 - (i) A trustee, in the case of a property in a trust excluding state trust land;
 - (ii) an executor or administrator, in the case of a property in a deceased estate;
 - (iii) a trustee or liquidator, in the case of a property in an insolvent estate or in liquidation;

- (iv) a judicial manager, in the case of a property in the estate of a person under judicial management;
- (v) a curator, in the case of a property in the estate of a person under curator ship;
- (vi) a person in whose name a usufruct or other personal servitude is registered, in the case of a property that is subject to a usufruct or other personal servitude;
- (vii) a lessee, in the case of a property that is registered in the name of a municipality and is leased by it; or
- (viii) a buyer, in the case of a property that was sold by a municipality and of which possession was given to the buyer pending registration of ownership in the name of the buyer;

“permitted use” in relation to a property, means the limited purposes for which the property may be used in terms of-

- (a) any restrictions imposed by –
 - (i) a condition of title;
 - (ii) a provision of a town planning or land use scheme; or
 - (iii) any legislation applicable to any specific property or properties; or
- (b) any alleviation of any such restrictions;

“property” means

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

“publicly controlled” means owned by or otherwise under the control of an organ of state and including –

- (a) a public entity listed in the Public Finance Management Act, 1999 (Act No. 1 of 1999);
- (b) a municipality; or
- (c) a municipal entity as defined in the Municipal System Act;

“public benefit organisations” means an organisation conducting public benefit activities as defined in the Act and registered in terms of the Income Tax Act and qualifies for tax reductions because of those activities;

“public service infrastructure” means publicly controlled infrastructure of the following kinds:

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

- (j) right of way, easements or servitudes in connection with infrastructure mentioned in paragraph (a) to (i);

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

“rateable property” means property on which a municipality may in terms of section 2 levy a rate, excluding property fully excluded from the levying of rates in terms of section 17 of the Act;

“rebate” in relation to a rate payable on a property, means a discount granted in terms of section 15 of the Act on the amount of the rate payable on the property;

“reduction” in relation to a rate payable on a property, means the lowering in terms of section 15 of the Act of the amount for which the property was valued and the rating of the property at that lower amount;

“residential property” means a suit of rooms which forms a living unit that is exclusively used for human habitation purposes, or a multiple number of such units on a property, excluding a hotel, guest house, commune, boarding and undertaking, hostel and place of instruction as defined in the land use scheme of the Municipality but excludes vacant land, irrespective of its zoning or intended use;

“rates policy” means the Senqu Rates and Evaluation Policy adopted in terms of section 3 of the Act; and

“smallholding” means a property recorded in the Deeds Registry database as being an erf and zoned for agricultural use in terms of an adopted town planning scheme or land use scheme;

“state-owned property” means properties owned by the state, which are not included in the definition of public service infrastructure in the Act and are classified as follows:

- (a) state properties that provide local services;
- (b) state properties that provide regional or municipal district-wide services;
- (c) state properties that provide national or provincial services;

“state trust land” means land owned by the state -

- (a) in trust for persons communally inhabiting the land in terms of a traditional system of land tenure;
- (b) over which tenure rights were registered or granted; or
- (c) which is earmarked for disposal in terms of the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994);

“the Act” means the Local Government: Municipal Property Rates Act, 2004 (Act 6 of 2004);

“vacant land” means land where no immovable improvements have been erected, with the exclusion of agricultural land. It however does include agricultural land that is not productively used for agricultural purposes; and

“written account” means an account contemplated in section 27 of the Act.

3 Applicability of By-law

- (1) This By-law must be read with any applicable provisions of the Act.
- (2) In the event of any conflict with any other by-law which directly or indirectly, within the jurisdiction of the Municipality, regulates property rates, the provisions of this By-law shall prevail to the extent of the inconsistency.

CHAPTER 2

RATES POLICY AND THE IMPOSITION OF RATES

4 Adoption and implementation of rates policy

- (1) The Municipality shall adopt and implement a rates policy on the levying of rates on rateable property in the area of jurisdiction of the Municipality, which complies with the provisions of the Act.
- (2) The Municipality must annually review, and if necessary, amend its rates policy and any amendments to the rates policy must accompany the Municipality's annual budget when it is tabled in the Council in terms of section 16(2) of the Municipal Finance Management Act.
- (3) The Municipality shall not be entitled to levy rates, other than in terms of the Act, this By-law and the rates policy.

5 Contents of rates policy

The rates policy shall inter alia -

- (a) apply to all rates levied by the Municipality pursuant to the adoption of the annual budget of the Municipality;
- (b) comply with the requirements for -
 - (i) the adoption and content of a rates policy as contemplated in section 3 of the Act;
 - (ii) a community participation process as contemplated in section 4 of the Act; and
 - (iii) the annual review of a rates policy as contemplated in section 5 of the Act;
- (c) specify any additional principles, criteria and implementation measures consistent with the Act, for the levying of rates;
- (d) provide for the implementation of any regulations promulgated in terms of section 19(1)(b) of the Act; and
- (e) include additional enforcement mechanisms, if any, as the Municipality may wish to impose in addition to the enforcement mechanisms contained in the Act, the Municipal Systems Act, the Senqu Credit Control and Debt Collection By-law and the rates policy of the Municipality.

6 Imposition of rates

- (1) The Municipality must, as part of each annual operating budget process, determine a rate in the rand to be levied on the market value of all rateable property as recorded in the Municipality's valuation roll and supplementary valuation roll.
- (2) The Municipality must recover the rates monthly or in a single amount annually.
 - (a) Where the rates levied on a property are based on a supplementary valuation made in terms of section 78(1) of the Act such rate shall be payable from the date contemplated in section 78(4) of the Act.
 - (b) The Municipality must recover the rates due in accordance with its Credit Control and Debt Collection By-law read together with its Credit Control and Debt Collection Policy.

CHAPTER 3

CATEGORIES OF PROPERTY AND CATEGORIES OF OWNERS OF PROPERTY

7 Differential rating

Subject to and in conformity with the Act, the Municipality may levy different rates on different categories of rateable property determined by it in terms of section 8.

8 Categories of rateable property

- (1) For the purpose of levying different rates on different categories of rateable property, the Municipality must -
 - (a) provide criteria for determining different categories of rateable property;
 - (b) determine different categories of rateable property.
- (2) The different categories of rateable property determined by the Municipality in terms of subsection (1)(b) and the criteria for determining different categories of rateable property by the Municipality in terms of subsection (1)(a) must be specified in the rates policy.

- (3) The different categories of rateable property determined by the Municipality in terms of subsection (1)(b) may include, but are not limited to the following:
- (a) Residential properties;
 - (b) commercial or business properties;
 - (c) industrial properties;
 - (d) public service infrastructure properties;
 - (e) properties owned by public benefit organisations and used for specified public benefit activities;
 - (f) agricultural properties used for agricultural purposes;
 - (g) agricultural properties used for commercial or industrial purposes;
 - (h) agricultural properties used for eco-tourism, conservation, trading in or hunting of game;
 - (i) agricultural properties not used for any purpose or for a purpose not known to the Municipality;
 - (j) state-owned properties that provide local services;
 - (k) state-owned properties that provide regional or municipal district- wide services;
 - (l) state-owned properties that provide provincial or national services;
 - (m) municipal properties;
 - (n) vacant land;
 - (o) formal and informal settlements;
 - (p) smallholdings used for agricultural purposes;
 - (q) smallholdings used for residential purposes;
 - (r) smallholdings used for industrial purposes;
 - (s) smallholdings used for business and commercial purposes; and
 - (t) smallholdings used for other purposes.
- (4) If a rateable property is used for multiple purposes, rates must be determined by the Municipality according to -
- (a) the permitted use of the property, if the permitted use is regulated by the Municipality; or
 - (b) if the permitted use is not regulated by the Municipality, the dominant use of the property.

9 Categories of owners of properties

- (1) For the purpose of granting an exemption, a rebate or reduction, the Municipality shall determine different categories of owners of properties in its rates policy.
- (2) The criteria for determining different categories of owners of properties shall be specified by the Municipality in its rates policy.
- (3) The different categories of owners of properties determined by the Municipality in terms of subsection (1) may include, but are not limited to, the following categories:
- (a) indigent owners;
 - (b) owners of properties situated within an area affected by a disaster within the meaning of the Disaster Management Act, 2002 (Act 57 of 2002);
 - (c) owners of agricultural properties used for agricultural purposes, commercial or industrial purposes, eco-tourism, conservation, trading in or hunting of game, or not used for any purpose or for a purpose unknown to the Municipality;
 - (d) owners dependent on pensions, social grants or disability pensions for their livelihood with a monthly household income threshold determined by the Municipality in its rates policy or in its indigent and free basic services policy;
 - (e) owners without income for an uninterrupted period of three months immediately before 1 July of any financial year;
 - (f) owners of residential property with a market value lower than a value determined by the Municipality in its rates policy and determined by the Municipality's municipal valuer;
 - (g) owners of properties registered in their name used primarily as a place of worship; and
 - (h) any other owners of properties exempted by the Municipality in terms of the rates policy.

CHAPTER 4

EXEMPTION, REBATE OR REDUCTION OF RATES**10 Power of Municipality to exempt from or grant reduction in or rebate on rates**

- (1) The Municipality may -
 - (a) exempt a specific category of owners of properties, or the owners of a specific category of rateable properties, from payment of a rate levied on their property; or
 - (b) grant to a specific category of owners of properties, or the owners of a specific category of rateable properties, a reduction in or a rebate on the rates payable in respect of their properties.
- (2) If the Municipality chooses to exempt from the payment of rates, grant a reduction in or rebate on rates to a specific category of rateable property or a specific category of owner of rateable property, it shall exercise this power in accordance with the criteria determined in the rates policy in terms of section 3(3)(b)(ii) of the Act.
- (3) The Municipality shall not levy rates contrary to the provisions of section 16 and 17 of the Act.
- (4) The Municipality shall ensure that any exemption, reduction in or rebate on rates granted by it are clearly indicated on the written accounts.

11 Exemption from rates

- (1) The following categories of rateable property are exempted from rates levied on that property:
 - (a) properties registered in the name of the Municipality or owned by municipal entities and all public service infrastructure owned by the Municipality;
 - (b) properties in respect of which it is impossible or unreasonably difficult to establish a market value because of legally insecure tenure resulting from past racially discriminatory laws or practices;
 - (c) properties used as a place of public worship;
 - (d) properties to which the provisions of the National Heritage Resources Act, 1999 (Act of 1999), apply;
 - (e) properties used as cemeteries or crematoria;
 - (f) any other categories of rateable property exempted by the Municipality in accordance with the Rates Policy.
- (2) The following categories of owners of rateable property are exempted from rates levied on that property:
 - (a) owners dependent on pensions and social grants who reside on the property to which the exemption applies and the value of that property does not exceed the amount determined by the Municipality in its rates policy after the R15 000.00 exclusion in terms of section 17(1)(h) of the Act;
 - (b) public benefit organisations performing one of the following public benefit activities:
 - (i) welfare and humanitarian activities;
 - (ii) health care activities;
 - (iii) educational and development activities; and
 - (iv) community and social activities;
 - (c) indigent owners who reside on the property to which the exemption applies and the value of that property does not exceed does not exceed the amount determined by the Municipality in its rates policy after the R15 000.00 exclusion in terms of section 17(1)(h) of the Act;
 - (d) institutions that has been declared subject to the Cultural Institutions Act, 1998 (Act 119 of 1998);
 - (e) old age homes;
 - (f) day care centres;
 - (g) museums, libraries and botanical gardens;
 - (h) youth development organisations;
 - (i) animal protection societies;
 - (j) police forums;
 - (k) sporting bodies; and

- (l) any other category of owner of property exempted by the Municipality in accordance with the rates policy.
- (3) No application for exemption from rates by the owners of the properties, whether determined in section 17 of the Act or determined in this section, is required by the Municipality, with the exception of owners referred to in subsection (2)(a) and (b).
- (4) An owner who qualifies for an exemption from rates in terms of subsection (2)(a) and (b) may apply to the Municipality for such exemption on the applicable form.
- (5) If the applicant qualifies for an exemption from rates in terms of subsection (2)(a), the application form contemplated in subsection (4) must be accompanied by -
 - (a) a certified copy of the identity document or any other proof of the applicant's age which is acceptable to the Municipality;
 - (b) proof of household income to the satisfaction of the Municipality; and
 - (c) an affidavit from the applicant.
- (6) If the applicant qualifies for an exemption from rates in terms of subsection (2)(b), the application form contemplated in subsection (4) must be accompanied by -
 - (a) proof of ownership of the property;
 - (b) proof that the public benefit organisation is registered in terms of the Income Tax Act, 1962 (Act 58 of 1962) for tax reduction.
- (7) The Municipality must deal with all applications submitted to it in accordance with its Credit Control and Debt Collection Policy.
- (8) The Municipality retains the right to refuse an application for an exemption from rates if the information supplied in terms of subsections (5) and (6) is incomplete, incorrect or false.

12 Reduction in rates

- (1) The Municipality may grant a reduction in the rates levied on a rateable property by the owner of that property –
 - (a) if it has been partially or totally destroyed; or
 - (b) if the property is situated within an area affected by a disaster as defined in the Disaster Management Act, 2002 (Act 57 of 2002).
- (2) An owner who qualifies for a reduction in rates in terms of this section may apply to the Municipality for such reduction on the form approved by the Municipality.
- (3) An application form contemplated in subsection (2) must be accompanied by documentation or other evidence, to the satisfaction of the Municipality –
 - (a) to prove that the property concerned has been totally or partially destroyed;
 - (b) to indicate the extent to which the property can still be used; and
 - (c) to indicate the impact of the destruction or disaster on the value of the property.
- (4) The Municipality retains the right to refuse an application for a reduction in rates if the information supplied in terms of subsections (2) and (3) are absent, incomplete, incorrect or false.

13 Rebate on rates

- (1) The Municipality may grant a rebate on the rates levied on a rateable property if -
 - (a) it is an agricultural property as defined in section 1 of the Act;
 - (b) the owner is dependent on a pension or social grant for his or her livelihood;
 - (c) the owner has been without a total gross monthly household income determined in the rates policy for a period of time determined in the rates policy; or
 - (d) an organ of state is the owner of the property.
- (2) The Municipality must, in its rates policy determine the percentage rebate that may be granted by it and the percentage may be determined on a sliding scale.

- (3) An owner who qualifies for a rebate on rates in terms of this section may apply to the Municipality for such rebate on the form approved by the Municipality.
- (4) The Municipality must, when considering an application for a rebate in terms of subsection (1), apply the criteria contemplated in the rates policy.
- (5) The Municipality retains the right to refuse an application for a rebate on rates if the information supplied by the applicant is incomplete, incorrect or false.

14 Disclosure of financial information

The municipal manager shall annually table in the Council the information required in terms of section 15(3) and (4) of the Act.

CHAPTER 5 PAYMENT OF RATES

15 Frequency of payment of rates

- (1) The Municipality may recover the rates due to it in a single amount annually or in monthly instalments.
- (2) The Municipality shall levy rates in a single amount annually on an agricultural property and a property owned by an organ of state and it may levy a single amount annually as may be agreed to with the owner of the property.
 - i. The Municipality shall levy rates on properties, other than a
 - ii. property referred to in subsection (2), in 11 equal instalments.
- (3) All rates levied in a single amount annually in accordance with subsection (2) shall be paid by the owner of the property concerned on or before 31 December of the financial year in which it becomes due.
- (4) All rates levied in instalments in accordance with subsection (3) shall be paid by the owner of the property concerned on or before the date indicated on the account, which date shall be on or before the end of the billing cycle for the month concerned.
- (5) An owner of property may apply in writing to the Municipality for a change in the frequency of his or her payment on the approved form and such application must be submitted to the Municipality before 31 May of a financial year and such a change in frequency, if approved, applies in the subsequent financial year.

16 Arrears

- (1) All rates that remain unpaid after the due date stipulated on the written accounts must be collected by the Municipality through the provisions contained in the Senqu Municipality: Credit Control and Debt Collection By-law; 2017.
- (2) Interest on arrear rates must be calculated at the rate determined by the Council during its annual budget review process.
- (3) The Council may grant exemption on interest on arrears in the rates policy.
- (4) The Municipality must recover any arrear rates from the owner, tenant or occupier of the property concerned or from the agent of the owner of the property concerned, in terms of sections 28 and 29 of the Act.
- (5) Joint owners of a rateable property, including the joint owners of agricultural property are jointly and severally liable for the payment of rates on that property.

CHAPTER 3 GENERAL MATTERS

17 Community Participation Process

- (1) For the purposes of the adoption of the rates policy community participation must be undertaken in accordance with the provisions of section 4 of the Act.
- (2) Community participation in any amendments to the rates policy as a result of the annual review of thereof as required by section 5 of the Act, must be effected through the Municipality's annual budget process in terms of sections 22 and 23 of the Municipal Finance Management Act.

18 Appeals

- (1) Any person may appeal against any decision taken under this By-Law by giving written notice of the appeal in accordance with the provisions of section 62 of the Municipal Systems Act, 2000.
- (2) An appeal relating to the value of the property as reflected on the valuation roll must be lodged in terms of Chapter 6 of the Act.

19 Repeal of by-laws

The Rates Policy By-Law published in the *Provincial Gazette* by Notice Number 54 of 2005 is hereby repealed.

20 Short title and commencement

This By-law shall be known as the Senqu Municipality: Property Rates By-law, 2017 and shall come into operation on the date of publication thereof in the *Provincial Gazette*.

SENQU MUNICIPALITY MUNICIPAL NOTICE**BY-LAW ON PUBLIC AMENITIES**

The Municipal Council of Senqu Local Municipality in the Schedule hereto publishes, in terms of section 13 of the Local Government Municipal Systems Act, 2000 (Act 32 of 2000) read with section 162 of the Constitution of the Republic of South Africa Act 1996 (Act 108 of 1996) the By-law on Public Amenities.

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CHAPTER 1

PURPOSE, DEFINITIONS AND APPLICABILITY OF BY-LAW

1 Objectives

The objectives of this By-law are to –

- (a) give effect to the right of the Municipality to make by-laws contained in Part B of Schedule 5 of the Constitution; and
- (b) provide, in conjunction with any other applicable law, a legal framework within which the Municipality can manage and regulate activities within public amenity areas.

2 Definitions

In this By-law any word or expression to which a meaning has been assigned in the By-law shall have the meaning so assigned to it and, unless the context otherwise indicates:

“Council” means the Senqu municipal council, a municipal council referred to in section 157(1) of the Constitution;

“compliance officer” means a person who is authorised to implement and enforce the provisions of this By-law by virtue of his or her –

- (a) declaration as a peace officer as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977);
- (b) appointment as a police officer as contemplated in the South African Police Service Act, 1995 (Act 68 of 1995);
- (c) a traffic officer appointed in terms of section 3 of the Road Traffic Act, No. 29 of 1989 or section 3A of the National Road Traffic Act No. 93 of 1996 as the case may be;
- (d) appointment as a law enforcement officer or traffic officer by the Municipality and declaration as peace officer as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977); or
- (e) appointment by the Municipality as a compliance officer;

“craft” means any boat or other vessel which is not a surf craft or wind-surfer;

“heely” means a shoe fitted with one or more wheels embedded in the sole at the heel allowing the wearer to move by shifting his or her weight to his or her heels;

“jet ski” means a motorised device, not exceeding 3m in length and carrying not more than two people, used or designed exclusively for recreational purposes and “jet skiing” has a corresponding meaning;

“life-saver” means any person employed or appointed in the capacity by this Municipality and includes any member of the South African Surf Life-Saving Association or of any affiliated life-saving club or association of life-savers;

"Municipality" means the Senqu Municipality and includes the Council, any executive councillor, or committee established by the Municipality, or any employee thereof, or duly authorised agent thereof acting in connection with this By-law by virtue of a power vested in the Municipality and delegated to such employee or agent;

"notice on the spot" means an adequate notice in any of the official languages generally in use in the Municipality erected or posted in a prominent position and maintained in a legible state;

"promenade" means any public walkway, used as such by the public within a recreation area;

"public amenity" means -

- (a) any land, square, caravan park, camping site, swimming-bath, public resort, recreation site, nature reserve, zoological, botanical or other garden, park or hiking trail including any portion thereof and any facility or apparatus therein or thereon, but excluding any public road or street;
- (b) any building, structure, hall, room or office including any part thereof and any facility or apparatus therein and municipal infrastructure, which is the property of, or is possessed, controlled or leased by the Municipality or any other organ of state, to which the general public has access, whether on payment of an admission fee or not;

"public amenity area" means the area adjacent to the recreation area designated as such by the Municipality by notice on the spot and includes any amenity as contemplated by Item 1 of Schedule 5B of the Constitution or reserve declared as such by the Municipality;

"shore" means the land adjacent to the waterline; and

"wind-surfer" means a rudderless device which is fitted with a sail, is propelled on the surface of the water by the action of the wind and is designed to carry one person and "wind-surfing" and "wind-surf" have a corresponding meaning.

3 Applicability of By-law

- (1) This By-law shall apply to all public amenities within the municipal area.
- (2) In the event of any conflict with any other by-law which directly or indirectly, within the jurisdiction of the Municipality, regulates public amenities, the provisions of this By-law shall prevail to the extent of the inconsistency.

CHAPTER 2

OFFENCES

4 Offences relating to nuisances and offensive behaviour

- (1) Any person shall be guilty of an offence who -
 - (a) deposits or discharges upon the shore area or in the any public amenity water area or in any bathing pool, any offal, rubbish or anything liable to be a nuisance or a danger to public safety or public health; or
 - (b) whilst suffering from any infectious or contagious disease enters or remains on the shore or in the water or in any bathing pool; or
 - (c) whilst upon or in the shore, public amenity or in any bathing pool -
 - (i) uses any obscene, offensive or indecent language; or
 - (ii) behaves in an offensive, improper or disorderly manner; or
 - (iii) wilfully or negligently does any act which causes discomfort to other users of the shore or public amenity or any bathing pool, or is likely to cause a breach of the peace.
- (2) No person shall in or at a public amenity -
 - (a) dump, drop or place any refuse, rubble, material or any object or permit it to be done, except in a container provided for that purpose in or at the amenity;
 - (b) pollute or contaminate in any way the water in any water feature, swimming bath, dam, river or water-course;

- (c) perform any act that may detrimentally affect the health or safety of any visitors to a public amenity.
- (3) No person shall, without the written consent of the Municipality having first been obtained erect or establish in or on a public amenity any structure, shelter or anything else, except a caravan or tent erected for camping purposes on a site specifically set aside therefore by notice.

5 Prohibition of bathing within areas considered unsafe

- (1) Bathing at any public amenity may be prohibited either as a permanent or as a temporary measure on the grounds that it is unsafe.
- (2) Bathing at any public amenity may be prohibited by a lifesaver on duty, for so long as he or she may consider the condition of the water unsafe.
- (3) Any permanent prohibition under this By-law shall be indicated by notice on the spot and any temporary prohibition by any other recognisable and intelligible marker at both ends of the prohibited area.
- (4) This permanent prohibition extends to preserving the quality of water intended for human consumption.

6 Offences relating to bathing

Any person who -

- (a) bathes in or from any area in which bathing has been prohibited in terms of section 5;
- (b) hangs onto, sits upon or causes to sink any safety ropes provided for the protection of bathers, or in any way interferes with such safety ropes or other appliances provided for the assistance of bathers in distress;
- (c) enters or remains in any bathing pool contrary to a reasonable prohibition by the person having authority over or placed in charge of such bathing pool as evidenced by a notice on the spot, shall be guilty of an offence.

7 Damage to property

Any person who interferes with, misuses or damages any building, closet, shelter, changing booth, or other amenity or infrastructure and service thereto provided for the use of the public, or who disregards, or, in contravention of directions as to the use to which the same may be put, fails to observe the terms of notices in any of the official languages, affixed to any such building, structure or amenity by the Municipality or any person having authority to maintain such building, structure or amenity on the water-line or public amenity, shall be guilty of an offence.

8 Animals in public amenity area

- (1) Any person who, within a designated public amenity area of the Municipality, causes or allows any dog or other animal belonging to him or her or in his or her charge to enter or remain within such area or in any bathing pool whereon or wherein the Municipality has by notice on the spot prohibited the presence of dogs or animals shall be guilty of an offence.
- (2) Any dog not under control or apparently not under control of any person may, if found within a designated public amenity area of the Municipality contrary to subsection (1), may be impounded by any member, employee or servant of the Municipality and may be removed to a pound.
- (3) Any person who causes or allows any horse, pony or other animal belonging to him or her or in his or her charge to enter or remain within a designated public amenity area within the area of jurisdiction of the Municipality except with permission given in writing and subject to such terms and conditions as the Municipality may deem fit to impose, shall be guilty of an offence.

9 Firearms

Any person who discharges a firearm from any designated public amenity area shall be guilty of an offence: Provided that it shall not be an offence if a firearm is used with permission given in writing and subject to such terms and conditions as the Municipality may deem fit to impose for -

- (a) firing of blank cartridges during competitions or during sport meetings organised on or in the designated public amenity area and;
- (b) for the collection of specimen of water life or birds or animals for scientific purposes.

10 Interference with notice boards

Any person, other than a person authorised to do so by the Municipality, who moves, defaces or otherwise interferes with any notice board, notice or marker erected, posted or placed on the designated public amenity area by the Municipality, or by its direction, in terms of this By-law shall be guilty of an offence.

11 Prohibition of entertainment and trade

Any person who, for reward or gain conducts an entertainment or business or trade of any sort on the designated public amenity area without the written permission given by the Municipality on such terms and conditions as in each case may by the Municipality be deemed fit, shall be guilty of an offence.

12 Vehicles on or in designated public amenity area

- (1) Any person who, without the written consent of the Municipality introduces into or rides or drives any motor vehicle, animal-drawn vehicle, bicycle, roller skates, heely or similar shoe or skateboard, onto the designated public amenity areas, which excludes public roads, thoroughfare or parking area, shall be guilty of an offence.
- (2) Subsection (1) shall not apply in respect of the person in charge of any ambulance whilst lawfully in use as such, or in respect of any vehicle used in lieu of an ambulance in time of emergency, or of any vehicle used by any organ of state, or service utility in pursuance of official duties.

13 Life-saving devices

- (1) Any person, other than a lifesaver or, a member, employee or servant of the Municipality, who, save in time of emergency, touches, handles or in any way makes use of or damages any life-line, lifebuoy, or any other life-saving appliance, installed or maintained upon the shore, or any public bathing or boating area designated public amenity, shall be guilty of an offence.
- (2) Any person who impairs or impedes the operation of any life-saving appliance or device while it is in use on the shore or in the water of a bathing or boating area of a designated public amenity, shall be guilty of an offence.

14 Control of boats

- (1) The Municipality may within the municipal area- -
 - (a) set aside by notice on the spot, a place or places on the shore and any area for the launching, landing, beaching, keeping, letting or hiring of boats, jet skis or craft;
 - (b) set aside by notice on the spot, a place or places for the exclusive use of different types of boats or craft or for the use only of boats or craft belonging to members of boat clubs
 - (c) prohibit the use or operation of any boat, jet ski or craft, or type thereof, from certain parts of the shore, and may differentiate between boats, jet skis or craft belonging to or used by members of boat clubs and those belonging to or used by non-members of such clubs;
 - (d) make the operation or use of boats, jet skis or craft or certain types thereof, within or from any part of the shore or any part of water, subject to its written permission granted on such terms and conditions as it may deem fit to impose; and
 - (e) authorise any lifesaver or person appointed in terms of by 19 to prohibit the use of any boat, jet ski or craft within the shore or the water for so long as he or she may consider the condition of the water unsafe or that the use of such boat, jet ski or craft is likely to cause discomfort or injury to other users or is likely to lead to a breach of the peace.

- (2) Any person who launches, lands, beaches, keeps, lets or hires or otherwise uses any boat, jet ski or craft contrary to subsection (1) of this By-law shall be guilty of an offence unless such act is done in an emergency or in order to save life.
- (3) Fishing is prohibited in an area designated for boating.

15 Control of wind-surfing

- (1) Wind-surfing in any part of water within the municipal area may be prohibited by the Municipality
 - (i) either temporarily or permanently, or
 - (ii) temporarily by a lifesaver or a person officially appointed by the Municipality on the grounds that it is unsafe or is likely to cause discomfort or injury to other users of the shore or water or a breach of the peace.
- (2) Any permanent prohibition shall be indicated by notice on the spot at both ends of the prohibited area and any temporary prohibition shall periodically be brought to attention by the use of a public address system or by personal warning.
- (3) Any person who windsurfs in contravention of any prohibition contemplated herein shall be guilty of an offence.

16 Control of camping

- (1) The Municipality may, by notice on the spot, prohibit camping on any part of the shore or any designated public amenity area.
- (2) Any person who erects a tent or camps on the shore or any designated public amenity area without the written permission of the Municipality, shall be guilty of an offence.

17 Control of anglers

- (1) No person shall fish or angle from any part of the shore or any designated public amenity area within the municipal area that the Municipality, by notice on the spot, declares to be an area in which fishing or angling is prohibited. Where fishing or angling is not so prohibited no person shall throw, cast or swing any line or gear in such a manner as to cause danger or annoyance to any other person.
- (2) No person shall leave any bait, fishhook or refuse on the shore.
- (3) Boating is prohibited in a designated fishing area.
- (4) Any person failing to abide by or comply with the foregoing shall be guilty of an offence.

18 Control of fires

Any person who kindles a fire on the shore or any designated public amenity area without obtaining the prior written permission of the Municipality, which permission may be given subject to such terms and conditions as the Municipality may deem fit to impose, shall be guilty of an offence.

19 Control of piers and other structures

Any person, other than a member, employee, or servant of the Municipality whilst on duty, who enters upon any pier or other structure erected for the protection of the shore within the municipal area, except with the prior written permission of the Municipality, shall be guilty of an offence.

20 Promenade

- (1) No person may bring onto or drive or ride on any promenade any bicycle, skateboard, roller skate, heely or similar shoe, skateboard, quad bike, motor cycle, vehicle or transport device provided that this is not applicable to people confined to a wheelchair.
- (2) Any person failing to abide by or comply with the foregoing shall be guilty of an offence.

21 Penalty

Any person who-

- (i) contravenes or fails to comply with any provisions of this By-law;
- (ii) fails to comply with any lawful direction of a compliance officer or municipal official given to him or her in terms of this By-law;

shall be guilty of an offence and on conviction liable to a fine or imprisonment or to both a fine and imprisonment.

22 Observance of By-law

Any person who behaves in a manner that is in contravention of a provision of this By-law shall immediately cease such behaviour when directed to do so by a compliance officer or authorised municipal official.

CHAPTER 3 GENERAL MATTERS

23 Appeals

Any person may appeal against any decision taken under this By-law by giving written notice of the appeal in accordance with the provisions of section 62 of the Municipal Systems Act, 2000, as amended.

24 Appointment of compliance officer

- (1) The Municipality may appoint or designate a person or employee to serve as a compliance officer for purposes of compliance and enforcement monitoring of this By-law.
- (2) A compliance officer shall take all lawful, necessary and practicable measures to enforce the provisions of this By-law.
- (3) The Municipality shall issue each compliance officer with a written appointment stating that he or she has been appointed for purposes of this By-law or with an identification card that contains the municipal logo, department and name of the officer.

25 Law of tickets

All admission tickets issued by the Municipality will make reference to the appropriate sections of this By-law and this shall be deemed compliant with the law of tickets.

26 Repeal of by-laws

The By-laws relating to Public Amenities published in the *Provincial Gazette* by Notice Number 196 of 2005 are hereby repealed.

27 Short title and commencement

This By-law shall be known as the Senqu Municipality: Public Amenities By-law, 2017 and shall come into operation on the date of publication hereof in the *Provincial Gazette*.

SENQU MUNICIPALITY MUNICIPAL NOTICE**BY-LAW ON STREET LIGHTING**

The Municipal Council of Senqu Local Municipality in the Schedule hereto publishes, in terms of section 13 of the Local Government Municipal Systems Act, 2000 (Act 32 of 2000) read with section 162 of the Constitution of the Republic of South Africa Act 1996 (Act 108 of 1996) the By-law on Street Lighting.

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CHAPTER 1

OBJECTIVES, DEFINITIONS AND APPLICABILITY OF BY-LAW

1 Objectives

(1) The objectives of this By-law are to

- (a) preserve, protect, and enhance the lawful night-time use and enjoyment of any and all property through the use of appropriate lighting practices and systems in the municipal area of the Municipality; and
- (b) standardise lighting systems to be designed, constructed, and installed to: control glare and light trespass, minimize obtrusive light, conserve energy and resources while maintaining safety, security and productivity, and curtail the degradation of the night-time visual environment.

2 Definitions

In this By-law any word or expression to which a meaning has been assigned in the By-law shall have the meaning so assigned to it and, unless the context otherwise indicates:

"compliance officer" means a person who is authorised to implement and enforce the provisions of this By-law by virtue of his or her –

- (a) declaration as a peace officer as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977);
- (b) appointment as a police officer as contemplated in the South African Police Service Act, 1995 (Act 68 of 1995);
- (c) a traffic officer appointed in terms of section 3 of the Road Traffic Act, No. 29 of 1989 or section 3A of the National Road Traffic Act No. 93 of 1996 as the case may be;
- (d) appointment as a law enforcement officer or traffic officer by the Municipality and declaration as peace officer as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977); or
- (e) appointment by the Municipality as a compliance officer or an inspector;

"Council" means the Senqu municipal council, a municipal council referred to in section 157(1) of the Constitution;

"direct light" means light emitted directly from the lamp, off of the reflector or reflector diffuser, or through the refractor or diffuser lens, of a luminaire;

"foot-candle" means a unit of luminance amounting to one lumen per square foot;

"fully-shielded lights" means outdoor light fixtures shielded or constructed so that no light rays are emitted by the installed fixture at angles above the horizontal plane as certified by a photometric test report and includes full cut-off lights;

"glare" means a harsh uncomfortably bright light emitting from a luminaire shining into the cone of vision causing reduced vision or momentary blindness when shining into one's cone of vision;

"installed lighting" means attached lighting that is attached or fixed in place, whether or not connected to a power source;

"light trespass" means the shining of light, produced by a luminaire, not exceeding 0.5 foot-candle 1 meter beyond the property line on which it is located;

"lumen" means the unit used to measure the actual amount of light, which is produced by a lamp;

"luminaire" means the complete lighting system, including the lamp and the fixture;

"lux" means the SI unit of luminance and one lux is one lumen per square meter;

"Municipality" means the Senqu Municipality and includes the Council, any executive councillor, or committee established by the Municipality, or any employee thereof, or duly authorised agent thereof acting in connection with this By-Law by virtue of a power vested in the Municipality and delegated to such employee or agent;

"outdoor lighting fixture" means an outdoor artificial illuminating device, whether permanent or portable, used for illumination or advertisement, including searchlights, spotlights or floodlights, whether for architectural lighting, parking lot lighting, landscape lighting, security lighting, billboards or street lighting;

"shielded" means a fixture that is shielded in such a manner that light rays emitted by the fixture, either directly from the lamp or indirectly from the fixture, are projected within the property on which the light is mounted;

"sky glow" means when light emitting from a luminaire shining into the sky and reflected by humidity and dust;

"up-light" means any light from a luminaire that shines above the horizontal at angles above the horizontal plane, causing illumination of the sky;

"watt" means the unit used to measure the electrical power consumption of a lamp;

"zone of vision" means the central area that the eye can see clearly without moving and is surrounded by the peripheral vision.

3 Applicability of By-law

In the event of any conflict with any other by-law which directly or indirectly, within the jurisdiction of the Municipality, regulates street lighting, the provisions of this By-law shall prevail to the extent of the inconsistency.

CHAPTER 2

GENERAL LIGHTING REQUIREMENTS

4 Shielding of outdoor light fixtures

- (1) All outdoor lighting fixtures shall be shielded, to minimize up-light.
- (2) Building mounted incandescent type fixtures shall be shielded or activated by motion sensor.
- (3) Outdoor floodlighting shall be shielded in such a manner that the lighting system will not produce light trespass.

5 Limiting trespassing of light beyond property line

- (1) All light fixtures shall be located, aimed and or shielded so as no direct light trespasses beyond the property line on which the light is mounted.
- (2) Lighting on Municipal property is limited to a higher trespass of 0.5 footcandle at 3 meters beyond the property line, but the direct light must be aimed at the designated design area.

6 Nonconforming light fixtures

- (1) In addition to other exemptions provided in the By-law, an outdoor lighting fixture not meeting these provisions shall be allowed if the fixture is extinguished by an automatic shutoff device between sundown and sunrise.
- (2) No outdoor recreational facility, whether public or private, shall be illuminated after sundown except when the facility is in use.
- (3) The use of searchlights or laser source light or any similar high intensity light for outdoor advertising or entertainment, except in emergencies by police and fire personnel or at their direction; or for meteorological data gathering purposes is prohibited.

CHAPTER 3

NEW CONSTRUCTION

7 Submission contents

- (1) The applicant for any permission which may be required in terms of the National Building Regulations and Building Standards Act, 103 of 1977 in connection with proposed work involving outdoor lighting fixtures

shall submit, as part of that application for such permission evidence that the proposed work shall comply with this By-law.

- (2) The submission referred to in subsection (1) must contain but is not limited to the following, all or part of which may be part or in addition to the information required elsewhere in the by-laws of the Municipality:
 - (a) Plans indicating the location on the premises, and the type of illuminating devices, fixtures, lamps, supports, reflectors, and other devices; and
 - (b) a description of the illuminating devices, fixtures, lamps, supports, reflectors, and other devices and the description may include, but is not limited to, catalogue cuts by manufacturers and drawings, including sections where required, photometric data, such as that furnished by manufacturers, or similar showing the angle of cut off or light emissions, a map of the lighting distribution with intensity levels and a summary of calculations.

8 Additional submission.

- (1) The plans, descriptions and data referred to in section 7 shall be sufficiently complete to enable the official duly authorised by the Municipality to readily determine whether compliance with the requirements of this By-law will be secured.
- (2) If such plans, descriptions and data cannot enable this ready determination, by reason of the nature or configuration of the devices, fixtures, or lamps proposed, the applicant shall additionally submit as evidence of compliance to enable such determination such certified reports of tests as will do so provided that these tests shall have been performed and certified by a recognised testing laboratory.

9 Construction development plan certification.

If any development proposes to have installed street or other common or public area outdoor lighting, the final plan shall contain a statement certifying that the applicable provisions of the Senqu Municipality: Street Lighting By-law, 2017 will be adhered to.

10 Lamp or fixture substitution.

Should any outdoor light fixture or the type of light source therein, be changed after permission has been granted, a change request must be submitted to the building official for his approval, together with adequate information to assure compliance with this By-law, which must be received prior to substitution.

CHAPTER 4

DUTIES OF MUNICIPALITY

11 Compliance with national laws and standards

- (1) The Municipality shall install and maintain street lighting in accordance with the requirements of the Electricity Regulation Act, 2006 (Act No. 4 of 2006) and other national laws and standards.
- (2) The Municipality shall ensure that street lighting which is installed is energy efficient, switched off during the day and is fitted with energy efficient bulbs.
- (3) The Municipality shall endeavour to reduce lighting of unoccupied buildings after working hours and substitute incandescent lights with energy efficient alternatives.

12 Installation of street lighting on property other than municipal property

- (1) The Municipality shall not erect or supply street lighting on property which is not owned by the Municipality.
- (2) The owner of property may request that the Municipality supply and erect street lighting in a public place where no street lighting is provided and the Municipality may supply and erect that street lighting at the owner's cost and that street lighting shall be connected to the existing municipal infrastructure.

13 Metering and surge protection

The Municipality shall ensure that all street lighting is metered and surge protected.

CHAPTER 5

LAW ENFORCEMENT

14 Appointment of compliance officer

- (1) The Municipality may appoint or designate a person or employee to serve as a compliance officer for purposes of compliance and enforcement monitoring of this By-law.
- (2) A compliance officer shall take all lawful, necessary and practicable measures to enforce the provisions of this By-law.
- (3) The Municipality shall issue each compliance officer with a written appointment stating that he or she has been appointed for purposes of this By-law or with an identification card that contains the municipal logo, department and name of the officer.

15 Powers and functions of a compliance officer

- (1) A compliance officer may, subject to subsection (2) and (3), at any reasonable time, and without prior notice, enter any land property, building or premises for purposes of ensuring compliance with this By-law.
- (2) An inspection of a private dwelling may only be carried out by a compliance officer at a reasonable time and after reasonable notice has been given to the owner or occupier of the land or building and after obtaining the consent of the owner or lawful occupier or person in control of the building, or with a warrant issued in terms of the Criminal Procedure Act, 1977.
- (3) The compliance officer is not required to give any notice to enter land or a building, other than a private dwelling, and may conduct an inspection or take enforcement action without the consent of the owner or occupier of such land or building and without a warrant if:
 - (a) he or she believes on reasonable grounds that a warrant would be issued to him or her on application; and
 - (b) the delay in obtaining the warrant would defeat the object of the inspection and enforcement action.
- (4) A compliance officer shall show proof of his or her written appointment or identification card contemplated in section 12(3) when required to do so by any person affected by the exercising of a power or show proof that he or she is a law enforcement officer.
- (5) A compliance officer may not investigate a matter in which he or she has a direct or indirect personal interest.
- (6) In ascertaining compliance with this By-law, a compliance officer may:
 - (a) be accompanied by an interpreter, a police officer or any other person who may be able to assist with the inspection;
 - (b) question any person who is or was on that property, who in the opinion of the compliance officer, may be able to furnish information on a matter to which this By-law relates;
 - (c) question any person about any act or omission in respect of which there is a reasonable suspicion that it might constitute:
 - (i) an offence in terms of this By-law; or
 - (ii) a breach of an approval or a term or condition of such approval
 - (d) question a person about any structure, object, document, book or record or inspect any written or electronic information or object which may be relevant for the purpose of investigating any matter in connection with this By-law;
 - (e) examine any book, record or other written or electronic information and make a copy thereof or an extract therefrom and remove such document, book, record or written or electronic information in order to make copies or extracts;
 - (f) require a person to produce or to deliver to a place specified by him or her, any document, book, record, or any written or electronic information referred to in paragraph (e) for inspection;
 - (g) require from such person an explanation of any entry in such document, book, record or written or electronic information;

- (h) inspect any article, substance, plant or machinery which is or was on the property, or any work performed on the property or any condition prevalent on the property, or remove for examination or analysis any article, substance, plant or machinery or a part or sample;
 - (i) seize any book, record or other document, details or any article, substance, plant or machinery or a part or sample thereof which in his or her opinion may serve as evidence at the trial of any person charged with an offence under this By-law, provided that the user of the article, substance, plant or machinery concerned, as the case may be, may make copies of such book, record or document before such seizure;
 - (j) direct any person to appear before him or her at such time and place as may be determined by him or her and question such person either alone or in the presence of any other person on any matter to which this By-law relates; and
 - (k) take photographs or make audio visual recordings or tape recordings of any person or anything for the purposes of his or her investigation.
- (7) When a compliance officer removes or seizes any article, substance, plant or machinery, book, record or other document as contemplated above, he or she shall issue a receipt to the owner or person in control thereof and return it as soon as practicable after achieving the purpose for which it was removed or seized.
- (8) Where a compliance officer enters any land in terms of subsection (1), a person who controls or manages the land shall at all times provide such facilities as are reasonably required by the compliance officer to enable him or her to perform his or her functions effectively and safely under this By-law.
- (9) A compliance officer who enters and searches any property or private dwelling under this section, shall conduct such search with strict regard for decency and order and with regard for each person's right to dignity, freedom, security and privacy.

16 Compliance notice

- (1) If, after investigation, a compliance officer finds that any provision of this By-law is being contravened, he or she shall give notice by hand delivery or by certified mail, return-receipt requested, of such contravention to the owner or to the occupant of such premises, demanding that contravention be ceased or the installation corrected within 30 days of the date of hand delivery or of the date of mailing of the notice.
- (2) If the contravention is not ceased or the installation corrected within the 30 day period, the compliance officer may institute action to enjoin, restrain, or abate any violations of this By-law and to collect the penalties for such violations.

17 Offences and penalties

- (1) A person shall be guilty of an offence if such person
 - (a) fails to comply with a decision taken or condition imposed by the Municipality in terms of this By-law.
 - (a) wilfully and with intent provides false or misleading information in connection with an application contemplated in this By-law;
 - (b) unlawfully prevents an compliance officer entry to his or her premises or causes or permits any other person to prevent entry;
 - (c) obstructs or hinders a compliance officer in the performance of his or her duties or causes or permits any other person to so obstruct or hinder the compliance officer;
 - (d) refuses or fails to provide to a compliance officer such information as is required to allow a compliance officer to perform a function in terms of this By-law;
 - (e) furnishes false or misleading information to an official of the Municipality when called upon to furnish information;
 - (f) impersonates a compliance officer;
 - (g) contravenes or fails to comply with any provision of this By-law; or
 - (h) supplies particulars, information or answers in an application or on knowing it to be false, incorrect or misleading.
- (2) Any person convicted of an offence in terms of this By-law, shall be liable upon conviction to a fine or imprisonment or to both such fine and imprisonment.

- (3) A person convicted of an offence under this By-law who, after conviction, continues with the conduct in respect of which he or she was so convicted, is guilty of a continuing offence and upon conviction is liable to a fine or to imprisonment, or to both such fine and imprisonment, in respect of each day on which he or she so continues with that conduct.

CHAPTER 6

GENERAL MATTERS

18 Appeals

Any person may appeal against any decision taken under this By-law by giving written notice of the appeal in accordance with the provisions of section 62 of the Municipal Systems Act, 2000, as amended.

19 Exemptions

The following are exempt from the requirements of this By-law:

- (a) All residential outdoor light fixtures using any incandescent lamp or lamps of 100 total watts or less;
- (b) navigational and general life safety lighting systems.

20 Repeal of by-laws

The By-Laws Relating to Street Lighting published in the *Provincial Gazette* by Notice Number 199 of 2005 are hereby repealed.

21 Short title and commencement

This By-law shall be known as the Senqu Municipality: Street Lighting By-law, 2017 and shall come into operation on the date of publication thereof in the *Provincial Gazette*.

SENQU MUNICIPALITY MUNICIPAL NOTICE**BY-LAW ON TARIFFS**

The Municipal Council of Senqu Local Municipality in the Schedule hereto publishes, in terms of section 13 of the Local Government Municipal Systems Act, 2000 (Act 32 of 2000) read with section 162 of the Constitution of the Republic of South Africa Act 1996 (Act 108 of 1996) the By-law on Tariffs.

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**CHAPTER 1
OBJECTIVES, DEFINITIONS AND APPLICABILITY OF BY-LAW**

1 Objectives

The objectives of this By-law are to:

- (a) give effect to the right contained in section 229 of the Constitution of the Municipality to impose surcharges on fees for services provided by the Municipality in its area of jurisdiction;
- (b) give effect to the provisions of sections 74(1) and 75A of the Act; and
- (c) give effect to the implementation and enforcement of the tariff policy of the Municipality.

2 Definitions

In this By-law any word or expression to which a meaning has been assigned in this By-law and the Act shall have the meaning so assigned to it and, unless the context otherwise indicates:

“Act” means the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000);

“annual budget” means the budget approved by the Council for any particular financial year, and shall include any adjustments to such budget;

“consumer” means any end user who receives services from the Municipality, including an end user in an informal settlement;

“Council” means the Senqu municipal council, a municipal council referred to in section 157(1) of the Constitution;

“financial year” means the period starting from 1st July in any year and ending on 30th June of the following year;

“indigent consumer” means a consumer registered as an indigent debtor in terms of the Senqu Municipality: Indigent Support and Basic Services Subsidy By-law, 2017;

“installation” means a pipeline, fitting or apparatus installed or used by a consumer to gain access to services and includes a meter attached to such pipeline, fitting or apparatus;

“local community” has the meaning assigned to it in section 1 of the Act;

“month” means a calendar month;

“municipal area” means the area of jurisdiction of the Municipality;

“Municipal Finance Management Act” means the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003);

“municipal manager” means a person appointed in terms of section 54A of the Act.

“Municipality” means the Senqu Municipality and includes the Council, any executive councillor, or committee established by the Municipality, or any employee thereof, or duly authorised agent thereof acting in connection with this By-law by virtue of a power vested in the Municipality and delegated to such employee or agent;

“National Energy Regulator of South Africa” means the body established in terms of section 3 of the National Energy Regulator Act, 2004, Act 40 of 2004;

“sanitation services” means collection, removal, disposal or purification of human excreta, domestic wastewater, sewage and effluent resulting from the use of water for commercial purposes;

“service” has the meaning assigned to municipal service in section 1 of the Act;

“sundry tariff” means any fee, charge or deposit that the Municipality may levy in terms of any by-law promulgated by the Council and that is determined by it in terms of chapter 6 of this By-law;

“tariff” means any charge, rate, tax, duty and levy which may be imposed by the Municipality for services provided either by itself or in terms of a service delivery agreement;

“tariff policy” means the Tariff and Services Policy adopted by the Council in terms of section 74 of the Act;

“water services” means water supply services and sanitation services;

“Water Services Act” means the Water Services Act, 1997, Act 108 of 1997;

“**water services authority**” means the Joe Gqabi District Municipality determined in terms of the Local Government: Municipal Demarcation Act, 1998, Act 27 of 1998;

“**water services provider**” means the Municipality;

“**water supply services**” means the abstraction, conveyance, treatment and distribution of potable water, water intended to be converted to potable water or water for commercial use but not water for industrial use

3 Applicability of By-law

- (1) This By-law must be read with any applicable provisions of the Act.
- (2) In the event of any conflict with any other by-law which directly or indirectly, within the jurisdiction of the Municipality, regulates tariffs, the provisions of this By-law shall prevail to the extent of the inconsistency.

CHAPTER 2

TARIFF PRINCIPLES

4 Tariff principles

- (1) The tariff principles set out in section 74(2) of the Act as well as the principles adopted by the Municipality in its annual tariff policy shall apply.
- (2) With the exception of the indigence relief measures approved by the Municipality, service tariffs should be viewed as user charges and not as rates, and the ability of the relevant consumer or user of the services to which such tariffs relate, to pay for such services, should not be considered as a relevant criterion.
- (3) The Municipality must ensure that its tariffs are uniformly and fairly applied throughout the municipal area.
- (4) Tariffs for the following major services must as far as possible recover the expenses associated with the rendering of each service concerned, and, where feasible, generate a modest surplus as determined in each annual budget:
 - (a) supply of electricity;
 - (b) supply of water services;
 - (c) refuse removal services.
- (5) Tariffs must be set at a level that facilitates the sustainability of services.
- (6) Sustainability will be achieved by ensuring that -
 - (a) cash inflows cover cash outflows which means that sufficient provision for working capital and bad debts will be made;
 - (b) access to the capital market is maintained which will be achieved by providing for the repayment of capital, maintaining sufficient liquidity levels and making profits on trading services in order to subsidise property rates and general services; and
 - (c) service providers retain a fair rate of return on their investments.
- (7) Provision must be made for surcharges on tariffs in appropriate circumstances.
- (8) Efficient and effective use of resources must be encouraged by providing for penalties to prohibit or restrict exorbitant use.
- (9) The extent of subsidisation of tariffs will be disclosed and will include the extent of subsidisation of the indigent and incentives for local development.
- (10) Provision must be made for the subsidisation of the indigent and the promotion of local economic development by creating costs votes in the service budgets and including the costs in tariff calculations.
- (11) In the case of the directly measurable services, namely electricity and water, the consumption of such services must be properly metered and meters must be read, wherever possible, on a monthly basis, and the charges levied must be proportionate to the quantity of the service consumed.
- (12) The Municipality may differentiate between types of property in order to determine availability charges, which will be contained in the tariffs, as approved in each annual budget.

- (13) In considering the costing of its water services and electricity services, the Municipality must take due cognisance of the high capital cost of establishing and expanding such services, and of the resultant high fixed costs, as opposed to variable costs of operating these services.
- (14) The Municipality's tariffs for electricity services are determined to ensure-
 - (a) that those consumers who are mainly responsible for peak demand, and therefore for the incurring by the Municipality of the associated demand charges from Eskom, have to bear the costs associated with these charges.
 - (b) that for the purposes of paragraph (a), demand meters are installed to measure the maximum demand of such consumers during certain periods; and
 - (c) that such consumers pay the relevant demand charge as well as a service charge directly related to their actual consumption of electricity during the relevant metering period.
- (15) VAT is excluded from all tariffs and will be added to these tariffs when applicable.
- (16) All expenses associated with the political structures of the Municipality shall form part of the expenses to be financed from property rates and general revenues, and shall not be included in the costing of the major services referred to in subsection (4).

5 Calculation of tariffs for major services

- (1) The Municipality must, when determining the tariffs for the major services referred to in section 4(4), identify all costs of operation of the undertakings concerned including -
 - (a) the cost of bulk purchases in the case of water and electricity;
 - (b) distribution costs;
 - (c) distribution losses in the case of water and electricity;
 - (d) depreciation charges;
 - (e) maintenance of infrastructure and other fixed assets; and
 - (f) salaries, administration and service costs, including
 - (i) service charges levied by other departments such as finance, human resources and legal services;
 - (ii) reasonable general overheads, such as the costs associated with the office of the municipal manager;
 - (iii) adequate contributions to the provisions for bad debts and obsolescence of stock; and
 - (iv) all other ordinary operating expenses associated with the service concerned including, in the case of the electricity service, the cost of providing street lighting in the municipal area.
 - (g) the intended surplus to be generated for the financial year concerned and such surplus may be applied either –
 - (i) as an appropriation to capital replacement reserve; or
 - (ii) generally in relief of rates and general services,or both.

6 Indigent relief

In its determination of tariffs, the Council must consider indigent relief for all services for registered indigent consumers in accordance with the Senqu Municipality: Indigent Support and Basic Services Subsidy By-law, 2017, to the extent that the Council deems such relief affordable in terms of each annual budget.

CHAPTER 3

ELECTRICITY

7 Electricity tariffs

The Council may determine electricity tariffs in regard to the following:

- (a) an utility electricity charge to be levied on a property where such property is connected to the Municipality's electrical reticulation network;
- (b) an electricity utility charge to be levied on a property not connected to the Municipality's electricity network, but which property can be so connected to the Municipality's electrical reticulation network at a point on the property or less than 50 meters from any boundary of such property;
- (c) the consumption of electricity;
- (d) the testing of electrical supply meters;
- (e) taking of an electrical meter reading at the special request of a user or the installation of a test meter;
- (f) the connecting of a property to the Municipality's electrical reticulation network;
- (g) the re-connecting of an existing connection to the Municipality's electrical reticulation network in the case of a new consumer or after disconnection as a result of defaulting on payment by the consumer.

8 Categories of consumers

- (1) The Municipality must, in its tariff policy, determine the various categories of electricity consumers who shall be liable for the payment of electricity tariffs.
- (2) Notwithstanding subsection (1), the Municipality must provide free basic electricity to all registered indigent household consumers in accordance with the Senqu Municipality: Indigent Support and Basic Services Subsidy By-law, 2017.

9 Annual increase in electricity tariffs

The annual increase on the electricity tariffs shall be as determined by the National Energy Regulator of South Africa.

10 Consumer deposit

- (1) Every electricity consumer, including a consumer using a pre-paid electrical meter shall pay a consumer deposit determined by the Municipality in each annual budget unless the Council has determined that such consumer is not required to pay a consumer deposit.
- (2) A deposit shall be paid prior to the installation, where a new installation is required, or the connection, where electricity is already installed.

11 Effective date for implementation of annual increase in electricity tariff

Electricity tariff adjustments shall be effective from 1 July each year.

CHAPTER 4

WATER SERVICES

12 Applicability of chapter

This chapter shall only come into operation and apply from the date on which the Municipality becomes a water services provider as contemplated in the Water Services Act.

13 Provision of retail water services to customers

- (1) The Municipality is responsible for the provision of retail water services to customers in the municipal area and to protect, preserve and maintain the water services infrastructure.
- (2) The Municipality must conclude an agreement with each customer for the delivery of water services to that customer.

- (3) The—
- (a) the conditions for the provision of water services;
 - (b) the technical conditions of supply;
 - (c) the installation, alteration, operation, protection and inspection of water services works and customer installations;
 - (d) the determination and structure of tariffs in accordance with section 10 of the Water Services Act;
 - (e) the payment and collection of money due for the water services
 - (f) the circumstances under which water services may be limited or discontinued and the procedure for such limitation or discontinuation; and
 - (g) the prevention of unlawful connections to water services works and the unlawful or wasteful use of water.

are prescribed by the water services authority.

14 Levying of water services tariff

- (1) The Municipality must charge consumers a monthly water services tariff based on the consumption of the consumer and a fixed charge.
- (2) The water services tariff shall be approved by the Council in accordance with the tariff approved by the water services authority in its annual budget.
- (3) The structure of the water services tariff is determined in accordance with the norms and standards prescribed in terms of section 10 of the Water Services Act and promulgated by the water services authority.

15 Effective date for implementation of annual adjustments in water services tariff

Water services tariff adjustments shall be effective from 1 July each year.

**CHAPTER 5
REFUSE REMOVAL**

16 Categories of refuse removal users

The Municipality must, in its tariff policy, determine the different categories of refuse removal users that shall be liable for the payment of refuse removal tariffs in terms of this By-law

17 Refuse removal tariff

- (1) The Municipality must charge the categories of refuse removal users referred to in section 14 a fixed monthly refuse removal tariff which tariff shall be approved by the Council in each annual budget.
- (2) The monthly refuse removal tariff shall be based on the costs of the service provided by the Municipality.
- (3) The monthly refuse removal tariff may provide for one or two refuse removals per week per category of refuse removal user.

18 Departments of Municipality

The Municipality must charge each of its departments a monthly refuse removal tariff as determined in its tariff policy.

19 Effective date for implementation of annual increase in refuse removal tariff

Refuse removal tariff adjustments shall be effective from 1 July each year.

CHAPTER 6

SUNDRY TARIFFS

20 Standardisation of sundry tariffs

All sundry tariffs shall be standardised within the municipal area.

21 Approval and subsidisation of sundry tariffs

- (1) All sundry tariffs shall be approved by the Council in each annual budget and shall, when deemed appropriate by the Council, be subsidised by property rates and general revenues of the Municipality, particularly when –
 - (a) the tariff will prove uneconomical when charged to cover the cost of the service concerned;
 - (b) the cost cannot be determined accurately; or
 - (c) the tariff is designed purely to regulate rather than finance the use of the particular service or amenity.
- (2) All sundry tariffs over which the Municipality has full control, and which are not directly related to the cost of a particular service, must annually be adjusted at least in line with the prevailing consumer price index, unless there are compelling reasons why such adjustment should not be effected.

22 Types of sundry services

- (1) The Municipality must, in its tariff policy, determine which services are –
 - (a) subsidised services;
 - (b) community services; and
 - (c) economic services.
- (2) The Municipality may not levy any tariff for a community service.
- (3) The tariff levied for an economic service shall cover 100% of the budgeted annual operating expenses of the service concerned.

23 Regulatory or punitive tariffs

The Municipality must, in addition to the penalties and charges imposed by it in the Senqu Municipality: Credit Control and Debt Collection By-law, 2017, in its tariff policy, determine the types of tariffs which are regulatory or punitive.

24 Deposit

The Council must annually determine the amount of deposit required for the rental of municipal halls, premises and sport fields and shall be guided in this determination by the likelihood of the Municipality sustaining damages as a result of the use of the facilities concerned.

25 Effective date for implementation of annual increase in sundry tariffs

Sundry tariff adjustments shall be effective from 1 July each year.

CHAPTER 7

GENERAL MATTERS

26 Community participation process

- (1) For the purposes of the adoption of the tariff policy community participation must be undertaken in accordance with the provisions of section 4 of the Act.
- (2) Community participation in any amendments to the tariff policy as a result of the annual review of thereof as required by section 5 of the Act, must be effected through the Municipality's annual budget process in terms of sections 22 and 23 of the Municipal Finance Management Act.

27 Appeals

Any person may appeal against any decision taken under this By-law by giving written notice of the appeal in accordance with the provisions of section 62 of the Municipal Systems Act, 2000.

28 Repeal of by-laws

The Tariff Policy By-Law published in the *Provincial Gazette* by Notice Number 53 of 2006 is hereby repealed.

29 Short title and commencement

This By-law shall be known as the Senqu Municipality: Tariffs By-law, 2017 and shall come into operation on the date of publication thereof in the *Provincial Gazette*.

SENQU MUNICIPALITY MUNICIPAL NOTICE**BY-LAW ON WARD COMMITTEES**

The Municipal Council of Senqu Local Municipality in the Schedule hereto publishes, in terms of section 13 of the Local Government Municipal Systems Act, 2000 (Act 32 of 2000) read with section 162 of the Constitution of the Republic of South Africa Act 1996 (Act 108 of 1996) the By-Law on Ward Committees.

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CHAPTER 1 PURPOSE, DEFINITIONS AND APPLICABILITY OF BY-LAW

1 Objectives

The objectives of this By-Law are to provide for the establishment and functioning of ward committees in the municipal area in accordance with the Municipal Structures Act, 1998 (Act 117 of 1998)

2 Definitions

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

“chairperson” means a ward councillor of the Municipality appointed to chair the ward committee meetings in terms of section 73(2)(a) of the Municipal Structures Act;

“Chief Whip” a municipal councillor who is appointed to this position by the Council in terms of section 12 of the Municipal Structures Act;

“community” means residents of a ward;

“Constitution” means the Constitution of the Republic of South Africa, 1996;

“Council” means the Senqu municipal council, a municipal council referred to in section 157(1) of the Constitution;

“electoral committee” means a committee established by the Speaker and the election officer to conduct the election of members of the ward committee;

“election officer” means a person appointed by the electoral committee to assist with the election of ward committee members;

“integrated development plan” means the integrated development plan adopted by the Council in terms of the Municipal Systems Act;

“interest group or sector” means an organised group of persons that takes an active interest in the affairs of a ward;

“member” means a person elected or co-opted into a ward committee;

“municipal area” means any land situated inside the area of jurisdiction of the Municipality of which the Municipality is the owner, but outside the boundaries of any residential area;

“Municipal Structures Act” means the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);

“Municipal Systems Act” means the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000);

“Municipality” means the Senqu Municipality and includes the Council, any executive councillor, or committee established by the Municipality, or any employee thereof, or duly authorised agent thereof acting in connection with this By-Law by virtue of a power vested in the Municipality and delegated to such employee or agent;

“proportional representative councillor” means a proportionally representative municipal councillor appointed in terms of section 22(1)(a) of the Municipal Structures Act, by a political party to represent that party in the Council;

“speaker” means the chairperson of the Council and a municipal councillor elected to this position by the Council in terms of section 36 of the Municipal Structures Act;

“ward committee” means a committee of a municipal ward, established in terms of Section 73 of the Municipal Structures Act;

“ward coordinator” means a member appointed by the ward councillor to assist him or her in ensuring the smooth running of the ward committee and the community's affairs; and

“ward councillor” a municipal councillor elected in terms of section 22(1)(b) of the Municipal Structures Act, to represent a demarcated council ward.

3 Applicability of By-Law

In the event of any conflict with any other by-law which directly or indirectly, within the jurisdiction of the Municipality, regulates the establishment and functioning of ward committees, the provisions of this By-Law shall prevail to the extent of the inconsistency.

CHAPTER 2

ESTABLISHMENT AND COMPOSITION OF WARD COMMITTEES

4 Establishment of ward committee system

- (1) Ward committees for all wards of the Municipality are hereby established in terms of the Municipal Structures Act.
- (2) The ward committees established come into effect once committee members have been elected, as set out below.

5 Composition of ward committee

- (1) Each ward committee must comprise of the ward councillor, as chairperson, and 10 elected community members.
- (2) The 10 ward committee members must be residents of the ward to whose ward committee they have been elected.
- (3) Notwithstanding the provisions of section 3(2), any person who is not a resident of that ward, may become a ward committee member: Provided that the person represents an interest group or sector stationed in the ward, or owns a business or property in the ward.
- (4) No person may be a member of more than one ward committee at the same time.
- (5) The composition of the ward committee must reflect the following factors:
 - (a) female representation; and
 - (b) population diversity and interests;
- (6) An elected ward committee member must assume office upon election.

- (7) A proportional representative councillor appointed to serve in the Municipality is an *ex officio* and non-voting member of the ward committee of the ward that he or she resides in, or any other ward committee assigned to them by the chief whip in consultation with the speaker.
- (8) In the course of the term of office of the ward committee, any person deemed to be necessary for the success of the committee, or who could add value to the ward committee system as a whole, can be co-opted by the committee in consultation with the ward councillor to serve *ex officio* in an advisory capacity on that ward committee without the right to vote.

CHAPTER 3

NOMINATION AND ELECTION OF MEMBERS OF WARD COMMITTEE

6 Nomination and election process

- (1) The Municipality must invite each community-based organisation and non-governmental organisation in every ward to nominate individuals as their representatives on the ward committee.
- (2) The electoral committee must give public notice of the time, venue and mode whereby nominations for ward committee members must be accepted.
- (3) This notice must be published in at least one newspaper of general circulation at least 30 calendar days before each ward committee election.
- (4) Only persons 18 years and older, and who represent an interest group or sector stationed in the ward, or own a business or property in the ward will have the right to nominate candidates for the ward committee of that ward.
- (5) Nomination forms must be available to the ward residents at the Municipality.
- (6) After completion of each nomination form, it must be handed to the electoral committee, which will designate offices for this purpose and formally acknowledge receipt of each nomination.
- (7) The electoral committee must keep a register of the nominations received as well as the completed nomination forms in a safe place until the day of the ward committee election, when they will be handed over to the presiding officer at the voting station.
- (8) The electoral committee must, in consultation with the speaker and the ward councillor, give the community written notice of the date, time and venue of the election of ward committee members in each ward at least 30 calendar days before the election and the notice must be published in at least one newspaper of general circulation at least thirty calendar days before each ward committee election.
- (9) If an election should be postponed for any reason, a written public notice of the time and venue of the postponed election must be published in at least one newspaper of general circulation at least 30 calendar days before the new date of the ward committee election.
- (10) The election must be conducted in accordance with the Council's-approved policy in this regard.
- (11) Only persons 18 years and older who are residents or owners of businesses or property in each ward have the right to vote.
- (12) The election procedure must ensure that at least three of the ten community members elected onto the ward committee are women.
- (13) Should no women be elected, the first seven elected male members will qualify to serve on the ward committee and the remaining three positions must be reserved for women, to be appointed later by the electoral committee after consultation with the ward councillor.
- (14) The electoral committee must keep the records of nominations and the ballot papers in a safe place for one year after the election.
- (15) Elected members may not stand for election for more than two consecutive terms.

7 Eligibility criteria for election to ward committee

To be eligible for election as a ward committee member a person must –

- (a) be registered as a voter on the voters roll of the ward for which he or she is nominated;
- (b) not be a member of the Council;
- (c) not be an employee of the Municipality or the Joe Gqabi District Municipality;
- (d) not be in arrears to the Municipality for rates and service charges for a period longer than three months;
- (e) not be unrehabilitated or insolvent;
- (f) not be placed under curatorship;
- (g) not have been convicted of an offence after 27 April 1994 and sentenced to imprisonment without the option of a fine for a period of not less than 12 months;
- (h) not be declared by the court to be of unsound mind; and
- (i) be active in the sector or ward they represent and be committed to working for a better life for the members of their constituency.

8 Rejection of nomination

- (1) The Municipality may reject any nomination that does not comply with the provisions of this By-Law or any procedural requirement determined by the Municipality.
- (2) The Municipality must notify a nominee whose nomination is rejected by it within three working days after the submission of nominations.
- (3) A nominee whose nomination is rejected shall not be allowed to stand or be elected as a member of ward committee

9 Powers and duties of electoral committee

- (1) The speaker and the electoral officer form the election body and appoint the electoral committee.
- (2) The electoral committee must conduct and oversee the election of members of a ward committee.
- (3) The electoral committee must appoint a presiding officer, one or more election officers and counting officers for each of the municipal wards to manage and administer the ward committee elections in their respective wards.
- (4) A person may not be appointed as an officer in a ward committee election if that person -
 - (a) is a ward committee member contesting the election;
 - (b) holds political or executive office in a political party.
- (5) An officer exercises the powers and performs the duties conferred on or assigned to that officer subject to the directions, control and disciplinary authority of the electoral committee.
- (6) The electoral committee must determine in writing the terms and conditions of appointment of an officer, including remuneration payable to that officer.
- (7) The area agent, presiding, election and counting officers -
 - (a) must manage, co-ordinate and supervise the voting process at the voting station concerned;
 - (b) must take all reasonable steps to ensure orderly conduct at the voting station;
 - (c) may order a member of security services to assist in ensuring orderly conduct of the voting station.
 - (d) may order any person within the boundary of the voting station whose conduct is not conducive to a free and fair election at that voting station, to leave the premises;
 - (e) must count and announce the votes received for each nominee from the ward community members present at the voting station;
 - (f) must secure the number of votes received by each nominee in writing on the relevant nomination form.
 - (g) must declare the voting process open and closed;

- (h) must submit the election results and the report to the electoral committee for submission to the office of the speaker.
- (8) If a person refuses to comply with an order of a presiding, election or counting officers presiding in a ward committee election or counting officers in charge may order member of security services to forcefully remove the person or declare the voting process closed and submit report to the election committee.

10 Political affiliation in ward committee

- (1) No ward committee member may be elected to represent a political party, or for the unofficial benefit of any political party.
- (2) Canvassing for election of a ward committee member must not be motivated by political party concerns.

11 Role of municipal official on ward committee

- (1) No municipal official may stand for election on a ward committee.
- (2) If a municipal official is desirous to stand for election as a ward committee member, he or she must first resign his or her position as a municipal official.

CHAPTER 4

POWERS AND DUTIES OF WARD COMMITTEE

12 Powers and duties of ward committee

- (1) A ward committee must support the elected ward councillor for that ward and serve the community by, amongst others –
 - (a) organising and attending meetings of the ward;
 - (b) submitting and tabling a reports and plans addressing the needs and priorities of the ward and to provide feedback on the functions rendered by the Municipality that impacts on the ward, in order to formulate recommendations to be submitted to the Municipality through the ward councillor;
 - (c) facilitating feedback on matters raised with the Council through the ward councillor;
 - (d) attending to door-to-door campaigns and arranging the interaction with substructures in the ward, such as street committees.
 - (e) keeping record of each complaint, query and request received from the community in the ward and attending to it though the ward councillor.
 - (f) distributing any publication as required;
 - (g) managing and updating the ward profile as well as the database of each indigent household situated in the ward;
 - (h) participating in a plan and programme of the Municipality and any other sphere of government impacting on the ward development;
 - (i) facilitating participation by the community in all affairs of the Municipality; and
 - (j) fostering a good working relationship with any community development workers operating in the ward.
- (2) A ward committee may canvass community opinion on any matter and make recommendations to the Municipality regarding -
 - (a) the preparation, implementation and review of the integrated development plan;
 - (b) the establishment, implementation and review of the Municipality's management system;
 - (c) the monitoring and reviewing the Municipality's performance, including the outcomes and impact of such performance;
 - (d) the drafting of the Municipality's budget;
 - (e) strategic decisions relating to the provision of municipal services;

- (f) matters affecting their ward; and
 - (g) any matter delegated to in writing to the ward committee by the Council in terms of section 59 of the Municipal Systems Act.
- (3) Recommendations of a ward committee must be submitted to the Municipality by the ward councillor.
- (4) A ward committee may –
- (a) subject to available capacity and resources, conduct an annual satisfaction survey in order to assist the ward committee in the execution of its functions and powers;
 - (b) prepare a capacity building and training needs assessment for members of that ward committee taking into account generic training needs, training needs on municipal by-laws, policy, and processes and specialised training needs;
 - (c) if it considers it necessary, invite any municipal official within his or her scope of work and any person with specialised knowledge to advise it on matters affecting its ward;
 - (d) co-opt a non-voting member with specialist skills to the ward committee;
 - (e) co-opt a member to the ward committee in the event of vacancies; and
 - (f) act as a consultative agent for any community-based organisation and any non-governmental organisation without incurring any liability for the Municipality;
 - (g) form a sub-committee to advise the ward committee on special issues, handle sectoral matters or form working groups to research any matter that needs special attention in the ward.
- (5) The above powers and duties of a ward committee may not be interpreted as to permit interference with the Council's right to govern and to exercise its executive and legislative authority.
- (6) If a ward committee prepares a capacity building and training needs assessment, any allocation for capacity building and training in the budget prepared by the Municipality must take cognisance of the needs assessment referred to in subsection (4)(b).

CHAPTER 5

OFFICE OF MEMBER OF WARD COMMITTEE

13 Term of office

The term of office of the ward committee members is five years and must coincide with the term of the Council determined in accordance with section 24 of the Municipal Structures Act.

14 Vacation of office by ward committee member

- (1) A ward committee member shall vacate his or her office if he or she –
- (a) is absent from three consecutive meetings without an apology;
 - (b) is absent from six meetings with an apology;
 - (c) is proven to be actively involved in campaigns for the removal of the ward councillor without having raised grievances against the ward councillor in the ward committee meeting;
 - (d) acts in a manner that undermines the authority of the ward councillor, the Council or the ward committee;
 - (e) contravenes the code of conduct for ward committee members contemplated in Annexure A;
 - (f) commits a crime that results in a conviction without the option of a fine;
 - (g) consistently exhibits violent, abusive and intimidatory behaviour towards other committee members or the community;
 - (h) attends a meeting under the influence of alcohol or drugs;

- (i) is proven to have accepted a bribe from any party that has an interest in a development project for that particular ward;
 - (j) is proven to have used his or her membership of the ward committee to extract, or attempt to extract, favours of any kind;
 - (k) is elected as a councillor in the Municipality;
 - (l) is appointed as a staff member of the Municipality;
 - (m) without good cause, acts against a decision of the ward committee;
 - (n) is involved in party political canvassing or similar activity during a ward committee meeting.
- (2) The Municipality must appoint a disciplinary committee to deal with matters of discipline.

15 Cessation of term of office by ward committee member

A ward committee member shall cease to be a member of the ward committee if that member –

- (a) resigns;
- (b) dies;
- (c) is found guilty of an infringement of this By-Law and is ordered by the Municipality to vacate his or her office;
- (d) no longer resides in the ward;
- (e) is ordered to vacate the office by an order of the High Court of South Africa.

16 Filling of vacancies

- (1) When a vacancy occurs as a result of the departure of a sectoral representative, the affected sector must be requested to nominate their sectoral replacement and the person so nominated serves on the ward committee for the remainder of the term of office that the member who vacated office would have served.
- (2) When a vacancy occurs as a result of the departure of a non-organised sector representative, the ward councillor must nominate two people from the affected group, which nomination will be put before the ward committee for a decision and the ward committee must, after deliberations, appoint one person as member of the ward committee.
- (3) The ward committee must fill vacancies only if they do not exceed the majority of elected members.
- (4) In the event of 50% plus one of the elected members ceasing to be ward committee members, the ward councillor must notify the speaker to arrange for the election of a new ward committee.
- (5) It is the responsibility of the ward committee, together with the ward councillor, to fill vacancies on the ward committee.

17 Vacation of office by ward councillor

- (1) When the ward councillor is no longer in office, the ward committee will continue to function for the rest of its term as determined by the Council.
- (2) A temporary chairperson must be appointed by the political party of the original councillor.
- (3) If the councillor was an independent candidate, the chief whip must appoint an interim chairperson from the proportional representative councillors assigned to the ward.

CHAPTER 6

FUNCTIONING AND DISSOLUTION OF WARD COMMITTEE**18 Ward coordinator**

- (1) The ward coordinator may be appointed -
 - (a) by an organ of state in the national or provincial sphere of government in terms of a programme to promote the functionality of ward committees; or
 - (b) if a ward coordinator is not appointed as contemplated in paragraph (a), by the ward councillor from among the elected ward committee members.
- (2) In addition to any duties which a ward coordinator appointed in terms of subsection (1)(a) may be obligated to perform by virtue of his or her appointment, he or she is responsible for the administration of the committee and shall ensure that the committee is functioning in the proper manner.
- (3) The ward coordinator shall oversee the minute taking of the committee and the record keeping of the minutes.

19 Ward committee chairperson

The ward councillor is the chairperson of the ward committee.

20 Administration, funding and reimbursement

- (1) The Municipality must within its financial capability provide administrative support to enable each ward committee to perform its functions and exercise its powers effectively and administrative support may include:
 - (a) informing the community of the roles and responsibilities of its ward committee;
 - (b) providing an administrative resource to attend every scheduled ward committee meeting and to assist the ward councillor, ward coordinator and other members of the ward committee in fulfilling their administrative functions;
 - (c) identifying or arranging a central meeting place in the ward where the community has access to information and where the ward committee can conduct meetings;
 - (d) providing the necessary logistical resources, including furniture, equipment and stationery for a ward committee to fulfil its functions;
 - (e) assisting with the translation of information and documentation for the community;
 - (f) assisting a ward committee in performing its functions, including the provision of additional capacity and an advertising campaign required for purposes of arranging a larger public meeting, if necessary;
 - (g) developing and providing a capacity building and training programme for a ward committee on an ongoing basis during the term of office of its members; and
 - (h) facilitating ward committee elections.
- (2) The Municipality must use its resources and allocate funds in its budget to further the objectives of each ward committee.
- (3) No remuneration is to be paid to a ward committee member for service on the ward committee but the Municipality must reimburse a ward committee member for out-of-pocket expenses incurred by that member in accordance with the provisions of this section.
- (4) Membership and duties of a ward committee member must be regarded as voluntary service for the benefit of the community.
- (5) The ward coordinator appointed by the ward councillor should, as part of the voluntary service to the community, be able and willing to assist in the administration of the ward without receiving payment from the Municipality.

- (6) For the purpose of this section, out-of-pocket expenses includes-
 - (a) travelling costs for full attendance of any ward committee meeting and other meeting, training session and workshop authorised by the Municipality;
 - (b) telephone or cellular phone costs relating to the performance of his or her functions as a member of the ward committee; and
 - (c) other forms of re-imbursements due to a member performing ward committee functions determined by the Council.
- (7) Out-of-pocket expenses must be calculated by the Municipality in accordance with the conditions determined by the Municipality and the criteria for payment of out-of-pocket expenses prescribed by the National Minister responsible for local government in the Government Gazette by Notice No. 973 of 2009.
- (8) Out-of-pocket expenses must be budgeted for by the Municipality and the financial viability of the Municipality is a key consideration in determining the amount that should be budgeted for the out-of-pocket expenses.
- (9) Payment of out-of-pocket expenses must be done in accordance with the approved policy of the Municipality.

21 Ward committee meetings

- (1) The chairperson must convene a meeting of the ward committee at least once in a period of three months, and a list of the meeting dates must be supplied to the Municipality for inclusion in the official municipal calendar not later than 31 January of the year following the election of ward committees.
- (2) The chairperson must decide on the place, dates and times of ward committee meetings in consultation with members of the ward committee.
- (3) Notice of the time and place of every meeting of the ward committee must be given to every member at least seven days before the meeting.
- (4) The validity of a meeting is not affected if the notice of the meeting is mistakenly not given to a member.
- (5) Every member attending a meeting must sign his or her name in the attendance register kept for this purpose by the ward coordinator.
- (6) A quorum of the ward committee is 50% plus one members of the ward committee.
- (7) If a quorum is not formed within 10 minutes after the time appointed for a meeting, the meeting will not be held unless it is decided by the chairperson that a further ten minutes should be allowed to enable a quorum to be formed.
- (8) If a quorum is still not formed after the extended time contemplated in subsection (7), the chairperson may rule to adjourn the meeting until another time.
- (9) Notice of an adjourned meeting must be given in accordance with subsection (3).
- (10) A ward committee must strive to reach a decision on any matter before it through consensus.
- (11) If a matter remains unresolved after thorough discussion, the matter will be decided by a vote.
- (12) If the votes are equal, the chairperson will have the deciding vote.
- (13) If the ward councillor is unable to attend a ward committee meeting, he or she must appoint a ward committee member to chair the meeting.
- (14) If the ward councillor is unable to appoint a substitute chairperson, the ward committee must do so at the start of the meeting.
- (15) A ward committee meeting is open to any interested party in an observer capacity.
- (16) A proportional representative councillor, deployed to a ward committee may participate in the activities of the ward committee but such a councillor does not have the right to vote.

- (17) The ward committee shall endeavour to convene a meeting with the community in every village located within the ward.

22 Work programme of ward committee

- (1) The ward committee must submit a programme with specific outputs of work for each calendar year to the Municipality.
- (2) The ward committee must perform the functions as set out in this By-Law to achieve the outputs indicated on the programme.

23 Declaration of interests by ward committee member

- (1) A member must declare his or her interests to the ward committee in those matters that are before the ward committee.
- (2) The ward councillor is responsible for the maintenance of the register of declared interests of members of the ward committee.

24 Code of conduct for ward committee members

The code of conduct contained in Annexure A applies to every member of a ward committee.

25 Dispute resolution mechanism for ward committee

- (1) If a dispute arises between members of a ward committee, other than a dispute that involves the ward councillor, every effort must be made to deal with the dispute internally.
- (2) When a dispute arises, the ward councillor should appoint a person or persons to try and resolve the dispute through mediation.
- (3) If the attempt at mediation fails, the ward councillor must arbitrate the dispute.
- (4) If one of the parties is still aggrieved after the arbitration by the ward councillor, the matter must be referred to the speaker for a final decision.
- (5) If the dispute involves the ward councillor, the ward committee must, within 14 days after the dispute arose, refer the dispute to the speaker.
- (6) If a dispute is referred to the speaker by the ward committee in terms of subsection (5), the speaker must arbitrate the dispute.
- (7) If the dispute involves a failure to comply with the provisions of this By-Law or a breach of the code of conduct contemplated in Annexure A, the speaker must appoint a disciplinary committee and an appeal committee to deal with the non-compliance or breach.

26 Dissolution of ward committee

- (1) If the speaker is of the opinion that a ward committee must be dissolved by the Municipality due to, amongst others –
- (a) the failure of that ward committee to fulfil its objectives as set out in legislation;
 - (b) non-adherence by the ward committee to this By-Law; or
 - (c) resignation of more than 50% of the members of a ward committee,
- he or she may, after the investigation contemplated in subsection (3), recommend to the Council to dissolve that ward committee.
- (2) The Council may dissolve a ward committee based on the recommendation of the speaker.
- (3) The procedure for the dissolution of a ward committee is as follows:

- (a) The speaker must investigate the circumstances surrounding actions of the ward committee and report his or her findings and recommendations to the Council;
 - (b) after the Council has resolved to dissolve the ward committee, it must give notice of the dissolution of the ward committee to the ward councillor and the ward committee, at which time the ward committee will cease to exist;
 - (c) the Council must give notice of the reconstitution of the ward committee in terms of section 6 of this By-Law.
- (4) With the exception of the ward councillor, members of the ward committee that has been dissolved will not be eligible for re-election to the ward committee for a period of one year after its dissolution.

CHAPTER 7

GENERAL MATTERS

27 Appeals

Any person may appeal against any decision taken under this By-Law by giving written notice of the appeal in accordance with the provisions of section 62 of the Municipal Systems Act.

28 Repeal of by-laws

The By-Laws Relating to Ward Committees published in the *Provincial Gazette* by Notice Number 209 of 2005 is hereby repealed.

29 Short title and commencement

This By-Law shall be known as the Senqu Municipality: By-Law relating to Ward Committees and shall come into operation on the date of publication thereof in the *Provincial Gazette*.

ANNEXURES

Annexure A

CODE OF CONDUCT FOR WARD COMMITTEE MEMBERS

General Principles of good governance to be complied with by ward committee members**Community interest**

A member must strive to serve the best interest of the community from which he or she is elected, by recommending municipal programmes that are community centred, driven and implemented, recognising any diversity in the ward.

Integrity

A member must always act with integrity in the execution of his or her functions as a member of the ward committee, without fear, favour or prejudice and in accordance with the provisions of the By-Law on Ward Committees, 2017.

A member may not use his or her position as ward committee member for private gain or to improperly benefit any third party.

Objectivity

A member must make decisions on merit, based on the mandate received from his or her ward.

A member may not act in any manner that will compromise the credibility, impartiality or independence of the ward committee.

Accountability

Each member of a ward committee is accountable to the ward community that they serve

Regular report back

The ward councillor and each member of the ward committee are responsible for feedback to the community and the constituency of their ward.

Transparency

A member must promote transparency and must be open and honest about his or her actions and those of the ward councillor and should welcome community enquiries, thereby creating trust and respect between all role-players.

Leadership

Each member of a ward committee must provide leadership to the ward and set a good example of responsible citizenship.

Batho Pele

Each member of a ward committee must apply the Batho Pele principles when dealing with members of the public.

Public Participation

Every member of the ward committee must in all his or her actions deepen and strengthen public participation and local democracy.

Meetings

Meetings of the ward committee shall be held in accordance with the framework set by the By-Law on Ward Committees, 2017 and when requested by a majority of ward committee members.

Pledge by ward committee members

All members of the ward committee must upon election sign the pledge set out below, in order to show their commitment towards the ward committee that they have been elected to.

This must be taken in a form of an oath by each member of a ward committee.

The pledge reads as follows:

I solemnly declare:

I from ward pledge to advance and act in the best interest of Ward No.....community, of the Senqu Municipality..

I confirm that I am residing within the jurisdiction of the Senqu Municipality, dedicated resident and registered voter of Ward No.....community.

I further declare that I have read and understand the code of conduct for ward committee members as informed by the provisions of this By-Law, the Municipal Structures Act as well as the Standing Orders of Senqu Municipality. I have carefully studied this code of conduct unimpeded and freely, and I cannot claim ignorance of it. I fully agree that I shall be bound by the code of conduct in the execution of my duties and functions as a loyal and disciplined member of a

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PROVINCE OF THE EASTERN CAPE
IPHONDO LEMPUMA KOLONI
PROVINSIE OOS-KAAP

Provincial Gazette
Igazethi Yephondo
Provinsiale Koerant

Vol. 26

BISHO/KING WILLIAM'S TOWN
1 APRIL 2019
1 APRIL 2019

No. 4217

Ward Committee. I further acknowledge that my remuneration for out of pocket expenses is subject to me fulfilling my obligations as set out above.

*Signed.....at.....thisday of
.....year.....*

Witness 1:

Name.....

Sign:..... Date:.....

Witness 2:

Name.....

Sign:..... Date:.....

Municipal Council Elected Representatives

Name of Ward Councillor:

Sign:..... Date.....

SENQU MUNICIPALITY MUNICIPAL NOTICE**BY-LAW ON WASTE MANAGEMENT**

The Municipal Council of Senqu Local Municipality in the Schedule hereto publishes, in terms of section 13 of the Local Government Municipal Systems Act, 2000 (Act 32 of 2000) read with section 162 of the Constitution of the Republic of South Africa Act 1996 (Act 108 of 1996) the By-law on Waste Management.

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CHAPTER 1

DEFINITIONS, OBJECTIVES AND PRINCIPLES

1 Definitions

In this By-law, any word or expression to which a meaning has been assigned in the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) and the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000); and associated regulations shall have the meaning so assigned and, unless the context indicates otherwise.

“building waste” includes all waste produced during the construction, alteration, repair or demolition of any structure, and includes building rubble, earth, vegetation and rock displaced during such construction, alteration, repair or demolition;

“bulky waste” means business waste or domestic waste which by virtue of its mass, shape, size or quantity is inconvenient to remove in the routine door-to-door council service provided by the council or service provider;

“compliance officer” means a person who is authorised to implement and enforce the provisions of this By-law by virtue of his or her –

- (a) declaration as a peace officer as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977);
- (b) appointment as a police officer as contemplated in the South African Police Service Act, 1995 (Act 68 of 1995);
- (c) a traffic officer appointed in terms of section 3 of the Road Traffic Act, No. 29 of 1989 or section 3A of the National Road Traffic Act No. 93 of 1996 as the case may be;
- (d) appointment as a law enforcement officer or traffic officer by the Municipality and declaration as peace officer as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977); or
- (e) appointment by the Municipality as a compliance officer or an inspector;

“Council” means the Senqu municipal council, a municipal council referred to in section 157(1) of the Constitution;

“form” means a form approved by the Municipality for the purposes of this By-law;

“garden waste” means organic waste which emanates from gardening or landscaping activities at residential, business or industrial premises including but not limited to grass cuttings, leaves, branches, and includes any biodegradable material and excludes waste products of animal origin and bulky waste;

“health care risk waste” means waste capable of producing any disease and includes, but is not limited to the following:

- (a) laboratory waste;
- (b) pathological waste;
- (c) isolation waste;
- (d) genotoxic waste;
- (e) infectious liquids and infectious waste;
- (f) sharps waste;
- (g) chemical waste; and
- (h) pharmaceutical waste;

“industrial waste” means waste generated as a result of manufacturing, maintenance, fabricating, processing or dismantling activities, but does not include building waste, business waste, special industrial waste, hazardous waste, health care risk waste or domestic waste;

“litter” means waste, excluding hazardous waste, arising from activities in public areas that has not been deposited of in a public litter container;

“Municipality” means the Senqu Municipality and includes the Council, any executive councillor, or committee established by the Municipality, or any employee thereof, or duly authorised agent thereof acting in connection with this By-law by virtue of a power vested in the Municipality and delegated to such employee or agent;

“Municipal Systems Act” means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

“nuisance” means any injury, harm, damage, inconvenience or annoyance to any person which is caused in any way whatsoever by the improper handling or management of waste, including but not limited to, the storage, placement, collection, transport or disposal of waste or by littering;

“occupier” in relation to any premises, means any person who is in actual occupation of such premises and if no person is in actual occupation thereof, any person who, whether as owner, lessee, licensee or otherwise has, for the time being, control of such premises and shall include a street trader who occupies a site for the purposes of such street trader's business;

"owner" means the registered owner, lessee or occupier of premises, or the person in charge or control of any premises or part thereof, who is over 18 years of age, and any person who obtains a benefit from the premises or is entitled thereto;

"receptacle" means an approved container having a capacity for temporary storage of waste in terms of this By-law;

"service provider or contractor" means the person, firm or company whose tender or quotation has been accepted by or on behalf of the Municipality and includes the service provider's or contractor's heirs, executors, administrators, trustees, judicial managers or liquidators, as the case may be, but not, except with the written consent of the Municipality, any assignee of the contractor;

"tariff" means any tariff determined for purposes of this By-law, by the Municipality in terms of the Senqu Municipality: Tariff By-law, 2017.

2 Objectives of By-law

The objectives of this By-law are to –

- (a) give effect to the right contained in section 24 of the Constitution by regulating waste management within the area of the Municipality's jurisdiction;
- (b) provide, in conjunction with any other applicable law, an effective legal and administrative framework, within which the Municipality can manage and regulate waste management activities;
- (c) ensure that waste is avoided, or where it cannot be altogether avoided, minimised, reused, recycled, recovered, and disposed of in an environmental sound manner; and
- (d) promote and ensure an effective delivery of waste services.

3 Scope of application

- (1) This By-law must be read with any applicable provisions of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008).
- (2) In the event of any conflict with any other by-law which directly or indirectly, within the jurisdiction of the Municipality, regulates waste management, the provisions of this By-law shall prevail to the extent of the inconsistency.

4 Principles

- (1) Any person exercising a power in accordance with this By-law must; at all times; seek to promote the waste management hierarchy approach as outlined in the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) and the National Waste Management Strategy, which is promoting waste avoidance and minimisation, waste reuse, recycling and recovery, waste treatment and disposal.
- (2) This By-law seeks to promote sustainable development and environmental justice through fair and reasonable measures for the management of waste within the Municipality's jurisdiction.
- (3) This By-law promotes participation of all municipal residents in the promotion of responsible citizenship by ensuring sound waste management practices within residential and industrial environments.

5 General duty of care

- (1) Every person has a duty to manage any waste generated by his or her activities or the activities of those persons working under his or her direction in such a manner that the waste does not cause harm to human health or damage to the environment. In particular, the person must ensure that:
 - (a) waste generation is avoided and where such waste cannot be avoided, minimise the toxicity and amounts of waste;
 - (b) waste is reduced, reused, recycled or recovered;
 - (c) where waste must be disposed of, the waste is treated and disposed in an environmentally sound manner;
 - (d) the waste is managed in such a manner that it does not endanger health or the environment or cause a

nuisance through noise, odour or visual impacts.

- (2) Any person subject to the duty imposed in subsection (1) may be required by the Municipality or an authorised official to take measures to ensure compliance with the duty.
- (3) The measures referred to in subsection (2), that a person may be required to undertake include –
 - (a) investigation, assessment and evaluation of the impact that their activities, the process or a situation have on the environment;
 - (b) informing and educating employees about the environmental risks of their work and the manner in which their tasks must be performed in order to avoid causing damage to the environment;
 - (c) ceasing, modifying or controlling any act, process, situation or activity which causes damage to the environment;
 - (d) containing or preventing the movement of pollutants or other causes of damage to the environment;
 - (e) eliminating or mitigating any source of damage to the environment; or
 - (f) rehabilitating the effects of the damage to the environment.

CHAPTER 2 SERVICE PROVIDERS

6 Service provider and contractor

- (1) The Municipality may discharge any of its obligations by entering into a service delivery agreement with a service provider or service providers in terms of the Municipal Systems Act, 2000.
- (2) Subject to the provisions of the Municipal Systems Act or any other legislation, the Municipality may assign to a service provider any power enjoyed by the Municipality under this By-law: provided that the assignment is required for the service provider to discharge an obligation under its service delivery agreement, but the accountability shall remain with the Municipality.
- (3) Any reference in this By-law to "Municipality or service provider" should be read as the "Municipality" if the Municipality has not entered into a service delivery agreement, and should be read as "service provider" if the Municipality has entered into a service delivery agreement.
- (4) Service providers must provide services in accordance with a customer charter which must be drawn up in consultation with the Municipality and which must-
 - (a) accord with the provisions of this By-law;
 - (b) be accessible to the public;
 - (c) establish the conditions of the service including collection times; and
 - (d) provide for the circumstances in which Municipal services may be limited.

CHAPTER 3 PROVISION OF WASTE SERVICES

7 Storage and receptacles for general waste

- (1) Any person or owner of premises where general waste is generated must ensure that such waste is stored in a receptacle provided or approved by the Municipality.
- (2) Any person or owner of premises contemplated in subsection (1) must ensure that-
 - (a) the receptacle is stored inside the yard where applicable, away from the public area when still waiting for collection;
 - (b) on the collection date scheduled by the Municipality in accordance with section 8, it should be placed outside the premises in an area accessible to the municipal officials or service providers;
 - (c) pollution and harm to the environment is prevented;
 - (d) waste cannot be blown away and that the receptacle is covered or closed;
 - (e) measures are in place to prevent tampering by animals;

- (f) nuisance such as odour, visual impacts and breeding of vectors do not arise;
 - (g) suitable measures are in place to prevent accidental spillage or leakage;
 - (h) the receptacle is intact and not corroded or in any other way rendered unfit for the safe storage or transportation of the waste;
 - (i) that a receptacle(s) provided by the Municipality is not used for any other purpose other than storage of waste;
 - (j) in cases where a receptacle (s) is damaged or corroded, the owner or occupier must notify the Municipality and arrange for replacement as soon as it comes to their attention;
 - (k) waste is only collected by the Municipality or authorised service provider; and
 - (l) in cases where an owner or occupier is not available on the day of collection, make necessary arrangements to ensure that waste is accessible for removal or collection.
- (3) If the waste is not placed outside the premises on the collection date scheduled by the Municipality in accordance with section 8 or in an area accessible to the municipal officials or service providers, the person or owner of premises contemplated in subsection (1) must ensure that he or she does so at the next collection date scheduled by the Municipality or he or she must dispose of such waste at a municipal waste disposal site.

8 Collection and transportation

- (1) The Municipality shall -
- (a) only collect waste stored in approved receptacles;
 - (b) set collection schedules for both commercial and residential properties for reasons of health, safety or environmental protection.
 - (c) collect waste outside the set schedule on request by any person and at a fixed tariff agreed to by both parties prior to collection.
 - (d) set the maximum amount of quantities of waste that will be collected;
 - (e) identify waste streams which may not be collected by the Municipality or which are unsuitable for collection; and where such a case exist, advise the owner of alternatives
- (2) Any person transporting waste within the jurisdiction of the Municipality must –
- (a) ensure that the receptacle or vehicle or conveyance is adequate in size and design for the type of waste transported;
 - (b) remove or transport the waste in a manner that would prevent any nuisance or escape of
 - (c) material;
 - (d) maintain the receptacle or vehicle or conveyance in a clean, sanitary condition at all times;
 - (e) not permit waste transported to become detached, leak or fall from the receptacle or vehicle or conveyance transporting it;
 - (f) ensure that waste is transported or deposited at a waste transfer station, recycling facility and/or disposal facility licensed to accept such waste;
 - (g) ensure that the vehicle is not used for other purposes whilst transporting waste;
 - (h) apply to the Municipality to register as a transporter of waste in accordance with the requirements set out by the Municipality and adhere to all the conditions attached to the registration.

9 Waste transfer stations

Any holder of waste must –

- (a) utilise appropriate waste transfer stations as directed by the Municipality or service provider; and
- (b) adhere to the operational procedures of a transfer station as set out by the Municipality.

10 Waste disposal

- (1) Waste generated in the municipal area must be disposed of at a municipal waste disposal site.
- (2) Any person disposing waste at a municipal disposal site must adhere to the site operational procedures approved by the Municipality.

CHAPTER 4: RECYCLING OF WASTE

11 Storage, separation and collection of recyclable domestic waste

- (1) Any person who is undertaking any activity involving reduction, re-use, recycling or recovery of waste including scrap dealers, by-back centres and formalised recycling groups must before undertaking that activity, make sure that the activity is less harmful to the environment than the disposal of such waste and must apply to the Municipality on the form as defined in section 1 of this By-law for approval to undertake such an activity in writing.
- (2) Any person undertaking the activities contemplated in subsection (1) must adhere to the requirements set out in national or provincial legislation.
- (3) The Municipality may require any person or owner of premises to separate their waste and use different receptacles provided by the Municipality or service provider.
- (4) In cases where the Municipality, service provider or industry has provided separate receptacles for recyclable material, no person may use other receptacles for recyclable material.

CHAPTER 5: WASTE INFORMATION

12 Registration and provision of waste information

- (1) Any person who conducts an activity, which has been identified in terms of provincial and/or national waste information system must, upon request, present to the Municipality proof that such an activity is registered and reporting the required information.
- (2) The Municipality may, at its own discretion and as reasonably possible, require any facility, person of activity to register and report to the Municipality any other information for the purpose of facilitating effective waste management within its jurisdiction.

CHAPTER 6: PROVISION FOR REGISTRATION OF TRANSPORTERS

13 Requirements for registration

- (1) Any person who transports waste for gain must adhere to the requirements as set out in section 25 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008).
- (2) The Municipality may, by notice in the *Provincial Gazette*, require any person or category of transporters to register and report to the Municipality information as set out in that notice.
- (3) The notice may include but not limited to-
 - (a) the application forms;
 - (b) a tariff as defined in section 1 of this By-law;
 - (c) renewal intervals;
 - (d) list of transporters, types and thresholds of waste transported;
 - (e) minimum standards or requirements to be complied with.

CHAPTER 7:

LISTED WASTE MANAGEMENT ACTIVITIES**14 Commencement, conducting or undertaking of listed waste management activities**

- (1) Any person conducting a listed waste management activity listed in terms of section 19 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008), must upon request by an official of the Municipality, provide proof of compliance with the requirements of a licence issued by the competent authority.
- (2) Any person conducting or intending to conduct any activity contemplated in subsection (1) must, at least sixty (60) days before commencement, conducting or undertaking such activity, inform the Municipal waste management officer in writing of the intention.

**CHAPTER 8:
GENERAL PROVISIONS****15 Duty to provide facilities for litter**

- (1) The Municipality, or owner of premises in the case of privately owned land, must take reasonable steps to ensure that sufficient and appropriate receptacles are provided for the discarding of litter by the public, in any place to which the public has access.
- (2) The Municipality, or owner of privately owned land, must ensure that all receptacles installed on the premises for the collection of litter are –
 - (a) maintained in good condition;
 - (b) suitably weighted and anchored so that they cannot be inadvertently overturned;
 - (c) constructed in such a manner as to ensure that they are weatherproof and animal proof; (d) of suitable size to contain all litter likely to be generated on the premises and by the users thereof;
 - (d) placed in locations convenient for the use by users or occupants of the premises to discourage littering or the unhealthy accumulation of waste; and
 - (e) emptied and cleansed periodically or when full. The emptying and cleansing of receptacles must be done frequently to ensure that no receptacle or its contents may become a nuisance or provide reasonable grounds for complaint.
- (3) In any public place where a receptacle has been placed for the depositing of litter, the Municipality may put up notices about littering.

16 Prohibition of littering

- (1) No person may –
 - (a) cause litter;
 - (b) sweep any waste into a gutter, onto a road reserve or onto any other public place;
 - (c) disturb anything in, or remove anything from any receptacle which has been placed for the purposes of collecting litter in such a manner as to cause the contents of the receptacle to spill or fall onto the ground around it; and
 - (d) allow any person under his control to do any of the acts contemplated in paragraphs (a), (b) or (c) above.
- (2) Notwithstanding the provisions of subsection (1), the Municipality, or owner in the case of privately owned land to which the public has access, must within a reasonable time after any litter has been discarded, dumped or left behind, remove such litter or cause it to be removed.

17 Prohibition of nuisance

- (1) Any person handling waste within the Municipality, either through storage, collection, transportation, recycling or disposal must-
 - (a) take reasonable measures to prevent nuisance, injury, harm, damage, annoyance or inconvenience to any person and the environment;
 - (b) take measures to remedy any spillages, harm, damage or nuisance referred to in section (a) above;

- (c) at their own cost, clean any waste causing nuisance to any person or the environment;
- (d) ensure compliance to the notice contemplated in section 15(3);
- (2) The Municipality may clean or remedy waste causing nuisance to any person or the environment, at the Municipality's cost and claim such cost from the offender.

18 Burning of waste

No person may-

- (a) dispose of waste by burning it, either in a public or private place;
- (b) incinerate waste either in a public or private place except in an incinerator licensed by the relevant national or provincial authorities to do so, or at a place designated by the Municipality for such purpose.

19 Unauthorised disposal and dumping

- (1) No person may except with the permission of the occupier, owner or of the person or authority having control thereof, dump, accumulate, place, deposit, leave or cause or allow to be dumped, accumulated, placed, deposited or left any waste whatsoever, whether for gain or otherwise, on or in a public place; any drain, watercourse, flood prone areas, water in or in the vicinity of any road, highway, street, lane, public footway or pavement, roadside or other open space to which the public have access; or private or municipal land.
- (2) The local authority may at the expense of an owner of land, person in control of land or a person who occupies the land rehabilitate any damage caused to the environment as a result of the activity or failure of the person referred to in subsection (1) to take reasonable measures to prevent unauthorised disposal or dumping.

20 Abandoned articles

- (1) Any article, other than a motor vehicle deemed to have been abandoned in terms of the Road Traffic Act, which, in the light of such factors as the place where it is found, the period it has been lying at such place and the nature and condition of such article, is reasonably regarded by the Municipality as having been abandoned, may be removed and disposed of by the Municipality as it may deem fit.
- (2) The Municipality may remove and dispose of any article which is chained or fastened to any pole, parking meter or any other property belonging to the council, without authorisation as it may deem fit.

21 Liability to pay applicable tariffs

- (1) The owner of premises where the Municipality is rendering waste services contemplated in this By-law is liable for the payment of tariffs for such services, and is not exempted from or reduction of such tariffs due to non usage, partial or limited use of such services.
- (2) The Municipality reserves the right to review such tariffs contemplated in subsection (1) on an annual basis.
- (3) The Municipality may exempt any person or category of persons deemed to be falling in the indigent category from paying prescribed tariffs for waste management services as outlined in the Municipal Indigent Policy.

22 On-site disposal

- (1) The Municipality may, as it deem fit in an area where a municipal waste management service is not already provided, after consultation with the concerned community, declare an area(s) as demarcated for on-site disposal of general waste.
- (2) A declaration contemplated in subsection (1) must be published in a provincial gazette and may include but not limited to—
 - (a) time frames for such a declaration;
 - (b) minimum standards to be adhered to for on-site disposal; and
 - (c) quantity of waste that may be disposed.
- (3) The Municipality has a right to inspect the areas contemplated in subsection (1) on a regular basis.

23 Storage, collection, composting and disposal of garden waste

- (1) The owner or occupier of the premises on which garden waste is generated, may compost garden waste on the property, provided that such composting does not cause a nuisance or health risk.
- (2) If the owner or occupier of the premises wants to have garden waste removed by the Municipality he or she shall put such waste in receptacles approved by the Municipality and may not dump any garden waste outside of his or her premises unless it is in such receptacles.
- (3) The owner or occupier of the premises on which garden waste is generated and not composted, must ensure that such waste is collected and disposed within a reasonable time after the generation thereof.
- (4) The Municipality may, as far it is reasonably possible, direct any transporter of garden waste or any person providing garden maintenance services, to transport their garden waste to a designated transfer station or a municipal waste disposal site.
- (5) At the written request of the owner or occupier of premises the Municipality or service provider may, in its sole discretion, deliver an appropriate receptacle for the purpose of storing garden waste in addition to any approved receptacle delivered to the premises for the storage of domestic waste; at an additional tariff.

24 Collection and disposal bulky waste

- (1) Any person generating bulky waste must ensure that such waste is collected and recycled or disposed of at a designated facility and may not put such waste as part of the municipal routine collection.
- (2) At a request of the owner or occupier of any premises, the Municipality may remove bulky waste from premises at a tariff, provided that the Municipality is able to do so with its refuse removal equipment.
- (3) In case a Municipality has been called to remove illegally dumped waste on vacant land, the Municipality may remove that waste subject to subsection (2) and charge the owner of that vacant land.

25 Generation, storage, collection, reuse and disposal of building waste

- (1) The owner or occupier of premises on which building waste is generated and person conducting an activity which causes such waste to be generated, must ensure that—
 - (a) until disposal, all building waste, together with the containers used for the storage, collection or disposal thereof, is kept on the premises on which the waste was generated;
 - (b) the premises on which the building waste is generated does not become unsightly or cause a nuisance as a result of accumulated building waste;
 - (c) any building waste which is blown off the premises is promptly retrieved; and
 - (d) pursuant to any instructions from the Municipality, any structure necessary to contain the building waste is constructed.
- (2) Any person may operate a building waste removal service subject to adherence to relevant legislation.
- (3) Should the Municipality provide such a service, it shall be done at a tariff.
- (4) The owner or occupier of premises may apply to the Municipality for written consent to place an appropriate receptacle for the storage and collection of building waste in the road reserve for the period of such consent.
- (5) Every receptacle, authorised in terms of subsection (4) and used for the removal of building waste, must –
 - (a) have a clearly marked name, address and telephone number of the person in control of such approved receptacle;
 - (b) be fitted with reflecting chevrons or reflectors which must completely outline the front and the back thereof; and
 - (c) be covered at all times other than when actually receiving or being emptied of such waste so that no displacement of its contents can occur.
- (6) The owner or occupier of premises on which building waste is generated must ensure that the waste is disposed of at a facility designated for that purpose by the Municipality.
- (7) For the purpose of reclamation of land, reuse or recycling, building waste may with written consent of the Municipality, be deposited at a place other than the Municipality's waste disposal sites.
- (8) A consent given in terms of subsection (7) shall be subject to the conditions, as the Municipality may deem necessary.

26 Special industrial, hazardous or health care risk waste

- (1) Any waste generator who generates special industrial, hazardous or health care risk waste or an owner of premises where such waste is generated must contract with an accredited service provider to collect and dispose of such waste at a licensed hazardous waste disposal facility.
- (2) Subsection (1) does not apply to generators of waste who have the capacity to conduct the service.
- (3) Any person transporting industrial, hazardous or health care risk waste must ensure that the facility or place to which such waste is transported is authorised to accept such waste prior to offloading the waste from the vehicle.

**CHAPTER 9
LAW ENFORCEMENT**

27 Appointment of compliance officer

- (1) The Municipality may appoint or designate a person or employee to serve as a compliance officer for purposes of compliance and enforcement monitoring of this By-law.
- (2) A compliance officer shall take all lawful, necessary and practicable measures to enforce the provisions of this By-law.
- (3) The Municipality shall issue each compliance officer with a written appointment stating that he or she has been appointed for purposes of this By-law or with an identification card that contains the municipal logo, department and name of the officer.

28 Powers and functions of a compliance officer

- (1) A compliance officer may, subject to subsection (2) and (3), at any reasonable time, and without prior notice, enter any land property, building or premises for purposes of ensuring compliance with this By-law.
- (2) An inspection of a private dwelling may only be carried out by a compliance officer at a reasonable time and after reasonable notice has been given to the owner or occupier of the land or building and after obtaining the consent of the owner or lawful occupier or person in control of the building, or with a warrant issued in terms of the Criminal Procedure Act, 1977.
- (3) The compliance officer is not required to give any notice to enter land or a building, other than a private dwelling, and may conduct an inspection or take enforcement action without the consent of the owner or occupier of such land or building and without a warrant if:
 - (a) he or she believes on reasonable grounds that a warrant would be issued to him or her on application; and
 - (b) the delay in obtaining the warrant would defeat the object of the inspection and enforcement action.
- (4) A compliance officer shall show proof of his or her written appointment or identification card contemplated in section 27(3) when required to do so by any person affected by the exercising of a power or show proof that he or she is a law enforcement officer.
- (5) A compliance officer may not investigate a matter in which he or she has a direct or indirect personal interest.
- (6) In ascertaining compliance with this By-law, a compliance officer may:
 - (a) be accompanied by an interpreter, a police officer or any other person who may be able to assist with the inspection;
 - (b) question any person who is or was on that property, who in the opinion of the compliance officer, may be able to furnish information on a matter to which this By-law relates;
 - (c) question any person about any act or omission in respect of which there is a reasonable suspicion that it might constitute:
 - (i) an offence in terms of this By-law; or
 - (ii) a breach of an approval or a term or condition of such approval
 - (d) question a person about any structure, object, document, book or record or inspect any written or electronic information or object which may be relevant for the purpose of investigating any matter in connection with this By-law;

- (e) examine any book, record or other written or electronic information and make a copy thereof or an extract therefrom and remove such document, book, record or written or electronic information in order to make copies or extracts;
 - (f) require a person to produce or to deliver to a place specified by him or her, any document, book, record, or any written or electronic information referred to in paragraph (e) for inspection;
 - (g) require from such person an explanation of any entry in such document, book, record or written or electronic information;
 - (h) inspect any article, substance, plant or machinery which is or was on the property, or any work performed on the property or any condition prevalent on the property, or remove for examination or analysis any article, substance, plant or machinery or a part or sample;
 - (i) seize any book, record or other document, details or any article, substance, plant or machinery or a part or sample thereof which in his or her opinion may serve as evidence at the trial of any person charged with an offence under this By-law, provided that the user of the article, substance, plant or machinery concerned, as the case may be, may make copies of such book, record or document before such seizure;
 - (j) direct any person to appear before him or her at such time and place as may be determined by him or her and question such person either alone or in the presence of any other person on any matter to which this By-law relates; and
 - (k) take photographs or make audio visual recordings or tape recordings of any person or anything for the purposes of his or her investigation.
- (7) When a compliance officer removes or seizes any article, substance, plant or machinery, book, record or other document as contemplated above, he or she shall issue a receipt to the owner or person in control thereof and return it as soon as practicable after achieving the purpose for which it was removed or seized.
- (8) Where a compliance officer enters any land in terms of subsection (1), a person who controls or manages the land shall at all times provide such facilities as are reasonably required by the compliance officer to enable him or her to perform his or her functions effectively and safely under this By-law.
- (9) A compliance officer who enters and searches any property or private dwelling under this section, shall conduct such search with strict regard for decency and order and with regard for each person's right to dignity, freedom, security and privacy.

29 Offences

- (1) A person shall be guilty of an offence if such person
- (a) fails to comply with a decision taken or condition imposed by the Municipality in terms of this By-law.
 - (b) wilfully and with intent provides false or misleading information in connection with an application contemplated in this By-law;
 - (c) unlawfully prevents a compliance officer entry to his or her premises or causes or permits any other person to prevent entry;
 - (d) obstructs or hinders a compliance officer in the performance of his or her duties or causes or permits any other person to so obstruct or hinder the compliance officer;
 - (e) refuses or fails to provide to a compliance officer such information as is required to allow a compliance officer to perform a function in terms of this By-law;
 - (f) furnishes false or misleading information to an official of the Municipality when called upon to furnish information;
 - (g) impersonates a compliance officer;
 - (h) contravenes or fails to comply with any provision of this By-law; or
 - (i) supplies particulars, information or answers in an application or on knowing it to be false, incorrect or misleading.

- (2) Any person convicted of an offence in terms of this By-law, shall be liable upon conviction to a fine or imprisonment or to both such fine and imprisonment.
- (3) A person convicted of an offence under this By-law who, after conviction, continues with the conduct in respect of which he or she was so convicted, is guilty of a continuing offence and upon conviction is liable to a fine or to imprisonment, or to both such fine and imprisonment, in respect of each day on which he or she so continues with that conduct.

30 Prosecution of corporate body and partnership

A partner in a partnership, a member of the board, executive committee or other managing body or a corporate body is personally guilty of an offence contemplated in terms of this By-law if such offence was committed by:

- (a) a corporate body established in terms of any law; or
 - (b) a partnership; and
- such person failed to take reasonable steps to prevent the offence.

CHAPTER 9 GENERAL MATTERS

31 Appeals

A person whose rights are affected by a decision taken by the Municipality in terms of this By-law, 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, 2000 (Act No. 32 of 2000) to the municipal manager or delegated official within 21 days of the date of the notification of the decision.

32 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 be stipulated therein;
 - (b) alter or cancel any exemption or condition in an exemption; or
 - (c) refuse to grant an exemption.
- (3) In order to consider an application in terms of subsection (1), the Municipality may obtain the input or comments of the owners or occupants of surrounding premises.
- (4) 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.
- (5) If any condition of an exemption is not complied with, the exemption lapses immediately.

33 Short title and commencement

This By-law shall be known as the Senqu Municipality: Waste Management By-law, 2017 and shall come into operation on the date of publication thereof in the *Provincial Gazette*.

SENQU MUNICIPALITY MUNICIPAL NOTICE**BY-LAW RELATING ON WAYLEAVES**

The Municipal Council of Senqu Local Municipality in the Schedule hereto publishes, in terms of section 13 of the Local Government Municipal Systems Act, 2000 (Act 32 of 2000) read with section 162 of the Constitution of the Republic of South Africa Act 1996 (Act 108 of 1996) the By-law on Wayleaves.

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CHAPTER 1

PURPOSE, DEFINITIONS AND APPLICABILITY OF BY-LAW

1 Objectives

The objectives of this By-Law are to provide the mechanisms for the control of the use of roads, streets and sidewalks and to manage any work undertaken in such roads, streets and sidewalks so as to provide a safe environment for all people within the municipal area,

2 Definitions

In this By-Law any word or expression to which a meaning has been assigned in the By-Law shall have the meaning so assigned to it and, unless the context otherwise indicates:

“**compliance officer**” means a person who is authorised to implement and enforce the provisions of this By-law by virtue of his or her –

- (a) declaration as a peace officer as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977);
- (b) appointment as a police officer as contemplated in the South African Police Service Act, 1995 (Act 68 of 1995);
- (c) a traffic officer appointed in terms of section 3 of the Road Traffic Act, No. 29 of 1989 or section 3A of the National Road Traffic Act No. 93 of 1996 as the case may be;

- (d) appointment as a law enforcement officer or traffic officer by the Municipality and declaration as peace officer as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977);
- (e) appointment by the Municipality as a compliance officer or an inspector; or
- (f) an employee, agent, representative or service provider of the Municipality who are specifically authorised by the Municipality in this regard;

“backfilling” means the replacement of the structural layers in a trench or excavation and includes the base, subbase, selected subgrade, but excludes the surfacing;

“fee” means any fee, charge or deposit determined for purposes of this By-law, by the Municipality in terms of the Senqu Municipality: Tariff By-law, 2017;

“footway” for the purpose of determining a lane rental for a footway, means that part of the verge that is normally used by pedestrians or the whole constructed width of a constructed footway;

“form” means a form approved by the Municipality for the purposes of this By-law;

“lane rental” means rental in respect of a demarcated traffic lane, area in a road reserve or a footway which is payable to the Municipality by a service agency whose work in the road reserve results in time delay costs being incurred by the users of the road reserve and includes any section within the road reserve or work which affects the footway;

“municipal area” means are of jurisdiction of the Municipality;

“municipal road” means a road for which the Municipality is responsible;

“Municipality” means the Senqu Municipality and includes the Council, any executive councillor, or committee established by the Municipality, or any employee thereof, or duly authorised agent thereof acting in connection with this By-Law by virtue of a power vested in the Municipality and delegated to such employee or agent;

“protected road” means a road which has been classified by the Municipality as such and across which no digging of trenches is permitted;

“public road” means a square, road, sidewalk, island in a road, subway, avenue, bridge, public passageway and any thoroughfare shown on the general plan of a township or in respect of which the public has acquired a prescriptive or other right of way and which is vested in the Municipality and for the purpose of this By-law includes the road reserve;

“reinstatement” means replacing the bituminous surfacing or paving blocks in the case of roads, or the paving blocks, paving slabs, bituminous surfacing or grass in the case of footways and verges;

“road reserve” means the full width of a public road, and includes the verge and the roadway;

“service” means any system for supplying a public need that a service agency has on the road reserve;

“service agency” means any municipal department, other organ of state, public agency or company that has a service in the road reserve;

“wayleave” means a formal approval to carry out work in the road reserve of a municipal road; and

“work in the road reserve” means -

- (a) the installation or maintenance of underground or overhead services by means of digging a trench or tunnelling;
- (b) the erection of signboard or structure;
- (c) shaping and landscaping; and
- (d) any other work that may affect a motorist, cyclist, pedestrian, the road, footway, kerbing, traffic sign, traffic signal, street lighting, an underground or overhead service or any other structure or service that is contained within the road reserve of a municipal road.

3 Applicability of By-Law

- (1) This By-law applies to every person who carries out work in a road reserve of a municipal road and includes an internal municipal department, an organ of state other than the Municipality, a service agency and a contractor.
- (2) This By-law does not apply to work in a road reserve of a national or provincial road within the municipal area:
- (3) In the event of any conflict with any other by-law which directly or indirectly, within the jurisdiction of the municipality, regulates wayleaves, roads and streets, the provisions of this By-Law shall prevail to the extent of the inconsistency.

CHAPTER 2

UNDERTAKING WORK IN ROAD RESERVE

4 Application for approval to undertake work in road reserve

- (1) No person or services agency may undertake any work in the road reserve unless that person or services agency obtains a written wayleave from the Municipality prior to the undertaking of such work.
- (2) A person or services agency who wishes to undertake work in the road reserve shall submit an application for a wayleave on the applicable form to the Municipality.
- (3) The application form for a wayleave referred to in subsection (2) must be accompanied by –
 - (a) two copies of the design drawing referred to in subsection (4) showing details of the proposed work;
 - (b) a traffic control plan showing how vehicular and pedestrian traffic will be accommodated during the execution of the work in the road reserve;
 - (c) photographs clearly showing the area of the proposed work;
 - (d) conditions that are imposed by all service agencies relating to work in the vicinity of its service;
 - (e) proof that an environmental impact assessment as required in the National Environmental Management Act, 1998 (Act 107 of 1998) was undertaken, if applicable
 - (f) proof that the requirements of a water use licence application have been met;
 - (g) payment of the required deposit, submission of proof of financial guarantees or an official order of an amount of estimated reinstatement costs plus 30 percent; and
 - (h) the applicable fee.
- (4) The design drawing referred to in subsection (3) that must accompany an application form must contain the following:
 - (a) a clear depiction of the proposed work;
 - (b) where any service is to be installed, the depth of the every service below the level of the surface of the road to a minimum of 800mm;
 - (c) distance of the service from the road reserve boundary;
 - (d) position and extent of all structures, traffic signals, trees and street furniture;
 - (e) position and extent of all underground structures including manholes, chambers and junction boxes;
 - (f) the location of all other services in the road reserve.

5 Granting of wayleave

- (1) The Municipality may, after receipt of the application, grant the wayleave on such conditions as it may deem necessary which conditions may include –
 - (a) a description of the work to be done;
 - (b) the timeframe within which work must be done;
 - (c) location of the work to be done;

- (d) specific working conditions required in terms of the Occupational Health and Safety Act, 1993 (Act 85 of 1993);
 - (e) methods of work execution in protected roads;
 - (f) specific conditions required by service agencies; and
 - (g) reinstatement requirements and costs.
- (2) Only the work determined in the wayleave granted by the Municipality in terms of subsection (1) may be undertaken by the holder of the wayleave.
- (3) Work in the road reserve may only be undertaken at the location determined in the wayleave.

6 Exemption from obtaining wayleave

- (1) A wayleave application is not required for the following work -
- (a) the erection of a structure that requires an approved building plan in terms of the National Building Regulations and Standards Act and the Senqu By-law on Building Control;
 - (b) the erection of an advertising sign and structure that require approval in terms of the Senqu By-law on the Control of Outdoor Advertising;
 - (c) road works, such as the construction of a new road, road widening or access to a development which are undertaken by developers;
 - (d) a connection to municipal services, such as water, sewers, electricity and storm water drainage from a development;
 - (e) erection of hoardings in the road reserve;
 - (f) the installation or construction of a bollard, wall, garden, kerbing or paving on a sidewalk by a property owner or occupier;
 - (g) a road closure;
 - (h) a traffic calming device.
- (2) An exemption in terms of this section does not absolve the person responsible for undertaking the work referred to in subsection (1) from obtaining approval in terms of any other applicable By-law of the Municipality, if so required.

7 Period of validity of wayleave

- (1) The work approved in the wayleave must commence within 90 days of date of issue of the wayleave.
- (2) If the work does not commence within the period referred to in subsection (1), the wayleave shall lapse and submission of a new application to the Municipality is required.

CHAPTER 3

RENTAL, INDEMNITY AND COSTS

8 Lane rental

- (1) Before commencement of the work, the Municipality and the service agency shall agree on the duration of the work to be undertaken.
- (2) Lane rental that is equal to 50 percent of the time delay costs shall be paid by the services agency for the period contemplated in subsection (1).
- (3) If the work is not completed within the period contemplated in subsection (1) the lane rental that is equal to 100 percent of time delay costs shall be paid by the services agency.
- (4) If work on the road reserve is undertaken after normal working hours, lane rental that is equal to 30 percent of the time delay costs shall be paid by the services agency, provided that work may only be undertaken during the period contemplated in the Senqu By-law on Nuisance Control.
- (5) For the purposes of this section, normal working hours are the hours between 07:00 and 17:00 on Monday to Friday and between 06:00 to 13:00 on Saturday.

- (6) The department that is responsible for providing and maintaining the road network within the municipal area is exempt from payment of lane rental when any construction, resurfacing, maintenance, improvement or rehabilitation work is being done on the road itself.
- (7) Lane rental for a footway shall be paid if the footway is completely closed so that pedestrians are required to use a traffic lane or is partially obstructed in such a way that it causes a delay for pedestrians.
- (8) If a traffic lane is not available for vehicular traffic as a result of the footway that is completely closed the lane rental charged in terms of subsections (2), (3) and (4) shall be paid by the services agency.
- (9) If a footway is partially obstructed the lane rental referred to in subsection (2) shall be paid by the Services Agency.

9 Indemnity associated with work undertaken in road reserve

The holder of a wayleave granted by the Municipality is responsible for all costs associated with the work undertaken in the road reserve, including any damage to any other service, the cost of relocation of any other service, backfilling and reinstatement, test and any claim that may result from the work so undertaken and shall indemnify the Municipality from such costs.

10 Permanent reinstatement cost

- (1) If the conditions of approval require that the Municipality undertakes the permanent reinstatement of the road reserve, the cost for such permanent reinstatement shall be paid to the Municipality by the applicant for the wayleave.
- (2) If the Municipality undertakes the permanent reinstatement of the road reserve, the costs of that reinstatement shall be calculated at the actual cost plus 30 percent.

CHAPTER 4

CATEGORIES OF ROADS

11 Categories of roads

- (1) The Municipality shall, in its approved and adopted Municipal Infrastructure and Wayleaves Policy, classify all of its municipal roads into categories for purposes of determining the specifications for backfilling and reinstatement of a particular road.
- (2) The Municipality may, as one category of road, classify any municipal road as a protected road, and the provisions of section 12 applies to any road so classified.

12 Protected road

- (1) Any road that has been newly constructed, overlayed or resurfaced is, due to the working of this section, a protected road for a period of seven years from the date that the work is completed.
- (2) A protected road may only be crossed using a trenchless method and if a trenchless method cannot be used, special permission to excavate must be obtained from the Municipality.

CHAPTER 5

DUTIES OF HOLDER OF WAYLEAVE

13 Traffic signs and barricading

- (1) The holder of a wayleave shall ensure that any law regarding traffic, safety, traffic signs and barricading is complied with.
- (2) The holder of a wayleave shall take all necessary measures and provide all necessary facilities to ensure a safe and easy passage for traffic and pedestrians through areas in which work is in progress, or is uncompleted.

- (3) Any traffic sign and barricading must be done in accordance with the requirements of the South African Roads and Traffic Signs Manual.
- (4) The holder of a wayleave may contact the municipal department responsible for traffic to ensure that all requirements have been met for the particular location where the work is being done.
- (5) The holder of a wayleave shall ensure that all work sites are properly barricaded and signed irrespective of the duration of the work.

14 Road closure and restriction

- (1) The granting of a wayleave does not give the holder of a wayleave the authority to close the applicable road completely to traffic.
- (2) The Municipality may, in exceptional circumstances grant approval for the closure of a road or portion of road to traffic, subject to the provisions of any law.
- (3) The holder of a wayleave shall, two weeks prior to a road being closed, apply to the Municipality for approval of a road closure.
- (4) The Municipality may approve such a road closure for a specific period and the approval is only valid for the duration of that period and if the work is not completed in the period approved by the Municipality, the holder of the wayleave shall apply to the Municipality for another road closure.
- (5) Work on any road determined by the Municipality in its approved and adopted Municipal Infrastructure and Wayleaves Policy, shall be restricted to outside the following periods, namely from 6:30 to 09:00 and 15:30 to 18:00.

15 Excavation

- (1) The holder of a wayleave shall ensure that –
 - (a) the area which is excavated is kept to a minimum;
 - (b) the width of the trench is uniform in length and in depth;
 - (c) the top of the trench is cut with a saw to ensure smooth, uniform edges;
 - (d) a safe passage is provided for pedestrians at all times;
 - (e) adequate preventative measures are taken to ensure that no water flows into any open trench;
 - (f) any service indicated on the design drawings or on site by a representative from any service agency is located accurately and opened by hand digging;
 - (g) no mechanical equipment is used to excavate the area before every known service have been found and marked;
 - (h) when a service is found, it is marked and protected or supported as required by the service agency;
 - (i) no foreign material enters any drain and that no silting occurs either from pumping operations or as a result of rain.
- (2) The minimum depth that any service may be placed under a road is 800mm measured from the level of the surfacing of the road to the top of the service.
- (3) The minimum depth at any other place in the road reserve is 800 mm measured from the level of the surfacing of the road and not from natural ground level.
- (4) Any services not subject to being laid at a specific grade such as water pipes and cables, shall not be placed at a depth in excess of the 800 mm.
- (5) All excavated material and equipment shall be placed and demarcated in such a way as to cause the minimum disruption to vehicles and pedestrians.
- (6) If the holder of the wayleave cannot locate a service when excavating, the relevant service agency must be contacted for instructions.
- (7) If any service needs to be moved, instructions from the service agency shall be followed by the holder of the wayleave.
- (8) If any silting or other contamination referred to in subsection (1)(i) does occur, the holder of the wayleave shall clean the drain or request the Municipality to do it at the cost of the holder of the wayleave.
- (9) Any water that is present in a trench must be pumped out before backfilling.

- (10) Water must be pumped into the storm water system and not into a sewer manhole.
- (11) Any material that has become wet must be removed from the bottom of the trench before backfilling.
- (12) If any street furniture has to be removed, arrangement must be made with the Municipality for the removal, storage and re-erection thereof.
- (13) If an excavation is made through the entrance to a property, the holder of the wayleave shall –
 - (a) ensure that access is maintained by using steel plates, planks or other temporary bridges of sufficient strength and properly secured against movement;
 - (b) inform any occupier of such a property how his or her access will be affected.

16 Trenchless method

- (1) The holder of a wayleave may use a trenchless method for excavation of any road category contemplated in section 11 but shall use it for any road classified as protected in terms of section 12.
- (2) The depth to the top of any tunnel that is drilled for the installation of a new service, shall be at least 800 mm measured from the level of the surfacing of the road.

17 Emergency Work

- (1) The services agency who needs to undertake emergency work, shall inform the Municipality thereof in writing within 48 hours from commencing such work.
- (2) If the services agency concerned is not informed within the period referred to in subsection (1), the work will be reinstated by the Municipality and the cost thereof shall be for the account of the services agency concerned calculated as contemplated in section 10.
- (3) For the purposes of this section, emergency work is defined as any work which is required to prevent or end a dangerous situation, to prevent or end an unplanned interruption in the supply of a service or to avoid any substantial losses.

CHAPTER 6

BACKFILLING AND REINSTATEMENT

18 General

- (1) The Municipality shall determine the specifications for backfilling and reinstatement in its approved and adopted Municipal Infrastructure and Wayleaves Policy and the holder of a wayleave shall ensure that backfilling is done in every case where work is undertaken on a public road in accordance with the applicable specifications referred to in the Municipal Infrastructure and Wayleaves Policy.
- (2) Permanent reinstatement may be done by the Municipality or the holder of a wayleave if the Municipality grants the holder of that wayleave permission to do so.
- (3) Permanent backfilling and reinstatement done by the holder of the wayleave, is subject to a guarantee period of one year based on the performance specifications determined in the Municipal Infrastructure and Wayleaves Policy.
- (4) If the Municipality undertakes the permanent reinstatement, the holder of the wayleave shall undertake the temporary reinstatement as referred to in section 24 of this By-law.
- (5) The Municipality shall remove the temporary reinstatement and test the backfilling.
- (6) If the backfilling does not comply with the applicable specifications, the Municipality shall replace it at the cost of the holder of the wayleave and such costs are over and above the reinstatement costs referred to in section 10.
- (7) The holder of the wayleave shall undertake temporary reinstatement if he, she or it abandons the site for a period not exceeding two weeks with the view of returning to complete the work and the wayleave holder shall maintain the temporary reinstatement.

19 Preparation of bottom of trench and backfilling around service

- (1) The trench bottom and backfilling around the service shall be prepared and compacted according to the requirements of the service agency concerned.
- (2) If any service with a diameter of more than 300 mm is installed, the subgrade material used for the reinstatement shall be soilcrete (in-situ material mixed with eight percent cement), placed with poker vibrators, up to a level of 300 mm above the top of the service.

20 Backfilling of roads

- (1) The minimum requirement is that the structural layers of the backfilled trench (which is the base, subbase, selected subgrade and subgrade) down to a depth of 800 mm below the level of the surfacing of the road, shall have at least the same shear strength as those of the adjacent undisturbed structural layers.
- (2) The holder may use any one of the methods contemplated in Schedule 1 to this By-law to ensure adequate shear strengths in trench backfill.
- (3) Quality control of the backfilled structural layers can be done by measuring the shear strengths of the adjacent structural layers as well as that of the backfilled layers.
- (4) The shear strength can be measured with a dynamic cone penetrometer (DCP) or a rapid compaction control device (RCCD).
- (5) Although the shear strengths of the backfilled layers will be measured against the undisturbed structural layers, an indication of probable acceptance on most roads can be obtained from the typical DCP and RCCD Penetration diagram shown in Figure 2 in Schedule 2.

21 Backfilling of footways

- (1) Any footway, where there is no possibility of vehicles crossing the footway, shall be backfilled using the excavated material, placed in the trench in 150 mm layers and compacted to 90 percent Mod AASHTO density (maximum DCP penetration of 19 mm/blow) for all layers below the base and 93 percent Mod AASHTO density (maximum DCP penetration of 14 mm/blow) for the base.
- (2) Any footway where there is a possibility of light motor vehicles crossing the footway, typically where there is mountable kerbing, must be backfilled using Method A or Method B referred to in Schedule 1 according to the standards for local streets specified in Figure 1 in the Schedule.
- (3) Where any heavy motor vehicles make use of a footway, such as a loading zone in an industrial area, the footway must be backfilled using Method A or Method B referred to in Schedule 1 according to the standards for arterials, collectors and industrial roads specified in Figure 1 in the Schedule.
- (4) Any excavation in an unconstructed verge must be backfilled in such a way that the verge is in the same condition after backfilling as it was before excavation and all excess material must be removed and not spread over the verge.
- (5) Topsoil must be removed and stored separately and replaced as the final layer.

22 Permanent reinstatement of roads

- (1) The same method of reinstatement shall be used independent of the method of backfilling of the structural layers.
- (2) The permanent reinstatement of the surfacing must consist of 100 mm hot-mix asphalt.
- (3) The lower 70 mm must be "blackbase" (26, 5 mm nominal stone size, continuously graded) and the top 30 mm fine (4, 75 mm nominal stone size, continuously graded).
- (4) Cold mix may only be used for temporary reinstatement.
- (5) Both these surfacing layers must be compacted to 95 percent Marshall density.
- (6) The reinstated surfacing must be at least 100 mm wider than the trench on both sides to accommodate any edge break where saw cutting was not possible.
- (7) The material used for the reinstatement of the surfacing must comply with the relevant requirements of section 4200: Asphalt Base and Surfacing of the Committee of Land and Transport Officials or its successor in title, Standard Specification for Road and Bridge Works.
- (8) In the case of any road surfaced with interlocking paving blocks, the general procedure would be to re-use the material removed during the excavation of the trench and if new material has to be used, it must be of the same type and size as the existing material and must comply with the requirements of SABS 1058-1985.

23 Permanent reinstatement of footways

- (1) The general procedure for the reinstatement of footways is to re-use all the material removed during the excavation of the trench.
- (2) If new material has to be used, it must comply with the following requirements:
 - (a) A precast concrete kerb and channel must comply with the requirements of section 2300: Concrete Kerbing, Concrete Channelling, Open Concrete Chutes and Concrete Linings for Open Drains of the COLTO Standard Specification for Road and Bridge Works and all cast in-situ concrete must be Class 25/19L;
 - (b) a concrete paving block must comply with the requirements of SABS 1058- 1985;
 - (c) a cast in-situ concrete block must comply with the relevant requirements of section 6400: Concrete for Structures of the COLTO Standard Specification for Roads and Bridge Work and all cast in-situ concrete must be Class 25/19;
 - (d) a precast concrete paving slab must comply with the requirements of SABS 541-1971
- (3) Any constructed footway must be reinstated with the same surfacing materials that existed originally and material may be re-used if undamaged, or else replaced with similar material.
- (4) If a private driveway and footway with non-standard materials are to be excavated, the owner of the property concerned must be informed in advance and in writing of the intended work and the holder of the wayleave shall supply the materials that are to be used for the reinstatement.
- (5) If any unconstructed verge has an established lawn, this must be removed, stored and replaced in sods in such a way that the lawn is in the same condition after reinstatement as it was before excavation and if the sods dry out or become damaged in any way, it must be replaced with similar sods.
- (6) If an unconstructed verge has been planted with garden vegetation other than lawn, the owner of the adjacent property must be consulted before excavation, to obtain instructions on what to do with the plants that are affected and every effort must be made to preserve all plants.

24 Temporary reinstatements by holder of wayleave

- (1) If the permanent reinstatement is to be done by the Municipality, the holder of the wayleave shall do temporary reinstatement with a suitable material that is compacted to an adequate density to ensure that it will carry the traffic for a period of at least 21 days without deforming or potholing.
- (2) The temporary reinstatement must be maintained by the holder of the wayleave in a serviceable condition for a period of 21 days from the date on which the completion certificate has been issued by the Municipality.
- (3) After the 21 days period the maintenance shall be taken over by the Municipality.
- (4) Cold mix asphalt may be used for temporary reinstatement.

25 Performance specifications

- (1) The performance of any trench permanently reinstated by the holder of the wayleave shall be monitored for 12 months, during which period the holder of the wayleave shall be held responsible for any remedial work that may be required.
- (2) The tests that were used for quality control (density or shear strength) will be used to determine whether or not the work was done according to specifications.
- (3) The Municipality may do additional tests, at the expense of the holder of the wayleave, if the quality control tests are not considered to be adequate.
- (4) Remedial work are required if any of the following defects exists:
 - (a) Depressions;
 - (b) humps (crowning);
 - (c) edge depression at the interface; or
 - (d) cracking.
- (5) Any depression or hump will be measured with a straight edge across the reinstatement and will require remedial work if the following limits are exceeded over 100 mm or more of the length of the trench:
Reinstatement Height of Deformation or Hump as measured with Width straight edge (mm)

<i>Reinstatement Width (mm)</i>	<i>Height of Deformation or Hump as measured with straight edge (mm)</i>
Up to 400	10
400 to 500	12
500 to 600	14
600 to 700	17
700 to 800	19
800 to 900	22
Over 900	25

- (6) Remedial work be required if a depression results in standing water wider than 500 mm or exceeding one square metre, two hours after rain has stopped.
- (7) Any edge depression exceeding 10 mm over 100 mm or more of the length of the trench will require remedial work.
- (8) Any open crack wider than 3 mm and longer than 100 mm will require remedial work.

CHAPTER 7

COMPLETION NOTICE AND CERTIFICATE OF COMPLETION

26 Completion notice and certificate of completion

- (1) Within 24 hours after completion of the work concerned the holder of the wayleave shall submit a completion notice to the Municipality.
- (2) The Municipality shall arrange a site meeting with the holder of the wayleave to do an inspection and to issue a certificate of completion if all requirements have been met.
- (3) The 12-month guarantee period for permanent reinstatement by the holder of the wayleave, or the 21 day maintenance period for temporary reinstatement by the holder of the wayleave, commences on the day after the date of issue of the certificate of completion.
- (4) Completion of the work means that all work has been completed and that all material, equipment and rubble have been removed and the site is completely cleared and cleaned and that either the permanent or temporary reinstatement as applicable, has been done by the holder of the wayleave.
- (5) If work involves more than one street link, a completion notice shall be submitted by the holder of the wayleave after completion of each link.

CHAPTER 8

ENFORCEMENT AND OFFENCES

27 Appointment of compliance officer

- (1) The Municipality may appoint or designate a person or employee to serve as a compliance officer for purposes of compliance and enforcement monitoring of this By-law.
- (2) A compliance officer shall take all lawful, necessary and practicable measures to enforce the provisions of this By-law.
- (3) The Municipality shall issue each compliance officer with a written appointment stating that he or she has been appointed for purposes of this By-law or with an identification card that contains the municipal logo, department and name of the officer.

28 Administrative enforcement

- (1) The holder of a wayleave granted by the Municipality shall keep a copy of that wayleave at the location where the work is undertaken and if, when requested to do so by a compliance officer, the holder cannot produce the wayleave, the compliance officer may instruct that the work cease forthwith until such time as the wayleave is shown to that compliance officer.
- (2) If a person or services agency is not in possession of a wayleave granted by the Municipality a compliance officer may instruct that person or services agency or his, her or its agent to cease forthwith until such time as the Municipality grants a wayleave.
- (3) The Municipality may withdraw a wayleave of a holder and seize and impound the equipment used to carry out any work that is in contravention on this By-law.

29 Offences and penalties

- (1) Any person shall be guilty of an offence if such person –
 - (a) omits, or neglects to do, or permits or suffers to remain undone, anything which according to the true intent and meaning of this By-law ought to be done at the time and in the manner provided herein;
 - (b) knowingly permits or allows any condition of things to exist or continue to exist contrary to this By-law;
 - (c) does not cease any action which that person is required to cease under this By-law;
 - (d) fails or refuses, neglects to comply or continuously fails, refuses or neglects to comply even after notices of breach or lawful institutions have been issued in terms of this By-law;
 - (e) fails to comply with any notice, direction, condition contained in any approval granted by the Municipality; or
 - (f) fails to comply with a decision taken or condition imposed by the Municipality in terms of this By-law.
 - (g) wilfully and with intent provides false or misleading information in connection with an application contemplated in this By-law;
 - (h) unlawfully prevents a compliance officer entry to his or her premises or causes or permits any other person to prevent entry;
 - (i) obstructs or hinders a compliance officer in the performance of his or her duties or causes or permits any other person to so obstruct or hinder the compliance officer;
 - (j) refuses or fails to provide to a compliance officer such information as is required to allow a compliance officer to perform a function in terms of this By-law;
 - (k) furnishes false or misleading information to an official of the Municipality when called upon to furnish information;
 - (l) impersonates a compliance officer;
 - (m) contravenes or fails to comply with any provision of this By-law; or
 - (n) supplies particulars, information or answers in an application or on knowing it to be false, incorrect or misleading.
- (2) Any person convicted of an offence in terms of this By-law, shall be liable upon conviction to a fine or imprisonment or to both such fine and imprisonment.
- (3) A person convicted of an offence under this By-law who, after conviction, continues with the conduct in respect of which he or she was so convicted, is guilty of a continuing offence and upon conviction is liable to a fine or to imprisonment, or to both such fine and imprisonment, in respect of each day on which he or she so continues with that conduct.

30 Prosecution of corporate body and partnership

A partner in a partnership, a member of the board, executive committee or other managing body or a corporate body is personally guilty of an offence contemplated in terms of this By-law if such offence was committed by:

- (a) a corporate body established in terms of any law; or
- (b) a partnership; and

such person failed to take reasonable steps to prevent the offence.

CHAPTER 9

GENERAL MATTERS**31 Appeals**

Any person may appeal against any decision taken under this By-Law by giving written notice of the appeal in accordance with the provisions of section 62 of the Municipal Systems Act, 2000, as amended.

32 Short title and commencement

This By-law shall be known as the Senqu Municipality: Wayleaves By-law, 2017 and shall come into operation on the date of publication thereof in the *Provincial Gazette*.

SCHEDULE 1
METHODS FOR BACKFILLING

Method A. Re-using excavated material

During excavation of the trench, the material from the top 400 mm of the excavation (or in the case of arterials, collectors and industrial roads, the top 550 mm) must be stockpiled separately from the rest of the material being excavated. This material must then be improved through chemical stabilisation with cement and used for the base and subbase layers during backfilling, and in the case of arterials, collectors and industrial roads also for the selected subgrade layers.

The requirements for this method is given in Figure 1.

If the material is not stockpiled separately during excavation, the road authority will require that material with the required properties be imported. Material which was originally stabilised cannot be re-used and must be discarded.

Method B. Importing material

Import a G5 gravel material and stabilise with 60 kg of cement per m³ of material. Water must be uniformly mixed into the material. The material must then be placed in the trench in 75 to 100 mm layers and compacted to the required Mod. AASHTO densities as specifies in Figure 1. The final layer must be finished to a level of 100 mm below the level of the surrounding sound surface of the road.

Layer	Treatment		Layer thickness (mm)	Depth (mm)
Surfacing	Temporary Surfacing	Permanent Surfacing	100	100
	Material from top 400 (550)mm 4 % OPC 98 % Mod AASHTO	30mm Bitumen hot-mix fure 70mm Bitumen hot-mix BTB		
Base	Material from top 400 (550)mm stockpile Stabilize with 4 % OPC Compact to 98 % Mod AASHTO		150	250
Subbase	Material from top 400 (550)mm stockpile Stabilize with 4 % OPC Compact to 98 % Mod AASHTO		150	400
Selected Subgrade	Local streets:	Arterials, collectors and Industrial streets:	150	550
	Compact to 93 % Mod AASHTO	Material from top 550mm stockpile Stabilize with 4 % OPC Compact to 93 % Mod AASHTO		
Subgrade	Compact to 90 % Mod AASHTO		250	800

Figure 1
Recommended method for permanent backfilling

Method C. Low strength concrete:

Specially designed concrete mix (SDCM) for Trench Backfilling

All Road Trenches / Openings:

Place 300 mm SDCM concrete of minimum 2.5 Mpa crushing strength (28 days) and manufactured to an approved manufacturer's specification. The SDCM concrete mix is to be placed 50 mm below the level of the surrounding sound

surface of the road. The rest of the trench is backfilled with selected approved material compacted to 90 percent of MOD AASHTO density.

All Footway Trenches / Openings:

Place 150 mm SDCM concrete of minimum 2.5 Mpa crushing strength (28 days) and manufactured to an approved manufacturer's specification. The SDCM concrete mix is to be placed 30 mm below the level of the surrounding sound surface of the road. The rest of the trench is backfilled with selected approved material compacted to 90 percent of MOD AASHTO density.

SCHEDULE 2

TYPICAL DCP AND RCCD PENETRATION DIAGRAM

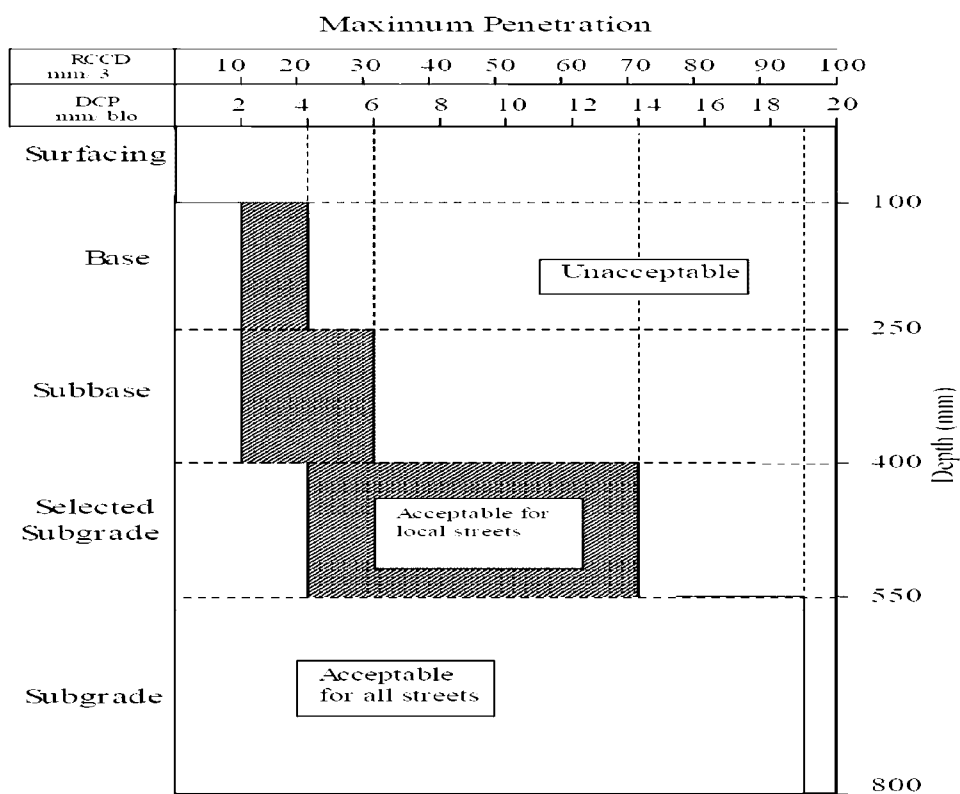


Figure 2
Typical DCP and RCCD Penetration Diagram

SENQU MUNICIPALITY MUNICIPAL NOTICE**BY-LAW RELATING TO BUSINESSES AND STREET TRADING**

The Municipal Council of Senqu Local Municipality in the Schedule hereto publishes, in terms of section 13 of the Local Government Municipal Systems Act, 2000 (Act 32 of 2000) read with section 162 of the Constitution of the Republic of South Africa Act 1996 (Act 108 of 1996) the By-Law on Businesses and Street Trading.

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CHAPTER 1

OBJECTIVE, DEFINITIONS AND APPLICABILITY OF BY-LAW

1 Objectives

The objective of this By-law is to govern informal trading within its the area of jurisdiction of the Municipality.

2 Definitions

In this By-law any word or expression to which a meaning has been assigned in the By-law shall have the meaning so assigned to it and, unless the context otherwise indicates:

“**demarcated stand**” means a public place marked out in the prescribed manner by the Municipality for the purpose of street trading and not exceeding 2 m²;

“**compliance officer**” means a person who is authorised to implement and enforce the provisions of this By-law by virtue of his or her –

- (a) declaration as a peace officer as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977);
- (b) appointment as a police officer as contemplated in the South African Police Service Act, 1995 (Act 68 of 1995);
- (c) a traffic officer appointed in terms of section 3 of the Road Traffic Act, No. 29 of 1989 or section 3A of the National Road Traffic Act No. 93 of 1996 as the case may be;
- (d) appointment as a law enforcement officer or traffic officer by the Municipality and declaration as peace officer as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977); or
- (e) appointment by the Municipality as a compliance officer or an inspector;

“**Council**” means the Senqu municipal council, a municipal council referred to in section 157(1) of the Constitution;

“**fee**” means any fee, charge or deposit determined for purposes of section 19 of this By-law, by the Municipality in terms of the Senqu Municipality: Tariff By-law, 2017;

“**form**” means a form approved by the Municipality for the purposes of this By-law;

“**management zone**” means any number of demarcated stands grouped together to ensure good and effective management of street trading in a particular area;

“**mobile street trader**” means a street trader that does not use a demarcated stand and conducts street trading from a cart, portable container or receptacle;

“Municipality” means the Senqu Municipality and includes the Council, any executive councillor, or committee established by the Municipality, or any employee thereof, or duly authorised agent thereof acting in connection with this By-law by virtue of a power vested in the Municipality and delegated to such employee or agent;

“nuisance” means any conduct that unreasonably interferes with the physical comfort, health and safety the public is entitled to expect in a public place;

“permit” means the document issued to a street trader by the Municipality containing the terms and conditions that apply to a particular trading opportunity;

“public place” means any place that is owned by or vests in the Municipality for the access, use, enjoyment and benefit of the public;

“street trader” means a person who has been issued with a permit entitling him or her to carry on street trading on a demarcated stand, or within a specified management zone in the case of a mobile street trader;

“street trading” means the selling of merchandise or the provision of services by a street trader, whether mobile or not;

“trading opportunity” refers to an existing, or the creation of a new, economic prospect that is capable of being exploited by a street trader.

3 Applicability of By-law

- (1) This By-law must be read with any applicable provisions of the Businesses Act, 71 of 1991.
- (2) In the event of any conflict with any other by-law which directly or indirectly, within the jurisdiction of the Municipality, regulates street trading, the provisions of this By-law shall prevail to the extent of the inconsistency.

CHAPTER 2

BUSINESSES

4 Licences required by certain businesses

- (1) No person shall, within the municipal area, carry on any business without a valid licence if such business is required to be licensed in terms of the Businesses Act, 71 of 1991 or any other applicable legislation.
- (2) Every person who is required to hold a licence or licenses in terms of subsection (1) shall comply with every condition or requirements set out in such licence as issued by the appropriate licensing authority.

5 Prohibitions

- (1) Any person intending to carry on any permanent business activity within the area of jurisdiction of the Municipality shall notify the Municipality in writing his or her intention to commence business, such notification to reach the offices of the Municipality at least 14 clear days prior to the intended date of the proposed commencement of the business, advising the Municipality of the type of business to be conducted and give details of the premises, if any, to be used for the conduct of such business.
- (2) No person shall carry on any business in or on any premises unless such activity or use is permitted in terms of the town-planning scheme.

CHAPTER 3

TRADING OPPORTUNITIES

Part 1: Determination of trading opportunities

6 Determination of trading opportunity

- (1) The Municipality must carry out a survey of all public places and compile a list and a map depicting all the areas considered viable and appropriate for street trading.
- (2) In deciding whether any public place is viable and appropriate the following factors must be considered by the Municipality in consultation with relevant stakeholders:

- (a) the zoning of the public place as reflected in the town planning scheme;
 - (b) the existing land uses in the vicinity of the public place;
 - (c) the nature and volume of pedestrian and vehicular traffic adjoining such public place especially during peak periods;
 - (d) introduction of measures to minimise disruption of such traffic;
 - (e) the existence of appropriate provision for the collection and disposal of litter;
 - (f) the existence of toilet facilities and water;
 - (g) existing street furniture and municipal services;
 - (h) the nature of the proposed street trading and its likely impact on the public place and adjoining businesses or residences;
 - (i) the dimensions of the public place, and its capacity to carry the proposed street trading;
 - (j) whether street trading will unduly affect the free passage, convenience and safety of pedestrians especially children, the disabled, and elderly; and
 - (k) the requirements of any relevant law.
- (3) Having decided that a public place is viable and appropriate for street trading the Municipality must proceed to determine the number of trading opportunities available in that public place, and allocate a unique number to each such opportunity.
 - (4) The Municipality must draw up a plan proposing the number and size of demarcated stands the Municipality seeks to establish in that public place, as well as the number of trading opportunities available to mobile street traders.
 - (5) To facilitate effective management of street trading, demarcated stands may be grouped together into management zones.
 - (6) If the Municipality considers that consumers would be better served, it may designate, that only specified things or services be sold or provided in a particular management zone.
 - (7) The Municipality may in exceptional circumstances issue a permit to any person to engage in street trading for a non-renewable period not exceeding three months at any public place, whether it has been demarcated for street trading or not.
 - (8) The Municipality may issue a permit subject to such conditions it considers appropriate, including the size of the stall or stand and the goods which may be traded by the permit holder.

7 Application for and allocation of trading opportunity

- (1) A permit is necessary only in designated management zones proclaimed by the Municipality from time to time.
- (2) As and when trading opportunities become available, the Municipality must call by way of a media campaign upon all those who are able and willing to avail themselves of such trading opportunities to apply for such trading opportunity at the nearest municipal office.
- (3) Trading opportunities must be allocated in a transparent manner, provided that each applicant satisfies the criteria for allocation of trading opportunities set out in clause 10.
- (4) A trading opportunity may be allocated to more than one person on a time-share basis: Provided that each such person shall be entitled to engage in street trading only during the period or periods indicated in the permit issued to him or her.
- (5) Those who have been allocated a trading opportunity must within 6 months of having received the permit to trade, attend at a workshop at which all aspects of street trading are dealt with in detail.
- (6) Preference in the allocation of a trading opportunity must be given to –
 - (a) a person who may be granted preference in terms of the Preferential Procurement Policy Framework Act, 5 of 2000;

- (b) an unemployed person; and
- (c) a single person with dependants.
- (7) The Municipality must approve an application form
- (8) The application form must contain an explanation of the steps to be taken by an aspirant street trader, and he or she must be assisted with the completion of the form in case of difficulty.
- (9) Each application form must be accompanied by a copy of the identity document of the applicant or the work permit if such applicant is a foreign national together with two passport size photographs of the applicant and a proof of residence on the approved form obtained from the ward councillor of the ward where he or she resides.
- (10) The Municipality must consider the application and within a reasonable period give its decision to the applicant.
- (11) If the Municipality refuses an application it must give reasons for the decision in writing and advise the applicant of his or her right to appeal against the decision in terms of clause 37.

8 Period of validity of permit

A permit is valid for a period of 12 months.

9 Permit card

- (1) The Municipality must issue to every street trader a distinctive card containing his or her photograph and other particulars as are necessary.
- (2) In the event that the permit provides for the employment of an assistant, then a further distinctive card must be issued to such assistant.
- (3) The street trader and his or her assistants must during the hours of trade display such cards on their persons so as to enable any member of the public or compliance officer to inspect such card.

10 Commencement of street trading

Street trading may only be commenced after the applicant has been issued with a permit containing the conditions to ensure that it is carried on in an orderly and effective manner.

Part 2: Conditions of Permit

11 Specific conditions

The Municipality may issue a permit subject to the following specific conditions:

- (a) the payment of fees and charges;
- (b) the address of the demarcated stand, if the street trader is stationary, or the boundaries of the management zone within which street trading may be carried on by a mobile street trader;
- (c) specifying whether the merchandise and services traded relate to a food or non-food related activity and if trading is carried on in a food related activity then the street trader must, in addition, be in possession of a "certificate of acceptability" issued in terms of section 9(18) of the Health Act, 63 of 1977, failing which the permit shall not be valid;
- (d) specifying the period of validity of a permit; and
- (e) specifying the day or days on which and the time during which the street trading may take place.

12 General conditions

- (1) The Municipality may issue a permit subject to the following general conditions which relates to the duty of a street trader to -
- (a) in the case of a stationary street trader, to place his or her merchandise or equipment strictly within the boundary of the demarcated stand allocated to him or her;
 - (b) in the case of a mobile street trader, to trade within the boundary of the management zone assigned to him or her, and from a cart or receptacle the characteristics and dimensions of which may be specified by the Municipality;
 - (c) ensure that the merchandise, equipment or any other thing used on the demarcated stand does not pose a danger to the health and safety of any person;
 - (d) construct the stand or equipment used in a sturdy manner, and do not obstruct unreasonably the sight of pedestrians with umbrellas in the public place;
 - (e) carry on the street trading in such a manner that it does not cause a nuisance;
 - (f) not shout unreasonably loud, or rings bells or horns or use any other device to attract attention to his merchandise or service;
 - (g) place all refuse and litter produced in the course of street trading in refuse bins provided by the Municipality;
 - (h) ensure, if the street trading activity involves the cooking or preparation of food, that any food or oil or other thing that drops onto the surface of the demarcated stand is promptly removed;
 - (i) ensure that any assistant employed by the street trader is properly supervised and registered, and is aware of all the terms and conditions of the permit and this By-law.
 - (j) remove all merchandise, structure and equipment from the demarcated stand at the termination of business each day;
 - (k) refrain from selling anything or providing a service that is similar to that provided by a regular store owner in that vicinity;
 - (l) report, or cause to be reported to the Municipality his or her absence from street trading due to illness, death in the family or any other pressing cause;
 - (m) familiarise himself or herself with the penalties for failure to comply with any term or condition; and,
 - (n) any additional matter that needs to be reasonably regulated in any particular case.
- (3) In the temporary absence of the street trader any non-compliance by an assistant shall be deemed to be a non-compliance by the street trader.

Part 3: Termination of Permit

13 Termination by Municipality

- (1) The Municipality may at any time terminate a permit if, after a hearing, it is satisfied that –
- (a) Owing to circumstances that have arisen since the issue of the permit, and having regard to the factors in clause 4, it is deemed not viable or appropriate for further street trading to take place at any demarcated stand or management zone as the case may be;
 - (b) the street trader has, without reasonable excuse, and without having reported his or her absence in terms of clause 10(1)(l), failed to engage in actual street trading for a period of two weeks;
 - (c) the street trader or his or her assistant is not in possession of the card issued to him or her in terms of clause 7;
 - (d) the street trader made a false statement in respect of a material particular on his or her application;
 - (e) the street trader has failed to pay the fees and charges;

- (f) the street trader fails to maintain his or her demarcated stand, and its vicinity, free of refuse and litter;
 - (g) the conduct of the street trader constitutes a nuisance. In enquiring whether the conduct complained of constitutes a nuisance the following factors must be taken into consideration:
 - (i) the nature of the street trading;
 - (ii) the motive and purpose of the street trader;
 - (iii) the locality of the street trading; and
 - (iv) the practicality of preventing the harm recurring;
 - (h) the street trader has failed to comply with this By-law, or a material term and condition of the permit, on three separate occasions, and after having received a warning in respect of the first and second failures.
- (2) Notwithstanding anything to the contrary in this By-law, the Municipality may at any time suspend any permit without notice if the street trading being conducted poses a risk to the health or safety or any person.

14 Notification of termination

The Council may not terminate the permit unless it has given the street trader or his assistant (which service shall be deemed to be service on the street trader) two written warnings within a period of six months of -

- (a) the conduct or omission on his, her or the assistant's part, that constitutes non-compliance with the Bylaw, or a material term and condition of the permit;
- (b) calling upon him or her to comply within seven days; and
- (c) the penalties that attach to such non-compliance.

15 Termination by holder of permit

In the event that a street trader gives notice of his or her intention to cease street trading or the permit is terminated by the Council, then that trading opportunity must be re-allocated in terms of clause 4.

16 Death of holder of permit

- (1) A permit terminates when its holder dies.
- (2) Nothing emanating from a permit shall form part of any deceased estate, and shall not be capable of being transmitted to any heirs or legatees.
- (3) Any permit contemplated in this section shall be re-allocated by the Municipality in terms of clause 4.

CHAPTER 4

POWERS AND DUTIES OF MUNICIPALITY

17 General powers and duties of Municipality

- (1) The Municipality must -
 - (a) provide refuse bins at or near all demarcated stands and within all management zones;
 - (b) ensure that the areas where street trading is conducted are kept clean and any refuse bins emptied regularly;
 - (c) ensure that the demarcated stands and management zones are cleaned and refuse bins emptied on a regular basis;
 - (d) demarcate specified management zones where perishable foodstuffs may be cooked and sold and in those instances establish suitable facilities for such activities to take place having regard to health and safety;
 - (e) maintain a register of street traders who hold permits. The register must be available for public inspection, and show information relating to the serial number of the permit, the date and duration of permit, the name and home address of the street trader; his or her identity number; the location

- of the demarcated stand or management area in which street trading is carried on; and any other detail;
- (f) re-allocate demarcated stands that become vacant, or where mobile street traders cease trading in any management zone;
- (g) approve the manner in which a demarcated stand is to be marked out;
- (2) The Municipality may -
 - (a) rescind or alter any decision made after consultation with affected parties;
 - (b) propose a new or revised policy in relation to any aspect of street trading;
 - (c) erect shelters or other facilities for use and hire by street traders;
 - (d) remove any receptacle or merchandise belonging to a street trader insofar as it is not removed to a place of storage at the end of the trading day;
 - (e) remove any receptacle, containers, and other merchandise that are a danger to the health and safety of the trader or the general public insofar as they are toxic, hazardous, corrosive or explosive; and
 - (f) terminate any permit where the street trader is in breach of any term or condition, or this By-law.

18 Provision of storage facilities

- (1) There is no duty on the Municipality to provide a storage facility to any street trader.
- (2) In the event that storage facilities are provided, the Municipality may make such charges as are reasonable to recoup the costs of maintaining such service.

19 Fees and charges

- (1) The Municipality may levy a fee or charge on any street trader, or a category of street traders as it may determine and as may be sufficient to recoup the costs in connection with street trading including –
 - (a) the collection, removal and disposal of refuse and litter, or other services rendered to street traders;
 - (b) the provision of storage facilities;
 - (c) the hire of tables or other equipment;
 - (d) the cleaning of the public places in which street trading takes place insofar as such cleaning is necessitated by street trading;
 - (e) the reasonable administrative or other costs in connection with administering street trading.
- (2) The Municipality may levy different charges and fees in respect of different management zones depending on the profitability of such management zone.
- (3) Nothing contained herein prevents the Council from subsidising any aspect of street trading.

CHAPTER 5

PUBLIC PARTICIPATION

20 Notification

- (1) Proposals in relation to places that may be declared to be viable and appropriate; the number of trading opportunities available; the establishment of a management zone; the deproclamation of a public place for purpose of street trading; and the levying of fees and charges, must be published in at least two newspapers circulating within the municipal area its proposals in relation to these subjects.
- (2) Such proposals must be accompanied by such reasons or motivations as may be necessary, while in relation to the proposed rent, fees and charges, the Municipality must publish a statement of how such is calculated.
- (3) Interested and affected parties must be invited to make written comment and representations within a period of 30 days on the proposals of the Municipality.
- (4) After the expiry of the period of 30 days, the Municipality must consider any comment and representations received and if necessary revise the proposals in questions.
- (5) Any affected or interested person may, in order to enable him or her to ascertain whether the proposals are reasonable, request the Municipality to furnish such further information or explanation with regard to the proposals as he or she may reasonably require.
- (6) In addition to the above, the Municipality must consult with street trading committees or associations on its proposals.

21 Street trading committees and associations

- (1) Every street trader has the right to participate in the formation of, and belong to a street trading association to represent his or her interests for the respective management zone.
- (2) The Municipality must recognise and negotiate with any association that represents a significant number of street traders

CHAPTER 6**LAW ENFORCEMENT****22 Appointment of compliance officer**

- (1) The Municipality may appoint or designate a person or employee to serve as a compliance officer for purposes of compliance and enforcement monitoring of this By-law.
- (2) A compliance officer shall take all lawful, necessary and practicable measures to enforce the provisions of this By-law.
- (3) The Municipality shall issue each compliance officer with a written appointment stating that he or she has been appointed for purposes of this By-law or with an identification card that contains the municipal logo, department and name of the officer.

23 Powers and functions of compliance officer

- (1) A compliance officer may issue a person with a written warning if, in his or her opinion, that person has trade in goods or provided services in contravention of this By-law or that person has contravened this By-law in any other manner, including but not limited to a violation of a permit condition, or any other applicable law.
- (2) In the event of a person continuing or repeating a contravention in respect of which a written warning has already been issued to that person, then a compliance officer may impound, in the cases of an informal trader, any property used by the informal trader in conducting the informal trade, and in the case of any other person, any property, including but not limited to, goods, equipment, structures and motor vehicles, in which case the compliance officer must –
 - (a) complete a full inventory of all the property that has been impounded and such inventory must include information on the consequences of such impoundment should the person fail to pay the impoundment costs and collect the goods;
 - (b) provide the person with a copy of the inventory; and
 - (c) immediately store the impounded property in an area designated by the Municipality for the storage of impounded property.
- (3) Property which has been impounded from a person may be released after the presentation by the person of the inventory contemplated in subsection (2) and the payment of the impoundment costs, provided that the Municipality is reasonably satisfied that the relevant person will not, upon the release of the property, continue to commit any contravention which led to the goods being impounded, provided that where the Municipality is not so satisfied, it may withhold the goods for up to 30 days after payment of any fine or impoundment costs.
- (4) Perishable goods that have been impounded may, at any time after the impoundment, be sold or otherwise disposed of by the Municipality.
- (5) The Municipality may destroy the goods if the condition of those goods renders them unfit for human consumption.
- (6) Impounded property other than perishable goods may be sold by the Municipality if the owner does not, or is unable to, pay the impoundment costs within 30 days from the date of impoundment of that property.

- (7) In the event of the impounded property being sold by the Municipality in terms of subsection (4) or (5), and upon the presentation of the inventory by the owner, the Municipality must pay to that owner –
 - (a) the proceeds of the sale less the impoundment costs; or
 - (b) if the owner has previously paid the impoundment costs, the proceeds must be paid to the owner free of any such deduction.
- (8) If the owner does not claim the proceeds derived from the sale of the impounded goods within three months from the date of impoundment, then the proceeds will be forfeited to the Municipality.
- (9) If in the opinion of the compliance officer, a street trader is suspected of trading in illegal goods then such goods may be immediately confiscated.
- (10) If illegal goods are confiscated as contemplated in subsection (9), the compliance officer must –
 - (a) complete a full inventory of all the property that has been confiscated;
 - (b) provide the street trader with a copy of the inventory; and
 - (c) immediately surrender the suspected illegal goods to the possession of the South African Police Service.

24 Offences and penalties

- (1) A person shall be guilty of an offence if such person
 - (a) fails to comply with a decision taken or condition imposed by the Municipality in terms of this By-law.
 - (b) wilfully and with intent provides false or misleading information in connection with an application contemplated in this By-law;
 - (c) unlawfully prevents a compliance officer entry to his or her stand or causes or permits any other person to prevent entry;
 - (d) obstructs or hinders a compliance officer in the performance of his or her duties or causes or permits any other person to so obstruct or hinder the compliance officer;
 - (e) refuses or fails to provide to a compliance officer such information as is required to allow a compliance officer to perform a function in terms of this By-law;
 - (f) furnishes false or misleading information to an official of the Municipality when called upon to furnish information;
 - (g) impersonates a compliance officer;
 - (h) contravenes or fails to comply with any provision of this By-law;
 - (i) supplies particulars, information or answers in an application or on knowing it to be false, incorrect or misleading; or
 - (j) undertakes or proceeds with the installation or display of a sign in conflict with the provisions of this By-law.
- (2) Any person convicted of an offence in terms of this By-law, shall be liable upon conviction to a fine or imprisonment or to both such fine and imprisonment.
- (3) A person convicted of an offence under this By-law who, after conviction, continues with the conduct in respect of which he or she was so convicted, is guilty of a continuing offence and upon conviction is liable to a fine or to imprisonment, or to both such fine and imprisonment, in respect of each day on which he or she so continues with that conduct.

CHAPTER 7
GENERAL MATTERS

25 Appeals

Any person may appeal against any decision taken under this By-law by giving written notice of the appeal in accordance with the provisions of section 62 of the Municipal Systems Act, 2000, as amended.

26 Repeal of by-laws

The By-Laws Relating to Businesses and Street Trading published in the *Provincial Gazette* by Notice Number 187 of 2005 is hereby repealed.

27 Transitional provisions in respect of licences

- (1) A licence issued before the commencement of this By-law remains valid until such time as the Municipality has established management zones in terms of this By-law.
- (2) The holder of a licence must, within three months from the establishment of a management zone in terms of this By-law, apply to the Municipality for a permit.
- (3) If the holder of a licence does not apply to the Municipality within the period referred to in subsection (2), he or she shall be deemed to be trading unlawfully and the sanctions provided for in this By-law shall take effect.

28 Short title and commencement

This By-law shall be known as the Senqu Municipality: Businesses and Street Trading By-law, 2017 and shall come into operation on the date of publication thereof in the *Provincial Gazette*.

SENQU MUNICIPALITY MUNICIPAL NOTICE**BY LAW RELATING TO ROAD TRAFFIC**

The Municipal Council of Senqu Local Municipality in the Schedule hereto publishes, in terms of section 13 of the Local Government Municipal Systems Act, 2000 (Act 32 of 2000) read with section 162 of the Constitution of the Republic of South Africa Act 1996 (Act 108 of 1996) the By-Law Relating to Road Traffic.

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CHAPTER 1

PURPOSE, DEFINITIONS AND APPLICABILITY OF BY-LAW

1 Objectives

The objectives of this By-law are to –

- (a) give effect to the right of the Municipality to make by-laws contained in Schedules 5 and 6 of the Constitution; and
- (b) provide, in conjunction with any other applicable law, a legal framework within which the Municipality can manage and regulate road traffic in the municipal area.

2 Definitions

In this By-law any word or expression to which a meaning has been assigned in the National Road Traffic Act, 1996 (Act 93 of 1996) and this By-law, shall have the meaning so assigned to it and, unless the context otherwise indicates –

“Council” means the Senqu municipal council, a municipal council referred to in section 157(1) of the Constitution;

“fee” means any fee, charge or deposit determined for purposes of this By-law, by the Municipality in terms of the Senqu Municipality: Tariff By-law, 2017;

“form” means a form approved by the Municipality for the purposes of this By-law;

“goods vehicle” means a motor vehicle other than a motorcar or bus, designed or adapted for the conveyance of goods on a public road and includes a truck-tractor, motorcycle or motor tricycle;

“heavy motor vehicle” means a motor vehicle or a combination of motor vehicles the gross vehicle mass of which vehicle or combination of vehicles exceeds 3,500kg;

“compliance officer” means a person who is authorised to implement and enforce the provisions of this By-law by virtue of his or her –

- (a) declaration as a peace officer as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977);
- (b) appointment as a police officer as contemplated in the South African Police Service Act, 1995 (Act 68 of 1995);
- (c) a traffic officer appointed in terms of section 3 of the Road Traffic Act, No. 29 of 1989 or section 3A of the National Road Traffic Act No. 93 of 1996 as the case may be;
- (d) appointment as a law enforcement officer or traffic officer by the Municipality and declaration as peace officer as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977); or

“licensed motor vehicle attendant” means a motor vehicle attendant who is the holder of a current licence issued in terms of these By-laws;

“minibus” means a motor vehicle designed or adapted solely or principally for the conveyance of a not more than nine persons but not more than sixteen persons including the driver;

“motor vehicle attendant” means a person who, at the request or with the consent of the person in charge of a motor vehicle, undertakes for reward to supervise or take care of such motor vehicle while it is parked in a public street;

“Municipality” means the Senqu Municipality and includes the Council, any executive councillor, or committee established by the Municipality, or any employee thereof, or duly authorised agent thereof

acting in connection with this By-Law by virtue of a power vested in the Municipality and delegated to such employee or agent;

"the Act" means the National Road Traffic Act 1996, (Act 93 of 1996);

"the Regulations" means any regulations promulgated under the Act.

3 Applicability of By-law

In the event of any conflict with any other by-law which directly or indirectly, within the jurisdiction of the municipality, regulates public amenities, the provisions of this By-law shall prevail to the extent of the inconsistency.

CHAPTER 2 DRIVER BEHAVIOUR

4 Use of roads demarcated into traffic lanes

- (1) When any roadway has been demarcated into traffic lanes, a driver of a vehicle shall drive so as to be entirely within a single traffic lane and shall not cause or permit his or her vehicle to encroach over any lane line demarcating such traffic lane, except when moving from one lane into or across another.
- (2) All vehicles proceeding along any public road demarcated into traffic lanes at less than the normal speed of traffic at the time and place and under the conditions then existing, all animal-drawn vehicles and all heavy motor vehicles shall be driven in the left-hand traffic lane then available for traffic or as close as practicable to the left edge of the roadway, except when overtaking another vehicle proceeding in the same direction or when making a right-hand turn.

5 Vehicles not to be driven on sidewalks

No person shall drive, draw or propel any vehicle (other than a perambulator, invalid's chair or the like) upon any footpath or sidewalk designed for use by pedestrians, except when it is necessary to do so to cross (by the shortest route) any such sidewalk or footpath for the purpose of entering or leaving any property abutting thereon.

6 Roller skating and use of soap box carts

No person shall use roller skates, skateboard, soapbox cart or any similar article to which rollers or wheels are fixed or cause or permit them to be used upon a public road or sidewalk provided however that the Municipality in its discretion authorise the use of such in connection with organised events.

7 Control of parking places

Whenever the public or any number of persons are entitled or allowed to use, as a parking place, any area of land, including land which is not part of a public road or a public place, a law enforcement officer has, in cases of emergency or when it is desirable in the public interest, authority to direct and regulate traffic thereon, and no person shall disregard the instructions of any law enforcement officer while so engaged.

8 Repair of motor vehicles on public roads prohibited

No person shall repair any motor vehicle in any public street or place within the Municipality; provided that this By-law shall not prohibit the carrying out of minor repairs necessitated by a temporary or sudden stoppage of such vehicle for the purpose of setting such vehicle in motion.

9 Excessive noise

No person shall operate a motor vehicle upon a public road in such a manner as to cause any excess noise that can be avoided by the exercise of reasonable care on his or her part.

10 Prohibitions and restrictions on use of certain roads by certain classes of vehicles

- (1) Except with the written permission of the Municipality, no person shall operate any animal drawn vehicle on any public road within the Municipality.
- (2) In granting any permission in terms of subsection (1), the Municipality may impose any restrictions or conditions that it may deem necessary in the interest of traffic.

CHAPTER 3**PARKING PROVISIONS****11 Parking**

- (1) No person operating or in charge of a vehicle on a public road shall:
 - (a) allow such vehicle to remain stationary in a loading zone between the hours of 07:00 and 17:00 Mondays to Fridays and 07:00 to 12:00 Saturdays except where any such day is a Public Holiday or during such other restricted hours as may be specified in respect of any particular loading zone by a road traffic sign or marking.
 - (b) in the case of a vehicle other than a goods vehicle, for more than five minutes continuously and only while actually loading or off-loading persons or goods and while a licensed driver is in attendance at such vehicle; or
 - (c) in the case of a goods vehicle for more than thirty minutes continuously and only while the vehicle is being actually loaded or unloaded;
 - (d) No person shall keep any vehicle stationary in a loading zone for any other purpose. The driver of a vehicle, other than a goods vehicle, stationary in a loading zone shall remove such vehicle from there immediately upon being directed to do so by a law enforcement officer, notwithstanding that it has not been stationary therein for longer than the maximum period allowed in respect of a vehicle of that class.
 - (e) in the case of a vehicle other than a bus, allow such vehicle to remain stationary in a bus stop between the hours of 06h00 and 18h00.
 - (f) park such vehicle in any public road within the Municipality for a period beyond that indicated on any road traffic sign duly erected in terms of the Act or regulations as the case may be.
- (2) No driver or other person in charge of any vehicle which has been parked in a parking area defined as such by road traffic signs shall move such vehicle from the position in which it was parked and again park that vehicle within a distance of 22,9 metres of the place where it was so parked until an interval of thirty minutes shall have elapsed after so moving such vehicle.
- (3) No heavy motor vehicle designed, adopted or used for the conveyance of goods shall, without the written permission of the Municipality, be parked by any person between the hours of 7:00 p.m. and 5:00 a.m. anywhere in the Municipality, except on private land or on those portions of the following public roads on which there have not been displayed road traffic signs regulating such parking.
- (4) No person shall park a vehicle upon a traffic island, unless directed to do so by a Law enforcement officer.
- (5) No dealer shall park or allow to be parked in any public road within the Municipality, any vehicle which has been placed in his or her custody or under his or her control or which is in his or her possession for the purpose of sale, exchange or garaging, in the course of any dealers' business carried on by him or her unless at the time such vehicle is being used for demonstration or testing purposes or is in the course of being delivered to the owner or purchaser thereof.
- (6) No person responsible for the control of a business of recovering or repairing vehicles shall park, cause or permit to be parked, in any public road or place within the Municipality any vehicle that is in an obvious state of disrepair which has been placed in his or her charge in the course of the said business.

CHAPTER 4

EXEMPTIONS

12 Exemption of medical practitioners and certain nurses from parking

- (1) A registered medical practitioner or nurse, shall be exempt from the provisions of any law relating to parking in force in the Senqu municipal area when using, on bona fide professional domiciliary visits, a motor vehicle on which is displayed a badge conforming with the requirements of subsection (2) hereof issued on the authority of the Municipality.
- (2) The badge shall be a windscreen sticker badge of a design approved by the Municipality displaying on the face thereof, a serial number, and the name of the person to whom it is issued.
- (3) The badge shall be displayed on the lower nearside corner of the windscreen and shall have a pocket in which is inserted a white card showing the address at which the holder of the badge is actually making a professional domiciliary visit at the time the motor vehicle to which it is affixed is parked. The address shown on the card must be easily legible from outside the vehicle,
- (4) Written application for the issue of a badge shall be made in a form approved by the Municipality.
- (5) The Municipality shall keep a register in which it shall record the serial number allocated by it of the badge the issue of which has been authorised by it and the name of the holder,
- (6) No duplicate badge shall be issued without the prior consent of the Municipality.
- (7) Where the Municipality has reason to believe that any holder is abusing the privileges conferred by a badge it shall notify the issuing body which shall thereupon withdraw the badge from the holder and the privileges conveyed by the badge shall thereupon cease.

CHAPTER 5

PEDESTRIAN CROSSINGS

13 Pedestrian crossings

- (1) Where marked pedestrian crossings are in existence within an intersection, no pedestrian shall cross or attempt to cross such intersection except within any such marked pedestrian crossing.
- (2) Wherever a traffic control signal embodying pedestrian signals is in operation at an intersection, no pedestrian shall commence to cross the roadway in any pedestrian crossing at such intersection while the red light of a pedestrian signal is displayed in the direction opposite to that in which he or she is proceeding; provided that where no pedestrian signals are in operation at an intersection, but such intersection is controlled by a traffic control signal, no pedestrian shall commence to cross the roadway in any pedestrian crossing at such intersection while the red light of such traffic control signal is displayed in the direction opposite to that in which he or she is proceeding.
- (3) Wherever a traffic control signal embodying pedestrian signals is in operation at a pedestrian crossing elsewhere than at an intersection, no pedestrian shall commence to cross the roadway in such pedestrian crossing when the red light of a pedestrian signal is displayed in the direction opposite to that in which he or she is proceeding.
- (4) A pedestrian crossing the roadway within a demarcated pedestrian crossing, whether at an intersection or otherwise, shall walk on the left of such pedestrian crossing.
- (5) No person or persons shall sit or lie on any sidewalk, footpath or public road, neither shall any persons stand, congregate or walk so as to obstruct the movement of traffic or to the annoyance or inconvenience of the public after being requested by a law enforcement officer to move on or disperse.
- (6) No pedestrians, when in or upon a public road, shall carelessly, negligently or recklessly disregard or endanger his or her own safety or the safety of any person or vehicle using the public road.

CHAPTER 6**PENALTIES****14 Penalties**

Any person who contravenes any of the provisions of this By-law shall be guilty of an offence and shall be liable on conviction to a fine or to imprisonment or to both such fine and imprisonment.

CHAPTER 7**MOTOR VEHICLE ATTENDANTS****15 Motor vehicle attendants**

- (1) No person shall act as motor vehicle attendant within the Municipality, except under authority of a written permit granted by the Municipality on application on the approved form and accompanied by payment of the applicable fee.
- (2) The Municipality may grant a permit, subject to such conditions as it may determine, or may refuse such permit.
- (3) Every permit granted in terms of subsection (1) hereof shall, unless cancelled or suspended in terms of subsection (6) hereof, be valid until the 31st December of the year of issue.
- (4) No person authorised in terms of this By-law to act as a motor vehicle attendant shall charge an amount more than that determined by the Municipality from time to time for his or her services in connection with any one motor vehicle.
- (5) Every motor vehicle attendant shall, upon demand by a law enforcement officer or a member of the public who engages or proposes to engage his or her services, produce the permit issued to him or her in terms of subsection (1) hereof.
- (6) A permit granted in terms of subsection (1) hereof may be revoked or suspended by the Municipality if the holder thereof-
 - (a) commits a breach of this By-law or of any condition subject to which the permit was granted;
 - (b) leaves unattended any motor vehicle left in his or her care;
 - (c) while performing his or her duties as a motor vehicle attendant, is or becomes intoxicated;
 - (d) directs the driver of any motor vehicle into an area in which the parking or stopping of vehicles is prohibited;
 - (e) fails to observe or carry out the lawful instructions of any law enforcement officer.
- (7) With the exception of a person holding a permit issued in terms of subsection (1) who has been authorised by the Municipality in writing specifically or generally to do so, or who is acting on the authority or under the control a compliance officer, no person shall -
 - (a) on more than one occasion within any period of 30 minutes direct or offer to direct the driver of any motor vehicle into any area on a public street or public place; or
 - (b) in a public street or public place make an offer to provide care for or supervision of a motor vehicle whilst it is parked in such street or place.
- (8) No person shall in a public street or public place -
 - (a) clean or wash any motor vehicle; or
 - (b) offer to clean or to wash any motor vehicle.
- (9) No person shall in a public street or public place inform or threaten the driver or person in charge of a motor vehicle that such vehicle will or may suffer damage or be stolen unless it is left in his or her care or under his or her supervision.
- (10) If on a charge of contravening any of the provisions of this section the accused person avers that the driver or person in charge of a motor vehicle made a request of him or her concerning the motor vehicle, the onus of proof in respect thereof shall rest upon the accused person.

CHAPTER 8**GENERAL MATTERS**

16 Appeals

Any person may appeal against any decision taken under this By-Law by giving written notice of the appeal in accordance with the provisions of section 62 of the Municipal Systems Act, 2000.

17 Compliance officer

- (1) The Municipality may appoint so many compliance officers as it may consider necessary to be responsible for compliance and enforcement monitoring of this By-law.
- (2) A compliance officer shall take all lawful, necessary and practicable measures to enforce the provisions of this By-law.
- (3) The Municipality shall issue each compliance officer with a written appointment stating that he or she has been appointed for purposes of this By-law or with an identification card that contains the municipal logo, department and name of the officer.

18 Repeal of By-laws

The By-laws Relating to Road Traffic published in the *Provincial Gazette* by Notice Number 198 of 2005 are hereby repealed.

19 Short title and commencement

This By-Law shall be known as the Senqu Municipality: Road Traffic By-law, 2017 and shall come into operation on the date of publication hereof in the *Provincial Gazette*.

SENQU MUNICIPALITY MUNICIPAL NOTICE**BY-LAW RELATING TO ROADS AND STREETS**

The Municipal Council of Senqu Local Municipality in the Schedule hereto publishes, in terms of section 13 of the Local Government Municipal Systems Act, 2000 (Act 32 of 2000) read with section 162 of the Constitution of the Republic of South Africa Act 1996 (Act 108 of 1996) the By-Law on Roads and Streets.

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CHAPTER 1 OBJECTIVES, DEFINITIONS AND APPLICABILITY OF BY-LAW

1 Objectives

The objectives of this By-law are to provide the mechanisms for the control of the use of roads, streets and sidewalks and to manage any work undertaken in such roads, streets and sidewalks so as to provide a safe environment for all people within the municipal area,

2 Definitions

In this By-law any word or expression to which a meaning has been assigned in this By-law shall have the meaning so assigned to it and, unless the context otherwise indicates:

"compliance officer" means a person who is authorised to implement and enforce the provisions of this By-law by virtue of his or her –

- (a) declaration as a peace officer as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977);
- (b) appointment as a police officer as contemplated in the South African Police Service Act, 1995 (Act 68 of 1995);
- (c) a traffic officer appointed in terms of section 3 of the Road Traffic Act, No. 29 of 1989 or section 3A of the National Road Traffic Act No. 93 of 1996 as the case may be;
- (d) appointment as a law enforcement officer or traffic officer by the Municipality and declaration as peace officer as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977); or
- (e) appointment by the Municipality as a compliance officer or an inspector;

"Council" means the Senqu municipal council, a municipal council referred to in section 157(1) of the Constitution;

"demarcated space" means a space so laid out and marked on the roadway as a place within which a vehicle is to be parked;

"fee" means any fee, charge or deposit determined for purposes of this By-law, by the Municipality in terms of the Senqu Municipality: Tariff By-law, 2017;

"form" means a form approved by the Municipality for the purposes of this By-law;

"municipal store" means the municipal store of the Municipality;

"Municipality" means the Senqu Municipality and includes the Council, any executive councillor, or committee established by the Municipality, or any employee thereof, or duly authorised agent thereof acting in connection with this By-law by virtue of a power vested in the Municipality and delegated to such employee or agent;

"parking meter" means a device for registering and visibly recording of a parking period in accordance with the insertion of a coin or other prescribed object therein and includes a post or fixture to which it is attached;

"parking period" means that period of parking in a demarcated space which is permitted by the insertion into the parking meter allocated to such space of a coin or other object as prescribed;

"public road" means a square, road, sidewalk, island in a road, subway, avenue, bridge, public passageway and any thoroughfare shown on the general plan of a township or in respect of which the public has acquired a prescriptive or other right of way and which is vested in the Municipality;

"storekeeper" means the person in the service of the Municipality who holds the position of storekeeper or a person acting in that capacity;

"token" in respect of a trolley, means a sign on which the name or trade name and the address of the owner appears;

"watercourse" means a watercourse as defined in section 1 of the National Water Act, 1998 (Act No. 36 of 1998);

3 Applicability of By-law

- (1) This By-law must be read with any provisions of applicable national and provincial legislation.
- (2) In the event of any conflict with any other by-law which directly or indirectly, within the jurisdiction of the Municipality, regulates roads and streets, the provisions of this By-law shall prevail to the extent of the inconsistency.

CHAPTER 2

PUBLIC ROADS AND MISCELLANEOUS

4 Ropes, wires or poles across public road

No person may place any rope, wire or pole on, under or across any public road, or hang or place anything whatsoever thereon, without the prior written permission of the Municipality.

5 Damage to trees

No person may climb upon, or break or damage or in any way mark or paint on any tree on any public road within the municipal area of the Municipality, and no person may, without the prior written permission of the Municipality, lop, top, trim, cut down or remove any such tree unless the person is authorised to do so in terms of this By-law or any other law.

6 Barbed wire, dangerous and electrical fencing

No owner or occupier of land –

- (a) other than an owner or occupier of an agricultural holding or farm land, may along any public road erect or cause, or permit to be erected, any barbed-wire fence or any railing, paling, wall or other barrier which, by reason of spikes or other sharp or pointed protrusions or otherwise by reason of the nature of its construction or design, is or may become a danger to any member of the public using such public road;
- (b) including an owner or occupier of an agricultural holding or farm land, may along any public road erect or cause, or permit to be erected, or after one year from the date of commencement of this By-law, have along a public road any electrified fence, railing or other electrified barrier unless –
 - (i) the fence, railing or other barrier is erected on top of a wall built of brick, cement, concrete or similar material, which wall may not be less than 1,8 metres high; and
 - (ii) the fence, railing, or other barrier is designed and installed in accordance with any relevant specifications determined by the Municipality and any standard issued in terms of the Standards Act, 29 of 1993; or
 - (iii) may erect, or cause, or permit to be erected, any electrified fence, railing, wall or other electrified barrier referred to in paragraph (b) without the prior written permission of the Municipality, in terms of the National Building Regulations and Building Standards Act, 103

of 1977.

- (iv) The full technical details of the proposed electrified fence, railing, wall or other electrified barrier must accompany any application for permission submitted to the Municipality.

7 Protection of public roads

- (1) No person may place upon or off-load on a public road any material or goods that are likely to cause damage to a public road unless the person has taken reasonable precautions to protect the surface of the public road against damage.
- (2) No person may operate on a public road a vehicle with a system of vehicle propulsion in which a continuous band of treads or track plates is driven by two or more wheels or a vehicle used for excavation.
- (3) If a person operates a vehicle on a public road that is prohibited by subsection (2) and that vehicle damages the public road, the owner of the vehicle shall be liable for the costs of repairing the public road.

8 Cleanliness of public roads

- (1) No person may spill, drop or place or permit to be spilled, dropped or placed, on a public road any matter or substance that may interfere with the cleanliness of the public road, or cause or is likely to cause annoyance, danger or accident to any person, animal, vehicle or other traffic using the public road, without removing it or causing it to be removed from the public road immediately.
- (2) If the person referred to in subsection (1), fails to remove the matter or substance, the Municipality may remove such matter or substance and recover the cost of removal from that person.

9 Article placed in building facing public road

No person may place any article likely to cause injury or damage to any person or property if it were to fall on a public road, in any near a public road without taking all reasonable steps to prevent it falling onto the public road.

10 Damaging of Municipality's property

Subject to the provisions of section 12, no person may deface, tamper, damage, remove, or in any way interfere with any of the Municipality's property or work on or along any public road, including a road traffic sign.

11 Cleaning and repairing on public roads

No person may clean or repair any part of a vehicle or wash, dry or paint any article or object on any public road except in the case of an emergency breakdown of a vehicle, when emergency repairs may be done.

12 Defacing, marking or painting public roads

No person may in any way deface, mark or paint any public road or part of a public road or any structure related to such road, without the prior written permission of the Municipality.

13 Races and sports events

- (1) An application for consent to hold a race or sports event on any public road in terms of regulation 317(2) of the National Road Traffic Regulations, 2000, under the National Road Traffic Act, 93 of 1996, must be submitted in writing to the Municipality on the prescribed form at least 60 days prior to the envisaged event.
- (2) The applicant must pay the prescribed deposit for the costs to be incurred by the Municipality during and after the race or sports event, to the Municipality prior to commencement of the race or sports event and an adjustment must be made after the conclusion of the race or sports event as soon as the Municipality has determined actual costs incurred by it.

14 Loitering on public roads

No person may -

- (a) lie, sit stand, congregate, loiter or walk, or otherwise act, on any public road in a manner that may obstruct traffic;
- (b) jostle or loiter at or within 20 metres of the entrance of any place of public worship during the time of divine service or during an assembly at the place of worship or departure from such place of the

congregation so as to obstruct or annoy any person going to, attending at, or leaving such place of worship.

- (c) Any person contravening subsection (2) must, upon instruction by a compliance officer, discontinue doing so.

15 Loitering and touting at places of public entertainment

- (1) No person may loiter or, except when forming part of a queue, congregate on any public road within 20 metres of the entrance to any place of public entertainment so as to obstruct traffic or persons proceeding to, attending at, or departing from such place of entertainment.
- (2) No person may, without the prior written permission of the Municipality tout or solicit a driver of any motor vehicle who parks a motor vehicle at a place of entertainment for the purpose of or under pretext of looking after or watching over the motor vehicle during the assembly thereat or the departure therefrom.

16 Public decency

- (1) No person may appear unclothed or indecently clothed on any public road.
- (2) No person may on or in view of any public road urinate, excrete, behave in any indecent manner by exposing his or her person or otherwise, make use of any indecent gesture, or commit, solicit or provoke any person to commit any riotous, disorderly or indecent act.
- (3) No person may on any public road sing any obscene or profane song, or use any profane, foul, indecent or obscene language,
- (4) No person may on any public road in any way loiter or solicit or inconvenience or harass any other person for the purpose of begging,
- (5) No person may on a public road use any threatening, abusive or insulting words or gestures or behaviour with intent to cause a breach of the peace or whereby a breach of the peace is likely to be occasioned.

17 Public road collections

- (1) No collection on a public road may be organised or held without the prior written permission of the Municipality.
- (2) Application for such permission must be made on a form provided for this purpose by the Municipality.
- (3) Every application must be accompanied by proof that the organisation or person intending to hold the public road collection is authorised to collect a contribution in terms of the Non-profit Organisations Act, 71 of 1997, or the Fund-raising Act, 107 of 1978, as the case may be.
- (4) The Municipality may grant permission referred to in subsection (1) to an organisation or person to hold a collection on a specified public road, date and at a specified time and reserves the right to determine the number of collections which may be held on any one day on the public road so specified.
- (5) Every organisation or person, holding a public road collection is entitled to use his, her or its own identifiable collection boxes and if any organisation or person does not possess any boxes, the Municipality's collection boxes may be used upon payment of the prescribed fee.

18 Control of stormwater and watercourses on public road

- (1) No person may, without prior written permission of the Municipality, which permission may be conditional or unconditional -
 - (a) lead or discharge any water on or over or across a public road; or
 - (b) by any means whatever, raise the level of water in any river, dam or watercourse so as to cause interference with or endanger any public road.
- (2) The Municipality may, subject to any laws which may be applicable and after obtaining consent of the owner and the occupier, if any, of the land concerned -
 - (a) deviate any watercourse, stream or river if the deviation is necessary for the protection of a public road or structure related to a public road or for the construction of a structure connected with or belonging to a public road;
 - (b) divert stormwater from or under any public road onto private property other than land occupied by buildings, other structures or improvements; and
 - (c) pay reasonable compensation as agreed between the owner or occupier and the Municipality, for any damage caused as a result of any action taken in terms of paragraph (a) or (b) or failing such agreement, compensation determined by arbitration in terms of the Arbitration Act, 42 of 1965.

19 Obstruction on public roads

No person may deposit or cause to be deposited or leave or cause to be left any sand, stone, earth, bricks, timber, lime, cement or other building or excavated material of whatever nature on any portion of any public road, sidewalk or footway unless it is deposited within an enclosure in respect of which the prior written permission of the Municipality has been obtained.

20 Planting on sidewalks

No person may plant or cause to be planted, any tree, shrub or other plant on any public road or any sidewalk, footway or road reserve forming part thereof, which obstructs or interferes with pedestrian traffic on such sidewalk, footway or road reserve or allow any such tree, shrub or plant to remain on that sidewalk, footway or road reserve.

21 Permission to hoard in footway

- (1) Any person who intends erecting, removing, altering, repairing or painting any part of a building or structure or carrying out any excavation, on part of any land which is within 2 metres of a public road, must before commencing any such work, enclose or cause to be enclosed a space in front of such part of the building, structure or land by means of a hoarding, fence or other enclosure or an enclosure specified in a permit issued in terms of subsection (3).
- (2) If the enclosure contemplated in subsection (3) occupies or projects over any portion of a public road, the person concerned must apply for a written permit to the Municipality and if the person making the application is not the owner of the building or land on which the work is to be done, the owner must countersign the application.
- (3) The Municipality may determine what portion of the public road is necessary for the purpose of carrying out any operations contemplated in subsection (3), and in every case where it determines that portion of a public road may be used for such purpose, grant a permit in writing specifying the portion which may be occupied for such purpose and the conditions under which such permit is granted.
- (4) The Municipality reserves the right to withhold the issue of a permit required in terms of subsection (3), until all prescribed fees have been paid and the acceptance of any such permit by the applicant without objection, is taken to indicate that all kerbs, gutters and other works in the portion of the public road concerned were in good order and condition on the date of issue of such permit.
- (5) Every permit granted by the Municipality for the erection of a hoarding, fence, scaffolding or an enclosure or a planked shed, must specify the area and precise position of that part of the public road where the enclosure, overhanging or covering is permitted and the period for which the permit is granted.

CHAPTER 3**LAW ENFORCEMENT****22 Appointment of compliance officer**

- (1) The Municipality may appoint or designate a person or employee to serve as a compliance officer for purposes of compliance and enforcement monitoring of this By-law.
- (2) A compliance officer shall take all lawful, necessary and practicable measures to enforce the provisions of this By-law.
- (3) The Municipality shall issue each compliance officer with a written appointment stating that he or she has been appointed for purposes of this By-law or with an identification card that contains the municipal logo, department and name of the officer.

23 Powers and functions of a compliance officer

- (1) In ascertaining compliance with this By-law, a compliance officer may:
 - (a) be accompanied by an interpreter, a police officer or any other person who may be able to assist with the inspection;
 - (b) question any person who is or was on the applicable property or vehicle, who in the opinion of the compliance officer, may be able to furnish information on a matter to which this By-law relates;
 - (c) question any person about any act or omission in respect of which there is a reasonable suspicion that it might constitute:
 - (i) an offence in terms of this By-law; or

- (ii) a breach of an approval or a term or condition of such approval;
 - (d) question a person about any structure, object, document, book or record or inspect any written or electronic information or object which may be relevant for the purpose of investigating any matter in connection with this By-law;
 - (e) examine any book, record or other written or electronic information and make a copy thereof or an extract therefrom and remove such document, book, record or written or electronic information in order to make copies or extracts;
 - (f) require a person to produce or to deliver to a place specified by him or her, any document, book, record, or any written or electronic information referred to in paragraph (e) for inspection;
 - (g) require from such person an explanation of any entry in such document, book, record or written or electronic information;
 - (h) inspect any article, substance, plant or machinery which is or was on the property, or any work performed on the property or any condition prevalent on the property, or remove for examination or analysis any article, substance, plant or machinery or a part or sample;
 - (i) seize any book, record or other document, details or any article, substance, plant or machinery or a part or sample thereof which in his or her opinion may serve as evidence at the trial of any person charged with an offence under this By-law, provided that the user of the article, substance, plant or machinery concerned, as the case may be, may make copies of such book, record or document before such seizure;
 - (j) direct any person to appear before him or her at such time and place as may be determined by him or her and question such person either alone or in the presence of any other person on any matter to which this By-law relates; and
 - (k) take photographs or make audio visual recordings or tape recordings of any person or anything for the purposes of his or her investigation.
- (2) When a compliance officer removes or seizes any article, substance, plant or machinery, book, record or other document as contemplated above, he or she shall issue a receipt to the owner or person in control thereof and return it as soon as practicable after achieving the purpose for which it was removed or seized.

24 Offences and penalties

- (1) A person shall be guilty of an offence if such person
- (a) fails to comply with a decision taken, condition imposed or notice issued by the Municipality in terms of this By-law.
 - (a) wilfully and with intent provides false or misleading information in connection with an application contemplated in this By-law;
 - (b) unlawfully prevents an compliance officer entry to his or her premises or causes or permits any other person to prevent entry;
 - (c) obstructs or hinders a compliance officer in the performance of his or her duties or causes or permits any other person to so obstruct or hinder the compliance officer;
 - (d) refuses or fails to provide to a compliance officer such information as is required to allow a compliance officer to perform a function in terms of this By-law;
 - (e) furnishes false or misleading information to an official of the Municipality when called upon to furnish information;
 - (f) impersonates a compliance officer;
 - (g) contravenes or fails to comply with any provision of this By-law;
 - (h) fails to comply with any lawful instruction given in terms of this By-law; or
 - (i) supplies particulars, information or answers in an application or on knowing it to be false, incorrect or misleading.
- (2) Any person convicted of an offence in terms of this By-law, shall be liable upon conviction to a fine or imprisonment or to both such fine and imprisonment.
- (3) A person convicted of an offence under this By-law who, after conviction, continues with the conduct in respect of which he or she was so convicted, is guilty of a continuing offence and upon conviction is liable to a fine or to imprisonment, or to both such fine and imprisonment, in respect of each day on which he or she so continues with that conduct.

- (4) In addition to the penalties referred to in subsections (2) and (3) the Municipality may recover any cost for the repair of a public road or property of the Municipality as a result of damage caused by the offender.

25 Prosecution of corporate body and partnership

A partner in a partnership, a member of the board, executive committee or other managing body or a corporate body is personally guilty of an offence contemplated in terms of this By-law if such offence was committed by:

- (a) a corporate body established in terms of any law; or
- (b) a partnership; and

such person failed to take reasonable steps to prevent the offence.

CHAPTER 4

GENERAL MATTERS

26 Appeals

Any person may appeal against any decision taken under this By-law by giving written notice of the appeal in accordance with the provisions of section 62 of the Municipal Systems Act, 2000.

27 Repeal of by-laws

The By-Laws Relating to Roads and Streets published in the *Provincial Gazette* by Notice Number 197 of 2005 is hereby repealed.

28 Short title and commencement

This By-law shall be known as the Senqu Municipality: Roads and Streets By-law, 2017 and shall come into operation on the date of publication thereof in the *Provincial Gazette*.

PROVINCIAL NOTICE 103 OF 2019

M H L A B A

.....

046 645 7400/7451

046 645 2562

8 Somerset Street Fort Beaufort, 5720 P.O.Box 36, Fort Beaufort, 5720

RAYMOND MHLABA MUNICIPALITY

NOTICE NO: 56/2019**AMENDMENT OF GOVERNMENT NOTICE 4200, PROVINCIAL GAZETTE 56, OF 4 MARCH 2019**

The General Valuation Roll of Raymond Mhlaba Municipality is open for public inspection from 4 March 2019 to 30 April 2019.

The purpose of this notice is to amend the public inspection period 20 February 2019 – 29 March 2019 stated in Raymond Mhlaba Municipality's notice 56 OF 2019 to the correct inspection period **4 March 2019 to 30 April 2019**.

U MALINZI, MUNICIPAL MANAGER

19 March 2019

PROVINCIAL NOTICE 104 OF 2019**NOTICE FOR BYLAW PUBLICTAION IN THE GOVERNMENT GAZETTE**

Notice is hereby given in terms of section 13 of the Local Government: Municipal Systems Act 32 of 2000, as amended, read with sections 156 and 162 of the Constitution of the Republic of South Africa, that the Nelson Mandela Bay Metropolitan Municipality Council resolved to adopt the Ambush Marketing By-Law on 24 May 2019.

The date of commencement of the By- Law will be the date of publication of this notice.

A copy of the aforesaid adopted By-Law is accessible for information purposes on the Nelson Mandela Bay Municipality website at www.nelsonmandelabay.gov.za

Peter Neilson

Acting Municipal Manager

PROVINCIAL NOTICE 105 OF 2019**Buffalo City Metropolitan Municipality (Eastern Cape)**

Removal of Restrictions in terms of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)

ERF 6831 EAST LONDON (Selborne), EASTERN CAPE

Under Section 47 of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013), read with Section 59 of the Buffalo City Metropolitan Municipal Spatial Planning and Land Use Management Bylaw of 2016, approval is hereby granted for the removal of restrictive title conditions B. (a), (b) & (d) found in Deed of Transfer No. T005327/2001, pertaining to Erf 6831 East London.

PROVINCIAL NOTICE 106 OF 2019**Nelson Mandela Bay Municipality (EASTERN CAPE)**

Removal of Restrictions in terms of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)

ERF 1503..... (erf no. and area), PORT ELIZABETH, EASTERN CAPE

Under Section 47 of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) and upon instructions by the Local Authority, a notice is hereby given that condition/s, as applicable in Deed of Transfer No. T30861/2014 applicable to Erf 1503.. is/are hereby removed.

Yours faithfully


ACTING SENIOR DIRECTOR: LAND PLANNING AND MANAGEMENT

1802-Radue-MPT-LMtim/LdV

LOCAL AUTHORITY NOTICES • PLAASLIKE OWERHEIDS KENNISGEWINGS**LOCAL AUTHORITY NOTICE 63 OF 2019****Nelson Mandela Bay Municipality (EASTERN CAPE)**

Removal of Restrictions in terms of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)

ERF 379 SUNRIDGE PARK, PORT ELIZABETH, EASTERN CAPE

Under Section 47 of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) and upon instructions by the Local Authority, a notice is hereby given that conditions C.5 (a), (b), (c) and (d) as contained in Deed of Transfer No. T 56657/2007 applicable to Erf 379 Sunridge Park are hereby removed.