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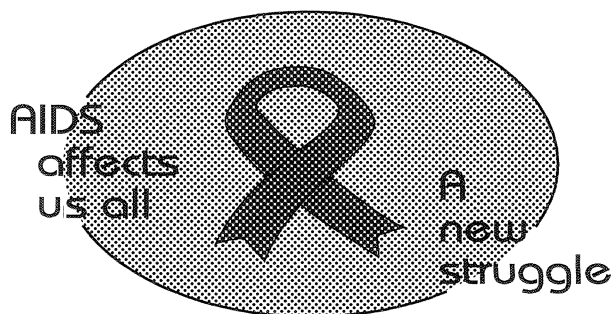
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**PIETERMARITZBURG,**

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**No. 894**

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**CONTENTS***No.**Page***MUNICIPAL NOTICE**

|   |   |    |
|---|---|----|
| 6 | Local Government: Municipal Systems Act (32/2000):                        |    |
|   | By-law on the establishment of a Municipal Taxi Rank.....                 | 3  |
|   | By-law on Funeral Undertakers.....  | 10 |
|   | By-law on Municipal Commonage.....  | 22 |
|   | By-law on unsightly and Neglected Buildings and Premises .....            | 30 |
|   | By-law on Bed & Breakfast and Guest Houses .....                          | 35 |
|   | By-law on Powers, Privileges and Immunities on the Municipal Council..... | 43 |

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## MUNICIPAL NOTICE

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No. 6

12 February 2013

### GREATER KOKSTAD MUNICIPALITY



### BY-LAW ON THE ESTABLISHMENT OF A MUNICIPAL TAXI RANK

**BY-LAW ON ESTABLISHMENT OF A MUNICIPAL TAXI RANK****TABLE OF CONTENTS**

| <b>CONTENTS</b>  | <b>PAGE</b> |
|--|-------------|
| <b>LOCAL GOVERNMENT NOTICE.....</b>                                    | <b>3</b>    |
| <b>PURPOSE OF THE BY-LAW.....</b>                                      | <b>3</b>    |
| <b>CHAPTER 1</b>   |             |
| <b>INTERPRETATION</b>  |             |
| <b>1. DEFINITIONS .....</b>  | <b>3-4</b>  |
| <b>2. LEGAL FRAMEWORK AND STATUTORY REQUIREMENTS .....</b>             | <b>4</b>    |
| <b>CHAPTER 2</b>   |             |
| <b>OPERATIONAL REQUIREMENTS</b>  |             |
| <b>3. ESTABLISHMENT OF A MUNICIPAL TAXI RANK.....</b>                  | <b>4</b>    |
| <b>4. DISPLAY OF A PARKING PERMIT DISC.....</b>                        | <b>4</b>    |
| <b>5. APPLICATION FOR A PARKING PERMIT DISC.....</b>                   | <b>5</b>    |
| <b>6. PRESUMPTION THAT THE OWNER DROVE OR PARKED TAXI .....</b>        | <b>5</b>    |
| <b>7. SEIZURE AND IMPOUNDMENT OF TAXIS AT MUNICIPAL TAXI RANK.....</b> | <b>6</b>    |
| <b>8. DELEGATION.....</b>  | <b>6</b>    |
| <b>CHAPTER 3</b>   |             |
| <b>GENERAL PROVISIONS</b>  |             |
| <b>9. SCHEDULE.....</b>  | <b>6</b>    |
| <b>10. APPEALS.....</b>  | <b>6-7</b>  |
| <b>11. OFFENCES AND PENALTIES.....</b>                                 | <b>7</b>    |
| <b>12. REGULATIONS.....</b>  | <b>7</b>    |
| <b>13. REPEAL OF LAWS.....</b>   | <b>7</b>    |
| <b>14. WAIVER OR SUSPENSION OF THIS BY-LAW .....</b>                   | <b>7</b>    |
| <b>15. COMPLIANCE AND ENFORCEMENT.....</b>                             | <b>7</b>    |
| <b>16. SHORT TITLE .....</b>   | <b>7</b>    |

**LOCAL GOVERNMENT NOTICE****GREATER KOKSTAD MUNICIPALITY****BY-LAW RELATING TO THE ESTABLISHMENT OF A MUNICIPAL TAXI RANK**

The Municipal Manager hereby publishes, in terms of Section 13 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000], read with Section 162 of the Constitution of the Republic of South Africa Act, 1996 [Act No. 108 of 1996], the By-law on the establishment of a Municipal Taxi Rank.

**Purpose of the By-law**

The purpose of this by-law is to:

- (a) To regulate the establishment of a Municipal Taxi Rank operating within the Greater Kokstad Municipality.
- (b) To provide control measures for matters connected therewith.

**CHAPTER 1****INTERPRETATION**

**1. Definitions-** In this by-law, the singular includes the plural and vice:

- (1) The term “**Bus**” shall refer to a bus as defined in section 1 of the National Road Traffic Act, 1996 (Act No. 93 of 1996);
- (2) The term “**Financial Year**” shall refer to a year commencing on the first day of July of any year and ending on the last day of June the following year;
- (3) The term “**Manager: Community Safety**” shall refer to an incumbent appointed by the Municipality as Head of Section of Administration of Road Traffic matters;
- (4) The term “**Motor Vehicle**” shall refer to a motor vehicle as defined in section 1 National Road Traffic Act, 1996 (Act No. 93 of 1996);
- (5) The term “**Municipality**” shall refer to the Greater Kokstad Municipality;
- (6) The term “**Municipal Manager**” shall refer to a person appointed by the Municipality in terms of section 82 of the Local Government Structures Act, 1998 (Act No. 117 of 1998);
- (7) The term “**Municipal Taxi Rank**” shall refer to an area demarcated in terms of section 2(2) to be used by Taxis displaying valid Parking Permit Disc to park, load and off-load passengers and shall include the waiting area of such Taxi Rank;
- (8) The term “**Municipal Traffic Officer**” shall refer to a Traffic Officer appointed by the Municipality in terms of the provisions of the National Road Traffic Act, 1996 (Act No. 93 of 1996), or an Act repealed by that Act, as the case may be;
- (9) The term “**Parking Permit Disc**” shall refer to a disc to be displayed by a Taxi making use of a Municipal Taxi Rank and issued in terms of section 4 of this by-law;
- (10) The term “**Taxi**” shall refer to any motor vehicle except a bus, used for conveyance of passengers and luggage, for hire or reward; and

- (11) The term “**By-law**” shall refer to the rules and regulations set out herein to be observed by at Municipal Taxi Rank as contemplated in section 1.

## **2. Legal framework and statutory requirements**

- (1) This By-law is premised from the relevant provisions of the Constitution of the Republic of South Africa (108 of 1996) as amended;
- (2) It derives its legitimacy from the National Road Traffic Act, 1996 (Act no. 93 of 1996);
- (3) It also derives its legitimacy from the Municipal Structures Act (117 of 1998);
- (4) It further derives its legitimacy from the Municipal Systems Act (32 of 2000);
- (5) This By-law shall be implemented in terms of the objects of other relevant sister policies within the Municipality.

## **CHAPTER 2**

### **OPERATIONAL REQUIREMENTS**

#### **3. Establishment of a Municipal Taxi Rank**

- (1) The Municipality may, within its area of jurisdiction, establish, maintain and manage Municipal Taxi Ranks.
- (2) A Municipal Taxi Rank must be demarcated by notice in the *Provincial Gazette*.
- (3) At the entrance of each Municipal Taxi Rank, as well as at the entrance of its waiting area, a signboard must be displayed setting out the rules to be observed at that Rank or area, respectively, by:
- (a) Taxi Drivers;
  - (b) Taxi Owners; or
  - (c) Members of the public, who enter into, park at or make use of Taxi Services in that Rank or area.
- (4) Rules contemplated in subsection (3) must be adopted by the Municipality and promulgated in the *Provincial Gazette*.

#### **4. Display of Parking Permit Disc**

- (1) No Taxi shall be driven into or parked at a Municipal Taxi Rank without displaying a valid Parking Permit Disc attached in the manner as set out herein.
- (2) The Parking Permit Disc referred to in subsection (1), shall be displayed on the left side of the front windscreen of the Taxi, in such a manner that the face thereof may be clearly visible to, and the inscriptions thereon easily legible by a person standing in front of or to the left front of the Taxi.
- (3) A Parking Permit Disc shall:
- (a) Be of the design and contain the particulars set out in the Schedule; and
  - (b) Be of a colour or made up of a combination of colours determined by the Municipality for the financial year concerned.
- (4) Such display contemplated in this section shall not be applicable to private persons who visit the Taxi Rank for purpose of business (i.e. picking or dropping passengers) however, they shall park at the Drop Zone area and immediately leave once such business is done.

## 5. Application for a Parking Permit Disc

- (1) The Owner of a Taxi, desirous to make use of the Municipal Taxi Rank(s), must apply to the Municipality in writing for the issue of a Parking Permit Disc for each Taxi to make use of such a Rank.
- (2) An application for the issue of a Parking Permit Disc shall:
  - (a) Be in the form prescribed by the Municipality;
  - (b) Be directed to the Municipal Manager;
  - (c) Be accompanied by the fees determined by the Municipality;
  - (d) In respect of the next ensuing financial year, be made no later than the last day of April of each year.
- (3) On receipt of the application, the Municipal Manager shall consider the application and, no later than the last day of June of the year concerned:
  - (a) Issue the Parking Permit Disc to the Applicant; or
  - (b) In writing, notify the applicant that the application was not successful, stating the reasons for his or her decision.
- (4) If an application was turned down by the Municipal Manager:
  - (a) Because of a shortcoming in the application that can be rectified by the Applicant, the applicant may rectify the shortcoming and, without the payment of any further fee, resubmit the application;
  - (b) For any other reason, a new application for the same period may not be brought for the same Taxi, but the applicant may appeal against the decision of the Municipal Manager, in which case the provisions of section 62 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), shall *mutatis mutandis* apply.
- (5) In the case where application for the issue of a Parking Permit Disc is made during a financial year for the remainder of that financial year, the Municipal Manager shall process and finalise the application within a reasonable time.
- (6) The Owner of a Taxi, making use of a Municipal Taxi Rank, shall:
  - (a) At all times keep written record of the identity of the Driver of such Taxi at any specific time, if he or she is not the driver of the Taxi concerned;
  - (b) Keep such records for at least one year after the end of the financial year in which it was made;
  - (c) On request by a Municipal Traffic Officer, make the records available for inspection by the Municipality.
- (7) A Parking Permit Disc shall lapse at the end of each financial year.

## 6. Presumption that the Owner drove or parked the Taxi

Notwithstanding the provisions of section 5(6) above, the provisions of section 73 of the National Road Traffic Act, 1996 (Act No. 93 of 1996), shall, *mutatis mutandis* apply to a Taxi making use of a Municipal Taxi Rank.

## 7. Seizure and impoundment of Taxis at Municipal Taxi Ranks

(1) Over and above any prosecution in terms of this By-law, a Municipal Traffic Officer may seize and impound a Taxi at a Municipal Taxi Rank for a period of 7 Days:

- (a) If the Taxi is driven into or parked at that Taxi Rank without displaying a valid Parking Permit Disc in the manner set out in section 4(2).
- (b) If the Taxi is parked and left unattended in contravention of any rule to be observed at the Municipal Taxi Rank by the Owner or driver of a Taxi making use of the Taxi Rank; or
- (c) If the Owner or Driver of a Taxi contravenes any rule to be observed at that Taxi Rank and after a direction by a Municipal Traffic Officer to terminate such contravention, persists in his or her actions.

(2) A Taxi impounded by the Municipality in terms of subsection (1) above, shall be returned to its Owner on payment of the impoundment fees determined by the Municipality in respect of Municipal Taxi Ranks, if the Taxi is to be released before the 7-day period has expired.

(3) No person shall hinder, impede or obstruct a Municipal Traffic Officer in the execution of his or her duties in accordance with subsection (1).

## 8. Delegation

The Municipal Manager may, in writing, delegate the powers and functions vested in him in terms of section 5 (3, 4 & 5), to the Manager: Community Safety.

## CHAPTER 3

### GENERAL PROVISIONS

## 9. Schedule

(1) Section 3(3)(a) of the National Traffic act provides that:

- (a) A Parking Permit Disc shall be circular in form, with a diameter of 75 millimeter.
- (b) The words "PARKING PERMIT • Greater Kokstad Municipality", shall be printed on the disc and provision shall be made on the disc for inscriptions indicating:
  - (a) The name of the Owner of the Taxi.
  - (b) The registration number of the Taxi.
  - (c) The financial year in respect whereof the permit was issued.
  - (d) The number of the permit.

## 10. Appeals

(1) Any person whose rights are affected by a decision of the Council or any authorised Official under this By-Law may:

- (a) In terms of section 62 of the Local Government Municipal Systems Act 2000 (Act No 32 of 2000) appeal against the decision by *giving* written notice of the appeal and the reasons for the appeal to the municipal manager within 21 days of the date of the issue of the notification of the decision.

(2) The Municipal Manager shall refer the appeal to the appropriate Appeal Authority in terms of the



Local Government Municipal Systems Act 2000 (Act No.32 of 2000).

- (3) The appeal authority shall commence with the appeal within 6 (six) weeks and decide the appeal within a reasonable period.

#### **11. Offences and penalties**

- (1) Any person who:
- (a) Contravenes or fails to comply with a provision of these By Laws or a direction issued by the Council in terms of these By-Laws, or a condition imposed under these By Laws;
  - (b) Obstructs or hinders any person in the execution of any power or the performance of any duty or function in terms of any provision of these By Laws; or
  - (c) Furnishes false, incorrect or misleading information when applying for a permission from the Council in terms of a provision of these By Laws, shall be guilty of an offence and shall upon conviction by a court be liable to a fine not exceeding R60 000, or imprisonment for a period not exceeding three years or both a fine and imprisonment.
- (2) Any expense incurred by the Council as a result of a contravention of this by-law or in the doing of anything which a person was directed to do under this by-law and which he or she failed to do, may be recovered by the Council from the person who committed the contravention or failed to do such thing.

#### **12. Regulations**

The Municipality may make regulations not inconsistent with this by-law, prescribing:

- (a) any matter that may or must be prescribed in terms of this by-law; and
- (b) any matter that may facilitate the application of this by-law.

#### **13. Repeal of laws**

Any by-law(s) relating to the Municipal Taxi Rank adopted by the Council or any erstwhile Council now comprising an administrative unit of the municipality, shall be repealed from the date of promulgation of this By-law.

#### **14. Waiver or suspension of this By-law**

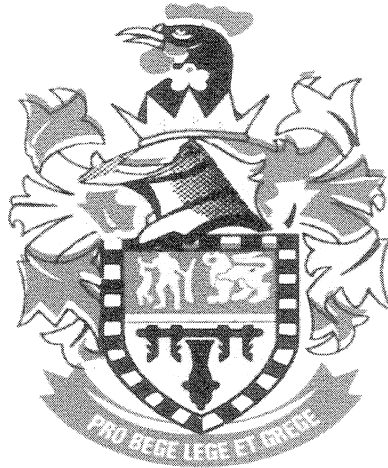
This By-law may be partly or wholly waived or suspended by the Council on temporary basis.

#### **15. Compliance and enforcement**

Violation of or non-compliance with this By-law shall give just cause for the instituting of prosecution against the Offender.

#### **16. Short title**

This by-law shall be called the By-law on Municipal Taxi Rank, 2012, and shall take effect on a date determined by the municipality by proclamation in the Provincial Gazette.

**GREATER KOKSTAD MUNICIPALITY****BY-LAW ON FUNERAL UNDERTAKERS**

**FUNERAL UNDERTAKERS BY-LAW****TABLE OF CONTENTS**

| <b>CONTENTS</b>  | <b>PAGE</b>  |
|--|--------------|
| <b>LOCAL GOVERNMENT NOTICE.....</b>  | <b>4</b>     |
| <b>PURPOSE OF THE BY-LAW.....</b>  | <b>4</b>     |
| <b>CHAPTER 1</b>   |              |
| <b>INTERPRETATION</b>  |              |
| <b>1. DEFINITIONS.....</b>   | <b>4-5</b>   |
| <b>2. LEGAL FRAMEWORK AND STATUTORY REQUIREMENTS .....</b>   | <b>5</b>     |
| <b>CHAPTER 2</b>   |              |
| <b>OPERATIONAL REQUIREMENTS</b>  |              |
| <b>3. PREPARATION OF CORPSES.....</b>  | <b>5</b>     |
| <b>4. EXEMPTIONS.....</b>  | <b>5</b>     |
| <b>5. APPLICATION FOR THE ISSUE OR TRANSFER OF A CERTIFICATE OF COMPETENCE.....</b>                | <b>6</b>     |
| <b>6. ISSUE OR TRANSFER OF CERTIFICATE OF COMPETENCE.....</b>                                      | <b>6</b>     |
| <b>7. VALIDITY &amp; TRANSFER OF CERTIFICATE OF COMPETENCE.....</b>                                | <b>7</b>     |
| <b>8. ISSUE OF PROVISIONAL CERTIFICATE OF COMPETENCE.....</b>                                      | <b>7</b>     |
| <b>9. DUTIES OF HOLDER.....</b>  | <b>7</b>     |
| <b>10. SUSPENSION OR REVOCATION OF A CERTIFICATE OF COMPETENCE OR PROVISIONAL CERTIFICATE.....</b> | <b>7-8</b>   |
| <b>11. REQUIREMENTS RELATING TO FUNERAL UNDERTAKERS PREMISES.....</b>                              | <b>8-9</b>   |
| <b>12. HYGIENE.....</b>  | <b>10</b>    |
| <b>CHAPTER 3</b>   |              |
| <b>GENERAL PROVISIONS</b>  |              |
| <b>13. APPEALS.....</b>  | <b>10-11</b> |
| <b>14. OFFENCES AND PENALTIES .....</b>  | <b>11</b>    |
| <b>15. REGULATIONS.....</b>  | <b>11</b>    |

|  |           |
|--|-----------|
| <b>16. REPEAL OF LAWS.....</b>                         | <b>11</b> |
| <b>17. WAIVER OR SUSPENSION OF THIS BY-LAW .....</b>   | <b>11</b> |
| <b>18. AMENDMENT OR ABOLITION OF THIS BY-LAW .....</b> | <b>11</b> |
| <b>19. SHORT TITLE .....</b>                           | <b>12</b> |

**LOCAL GOVERNMENT NOTICE**  
**GREATER KOKSTAD MUNICIPALITY**  
**BY-LAW RELATING FUNERAL UNDERTAKERS**

The Municipal Manager hereby publishes, in terms of Section 13 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000], read with Section 162 of the Constitution of the Republic of South Africa Act, 1996 [Act No. 108 of 1996], the By-law on Funeral Undertakers.

**Purpose of the By-law**

The purpose of this by-law is to:

- (a) To regulate the safe establishment and the hygienic operation of Funeral Undertakers operating within the Greater Kokstad Municipality.
- (b) To provide control measures for matters connected therewith.

**CHAPTER 1**

**INTERPRETATION**

**1. Definitions-** In this by-law, the singular includes the plural and vice:

(1) **"Adequately ventilated and illuminated"** shall mean adequately ventilated and illuminated as contemplated in the National Building Regulations and Standards Act, 1977 (Act No. 103 of 1977), as amended or the Health By-laws applicable within the area of jurisdiction of the Council;

(2) **"Council"** shall mean the Greater Kokstad Municipality and its successors in law, and includes the Council of that Municipality or its Executive Committee or any other body acting by virtue of any power delegated to it in terms of legislation, as well as any Officer to whom the Executive Committee has delegated any powers and duties with regard to this By-law.

(3) **"Certificate of Competence"** shall mean a document contemplated in section 5.

(4) **"Environmental Health Officer"** shall mean a person who is an employee of Council, or contracted by Council and who is registered with the Health Professions Council of South Africa and is designated in terms of section 31(1) of the Health Act, 1977 (Act No. 63 of 1977).

(5) **"Existing Funeral Undertaker's premises"** shall mean the existing Funeral Undertakers' premises, which are used as such, on the date of commencement of this By-law.

(6) **"Funeral Undertaker's premises"** shall mean that premises that are or will be used for the preparation and or storage of corpses.

(7) **"Holder"** shall mean the person in whose name a Certificate of Competence has been issued.

(8) **"New Funeral Undertaker's premises"** shall mean undertaker's premises that start operating as such after the date of commencement of this By-law.

(9) **"Nuisance"** shall mean any condition, thing, act or omission which is offensive or injurious to health or which tends to prejudice the safety, good order or health of the area or part thereof.

(10) "**Preparation**" shall mean any action aimed at the preparation of a corpse for a funeral or for cremation, export or other disposal and shall include the embalming of such corpse for the said purpose, and "prepare" and any work derived there from shall have a corresponding meaning.

(11) "**Provisional Certificate of Competence**" shall mean a document as referred to in section 7.

(12) "**Pure water**" shall mean clean and clear water that contains no *Escherichia coli* organisms and is free from any substance in concentrations that are detrimental to human health.

(13) "**Rodent – proof**" shall mean rodent-proof as laid down in the regulations regarding the Prevention of Rodent Infestation and the Storage of Grain, Forage, etc. in Urban and Rural areas of the Republic of South Africa promulgated by Government Notice R. 1411 of 23 September 1966.

(14) "**The Act**" shall mean the Health Act, 1977 (Act No. 63 1977), and any expression to which a meaning has been assigned in the Act shall have such meaning and, unless the context otherwise indicates.

(15) "**Thermometer**" shall mean an apparatus which can give the temperature readings referred to in the By-laws, the combined accuracy of such a thermometer and its temperature – sensitive sensor being approximately 0,5 0C.

## **2. Legal Framework & Statutory Requirements**

(1) This By-law is premised from the relevant provisions of the Constitution of the Republic of South Africa (108 of 1996) as amended.

(2) It derives its legitimacy from the National Building Regulations and Building Standards Act, 1997 (Act No.103 of 1977).

(3) it is also derived from the KwaZulu-Natal Cemeteries and Crematoria Act, 1996 (Act No. 12 of 1996).

(3) It also derives its legitimacy from the Municipal Structures Act (117 of 1998).

(4) It further derives its legitimacy from the Municipal Systems Act (32 of 2000).

(5) This By-law shall be implemented in terms of the objects of other relevant sister policies within the Municipality.

## **CHAPTER 2**

### **OPERATIONAL REQUIREMENTS**

#### **3. Preparation of Corpses**

Unless otherwise provided for in these bylaws, no person shall prepare and/or store any corpse except on a funeral undertaker's premises in respect of which a Certificate of Competence has been issued and is in effect.

#### **4. Exemptions**

(1) The Council may, in writing, exempt any person from compliance with all or any of these bylaws where, in the opinion of the Council, non-compliance does not, or will not, create a nuisance.

(2) Such exemption shall be subject to such conditions and valid for such period as the Council may stipulate in the certificate of exemption.

## **5. Application for the issue or transfer of a Certificate of Competence**

(1) (a) Any person wishing to apply for a Certificate of Competence in respect of new funeral undertaker's premises shall, not less than 21 days before submitting his application to the Council, cause a notice of his intention to be published in English / Afrikaans and IsiZulu in a newspaper that circulates within the area of jurisdiction of the Municipality.

(b) Such notice shall contain information to the effect that an application for the issue of a Certificate of Competence in terms of these bylaws is to be submitted to the Council and that any person who wishes to object to such use may lodge his or her objection, together with substantiated representations, with the Council in writing within 21 days of the date of publication of such notice.

(2) (a) An application for the issue of a Certificate of Competence shall be made to the Council in writing on the prescribed form and shall be accompanied by:

(i) A description of the premises and the location thereof; including equipment, storage facilities, preparation areas and toilet facilities.

(ii) A complete ground plan of the proposed construction or of existing buildings on a scale of 1:100 including the effluent disposal system.

(iii) A plan of the premises on which north is shown indicating adjacent premises already occupied by the applicant or other persons and the purpose for which such premises are being utilized or are to be utilized.

(iv) Particulars of any person other than the Applicant or any of his or her employees who prepares or will prepare corpses on the premises.

(v) A contingency plan for the storage of corpses in the event of a refrigeration or cold room breakdown.

(vi) A cleansing and disinfection programme.

(3) The Council, when considering issuing a Certificate of Competence, may request from the Applicant or any other person any such further information required.

(4) The Council shall not issue or transfer a Certificate of Competence unless a complete inspection of the premises concerned has been carried out by an Officer appointed by the Council and the officer's report on such inspection, including recommendation on such issue or transfer, is in possession of the Council.

## **6. Issue or transfer of Certificate of Competence**

When the Council is satisfied that the premises concerned:

(1) Complies with all requirements laid down in these bylaws and any other applicable legislation.

(2) Are in all respects suitable for the preparation of corpses.

(3) Will not be offensive to any occupants of premises in the immediate vicinity of such premises, it shall, on conditions as it may determine in respect of the funeral undertaker's premises concerned, issue a Certificate of Competence in the name of the Applicant in such form as it may determine or shall, by endorsement, transfer an existing Certificate of Competence to a new holder, as the case may be.

## **7. Validity and transfer of Certificate of Competence**

A Certificate of Competence, excluding a provisional Certificate of Competence, shall, on endorsement by the Council, be transferable from one holder to a new holder and such certificate shall, if so endorsed, be valid from the date of which it was issued until it is revoked or suspended in terms of these bylaws.

## **8. Issue of provisional Certificate of Competence**

(1) Notwithstanding the fact that the Council is not satisfied as contemplated in section 4 with regard to funeral undertaker's premises in respect of which a Certificate of Competence has been applied for, the Council may, in the case of existing Funeral Undertaker's premises and subject to such conditions as Council may determine, issue a provisional Certificate of Competence in respect of such premises.

(2) A certificate referred to in subsection (a) shall only be issued if the Council is satisfied that the use of such funeral undertaker's premises does not and shall not create a nuisance, and will be issued for a maximum period of six months to enable the Applicant to alter such premises in order to comply with the provisions of this By-law.

(3) If, after the period referred to in subsection (b), the premises do not comply with the provisions of these bylaws, the Council may revoke the provisional Certificate of Competence.

## **9. Duties of the Holder**

(1) The Holder shall immediately inform the Council in writing if there are any changes in the particulars or circumstances supplied to the Council in the Application for Certificate of Competence.

(2) A Funeral Undertaker shall not dispose of a body in any place or premises other than a cemetery or crematoria registered in terms of the KwaZulu-Natal Cemeteries and Crematoria Act, 1996 (Act No. 12 of 1996).

(3) The Holder shall comply with the provisions of these bylaws, applicable legislation and any conditions imposed by the Council.

## **10. Suspension or revocation of a Certificate of Competence or Provisional Certificate of Competence**

(1) If the Council is of the opinion, on the strength of an inspection report and/or recommendation by a medical officer of health or environmental Health Officer, that there are reasonable grounds to suspect that:

(a) The Funeral Undertaker's premises concerned are being used in such a way as to create a nuisance or that conditions constituting a nuisance have been or are being created on the Funeral Undertaker's premises concerned.

(b) The premises concerned are being used in contravention of the provisions of the Health Act, 1977 (Act No. 63 of 1977), this By-law or other applicable legislation or any conditions imposed by the Certificate of Competence or provisional Certificate of Competence, the Council may in its discretion:

(i) Revoke Certificate of Competence or provisional Certificate of Competence concerned.

(ii) Suspend the Certificate of Competence or provisional Certificate of Competence concerned for such period as the Council may determine, to enable the Holder to comply with the applicable legislation and/or conditions imposed, provided that if the Holder fails to comply within the period stipulated in the notice of suspension, the Council may revoke the relevant certificate without further notice.



(2) A notice issued by the Council in terms of section 9(1) shall be issued in writing, and then served on the Holder.

(3) The suspension or revocation of a Certificate of Competence or Provisional Certificate of Competence in terms of this bylaw shall have the effect that, from the date of the notice of suspension or revocation:

(a) No preparation of any corpse shall be performed on the premises Concerned.

(b) No corpse shall be received for preparation on the premises concerned.

(c) No corpse shall be preserved on the premises concerned and every corpse shall immediately be removed to a mortuary under the control of the State, a provincial administration or the Council or any other Funeral Undertaker's premises, provided that this By-law shall not be applicable and the said notice shall not be so construed as to restrict any other business activity relating to the funeral undertaking profession including the sale of coffins and policies.

(4) Where the Council is of the opinion that a condition that gave rise to the revocation of a certificate as contemplated in this By-law was corrected after such revocation, it shall, on written application made by or on behalf of the Holder, repeal such revocation by endorsement on the certificate concerned.

#### **11. Requirements relating to Funeral Undertaker's Premises**

(1) Provision for the following shall be made on a funeral undertaker's premises:

(a) A preparation room for the preparation of corpse.

(b) Change-rooms, separate for each sex, for the use of the employees employed at such premises.

(c) Refrigeration facilities for the refrigeration of corpses.

(d) Facilities for washing and cleaning of utensils and equipment inside the building.

(e) Facilities for cleaning of vehicles on the premises.

(f) Facilities for loading and unloading corpses as contemplated in clause 10(6).

(2) No room on a funeral undertaker's premises shall be used for any purpose other than the purpose for which it is intended.

(3) The preparation room:

(a) Shall be so designed as to:

(i) Be separate from all other rooms on the premises and so as not to be directly accessible from or in view of any office or salesroom, provided that, where a preparation room on existing Funeral Undertaker's premises is so situated, the entrance thereto must be so concealed that the interior of the preparation room is completely out of sight of any person in any adjoining office or salesroom.

(ii) Enable obnoxious odours and vapours to be adequately treated.

(iii) Be sufficiently ventilated and lighted.

(b) Shall have a floor:

(i) Covering an area of not less than 6 m<sup>2</sup> for the first table of the kind referred to in section 10(3)(e) and 8 m<sup>2</sup> for each additional table;

(ii) Constructed of concrete or similar waterproof material with a smooth non-slippery surface that is easy to clean, and sloped at an angle to ensure that any run-off will drain into a disposal system approved by the Council.

(iii) Which, if it is replaced or laid after the date of commencement of these By-laws, shall be provided with half round filling where it meets the walls.

(c) Shall have walls the inner surfaces of which have a smooth finish and are covered with a light-colored washable paint or other suitable, smooth, waterproof, light-colored and washable material.

(d) Shall be provided with a ceiling not less than 2, 4 m above the floor level, which ceiling shall be dust proof and painted with a light-colored washable paint.

(e) Shall contain not less than one table of stainless steel or glazed earthenware or other suitable material, equipped with a raised rim on the outside, a tap with cold running water to which a flexible pipe can be connected and a drainage opening connected to an approved disposal system;

(f) Shall contain not less than one wash basin for each table, made of stainless steel or other suitable material, with a working surface of the same material, taps with hot and cold running water and a drainage opening permanently connected to an approved disposal system, and provided with disposable towels, a nailbrush and soap.

(g) Shall have not less than one tap with running water to which a flexible pipe, long enough to reach all corners of such room, can be connected for cleaning the interior surfaces; and

(h) Shall have door openings that are not less than 0, 82 m in width and 2, 00 m in height so that corpses can be taken into and out of such room without any difficulty.

(4) Each change-room shall contain at least the following:

(a) One hand-basin with hot and cold running water for every six employees or part thereof.

(b) Disposable towels, soap, nailbrushes and disinfectant.

(c) Not less than one toilet for every 15 male employees or part thereof and not less than one toilet for every 15 female employees or part thereof employed at the funeral undertaker's premises concerned, provided that, where a separate urinal for men forms part of such facilities, one toilet plus one separate urinal shall be permissible for every 30 men or part thereof.

(5) Refrigeration facilities such as refrigeration or cold chambers for the keeping of corpses shall be installed in such a room or in close proximity of such a preparation room and:

(a) Where refrigerators are used, it shall be constructed of a material that does not absorb moisture, shall be provided with removable trays and shall be so deigned as to drain into an approved drainage system and be easy to clean.

(b) Be of such nature that the surface temperature of any corpse shall be no higher than 50C during preparation. An accurate thermometer must be provided at the refrigerator or cold chamber and must be operational at all times.

(c) In instances where cold chambers are used, it shall comply with sections 10(3)(a)(ii), (b)(ii), (c), (d) and (h) and shall be provide with shelves manufactured from a material that does not absorb moisture and that is easy to clean.

(d) Corpses are not be to be stored on top of each other and must be stored individually on the trays or shelves.

(6) The cleansing, loading and unloading facilities shall consist of a paved area, screened from public view, with a drainage system into a gulley connected to a sewer system approved by the Council.

(7) The loading and unloading of corpses and the cleansing of vehicles shall not take place anywhere except in the area contemplated in section 10(6).

## 12. Hygiene

(1) All solid refuse on the premises of a funeral undertaking shall be kept in corrosion-resistant containers with tight-fitting lids and shall be dealt with in accordance with the requirements of the Council.

(2) Every holder of a Certificate of Competence relating to Funeral Undertaker's premises shall:

(a) Provide clean protective clothing consisting of surgical gloves, gumboots, plastic aprons so designed that the front hangs over the top of the gumboots, face masks and overcoats/overalls to all employees and all other persons involved in the preparation of corpses or postmortems, and each such employee or other person shall, at all times when so involved, wear such clothing.

(b) Keep such premises free of pests and insects at all times.

(c) Clean immediately after the preparation of any corpse, all working areas or surfaces at such premises where corpses are prepared.

(d) Wash and disinfect all equipment used for the preparation of corpses immediately after use.

(e) Wash, clean and disinfect all protective clothing that has been used on the premises on a daily basis.

(f) Keep such premises clean and tidy at all times.

(g) If a corpse has been transported without a moisture-proof covering, wash and disinfect the loading space of the vehicle concerned after such corpse has been removed.

## CHAPTER 3

### GENERAL PROVISIONS

## 13. Appeals

(1) Any person whose rights are affected by a decision of the Council or any authorised Official under these By Laws may:

(a) In terms of section 62 of the Local Government Municipal Systems Act 2000 (Act No 32 of 2000) appeal against the decision by *giving* written notice of the appeal and the reasons for the appeal to the municipal manager within 21 days of the date of the issue of the notification of the decision.

(2) The Municipal Manager shall refer the appeal to the appropriate appeal authority in terms of the Local Government Municipal Systems Act 2000 (Act No.32 of 2000).

(3) The appeal authority shall commence with the appeal within 6 (six) weeks and decide the appeal within a reasonable period.

Or

(4) In terms of section 67 (1) of the Town Planning Ordinance (Ordinance No 27 of 1949), appeal against the decision within 28 (twenty eight) days of the date of posting or delivery of the notice to him/her. The applicant must also then within 21 (twenty one) days of notifying the municipality of his/her intention to appeal submit to the municipality a memorandum setting out the grounds for such appeal.

#### **14. Offences and Penalties**

(1) Any person who:

(a) Contravenes or fails to comply with a provision of these By Laws or a direction issued by the Council in terms of these By-Laws, or a condition imposed under these By Laws;

(b) Obstructs or hinders any person in the execution of any power or the performance of any duty or function in terms of any provision of these By Laws; or

(c) Furnishes false, incorrect or misleading information when applying for a permission from the Council in terms of a provision of these By Laws, shall be guilty of an offence and shall upon conviction by a court be liable to a fine not exceeding R60 000, or imprisonment for a period not exceeding three years or both a fine and imprisonment.

(2) Any expense incurred by the Council as a result of a contravention of this by-law or in the doing of anything which a person was directed to do under this by-law and which he or she failed to do, may be recovered by the Council from the person who committed the contravention or failed to do such thing.

#### **15. Regulations**

The Municipality may make regulations not inconsistent with this by-law, prescribing:

- (a) any matter that may or must be prescribed in terms of this by-law; and
- (b) any matter that may facilitate the application of this by-law.

#### **16. Repeal of laws**

Any By-law(s) relating to Funeral Undertakers adopted by the Council or any erstwhile Council now comprising an administrative unit of the Municipality, shall be repealed from the date of promulgation of this By-law.

#### **17. Waiver or suspension of this By-law**

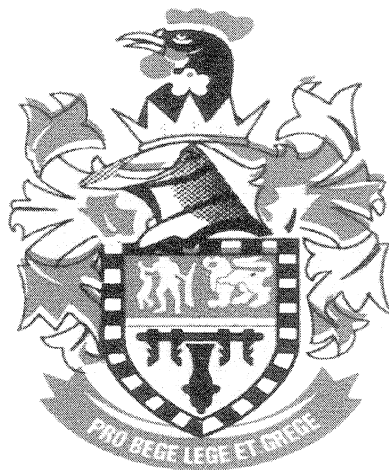
This By-law may be partly or wholly waived or suspended by the Council on temporary basis.

#### **18. Compliance and enforcement**

Violation of or non-compliance with this By-law shall give just cause for the instituting of prosecution against the Offender.

**19. Short title**

This by-law shall be called the By-law on Funeral Undertakers, 2012, and shall take effect on a date determined by the municipality by proclamation in the Provincial Gazette.

**GREATER KOKSTAD MUNICIPALITY****BY-LAW ON MUNICIPAL COMMONAGE**

**BY-LAW ON MUNICIPAL COMMONAGE****TABLE OF CONTENTS**

| <b>CONTENTS</b>  | <b>PAGE</b> |
|--|-------------|
| <b>LOCAL GOVERNMENT NOTICE.....</b>                        | <b>3</b>    |
| <b>PURPOSE OF THE BY-LAW.....</b>                          | <b>3</b>    |
| <b>CHAPTER 1</b>   |             |
| <b>INTERPRETATION</b>                                      |             |
| <b>1. DEFINITIONS .....</b>                                | <b>3-4</b>  |
| <b>2. LEGAL FRAMEWORK AND STATUTORY REQUIREMENTS .....</b> | <b>4</b>    |
| <b>CHAPTER 2</b>   |             |
| <b>OPERATIONAL REQUIREMENTS</b>                            |             |
| <b>3. ESTABLISHMENT OF CAMPS FOR GRAZING.....</b>          | <b>4</b>    |
| <b>4. CLOSING OF CAMPS.....</b>                            | <b>4</b>    |
| <b>5. APPROVAL FOR ANNUAL GRAZING.....</b>                 | <b>5</b>    |
| <b>6. CONFINEMENT OF STOCK TO CAMPS .....</b>              | <b>5</b>    |
| <b>7. NUMBERS AND CONDITIONS OF ANIMALS.....</b>           | <b>5</b>    |
| <b>8. BRANDING OF STOCK.....</b>                           | <b>5</b>    |
| <b>9. GRAZING FEES.....</b>                                | <b>5</b>    |
| <b>10. INFECTED OR CONTAGIOUS ANIMALS.....</b>             | <b>6</b>    |
| <b>11. CARCASSES OF ANIMALS.....</b>                       | <b>6</b>    |
| <b>12. PROHIBITED CONDUCT.....</b>                         | <b>6-7</b>  |
| <b>CHAPTER 3</b>   |             |
| <b>GENERAL PROVISIONS</b>                                  |             |
| <b>10. APPEALS.....</b>                                    | <b>7</b>    |
| <b>11. OFFENCES AND PENALTIES.....</b>                     | <b>7</b>    |
| <b>12. REGULATIONS.....</b>                                | <b>7</b>    |
| <b>13. REPEAL OF LAWS.....</b>                             | <b>8</b>    |
| <b>14. WAIVER OR SUSPENSION OF THIS BY-LAW.....</b>        | <b>8</b>    |
| <b>15. COMPLIANCE AND ENFORCEMENT.....</b>                 | <b>8</b>    |
| <b>16. SHORT TITLE .....</b>                               | <b>8</b>    |

**LOCAL GOVERNMENT NOTICE****GREATER KOKSTAD MUNICIPALITY****BY-LAW ON MUNICIPAL COMMONAGE**

The Municipal Manager hereby publishes, in terms of Section 13 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000], read with Section 162 of the Constitution of the Republic of South Africa Act, 1996 [Act No. 108 of 1996], the By-law on Municipal Commonage.

**Purpose of the By-law**

The purpose of this By-law is to:

- (a) Provide for use and management of the commonage as well as control of animals on such commonage.
- (b) Provide control measures for matters connected therewith.

**CHAPTER 1****INTERPRETATION**

**1. Definitions-** In this by-law, the singular includes the plural and vice:

(1) The term "**Act**" shall refer the Animal Identification Act, 2002 (Act 6 of 2002);

(2) The term "**Brand**" shall refer to any registered mark registered in terms of section 5(2) of the Act and placed on any animal for any purpose, and includes any representation of a mark intended to be placed on any animals, as the circumstances may require, but does not include any:

- (i) Mark made on the horn or hoof;
- (ii) Mark made with paint on any animal;
- (iii) Clasp, rivet or tag attached to the ear, or mark made on such clasp, rivet or tag;
- (iv) Notch or hole.

(3) The term "**Commonage**" shall refer to that part of a property owned by, or under the control of, the Municipality, which the Municipality may set aside for grazing or for such other purposes and use as it may deem necessary;

(4) The term "**Depasture**" shall refer to allow an animal to graze on the commonage;

(5) The term "**Large stock**" shall refer to cattle and equine, and includes any other species of animals which the Minister may by notice in the Gazette declare to be large stock for the purposes of the Act;



(6) The term “**Municipality**” shall refer the Greater Kokstad Municipality established in terms of section 12 of the Local Government Municipal Structures Act, 1998 (Act No. 117 of 1998);

(7) The term “**Prescribed**” shall mean stipulated by the Municipality;

(8) The term “**Small stock**” shall refer to sheep and goats, and includes any other species of animals which the Minister may by Notice in the Gazette declare to be small stock for the purposes of the Act;

## **2. Legal Framework and Statutory Requirements**

(1) This By-law is premised from the relevant provisions of the Constitution of the Republic of South Africa (108 of 1996) as amended;

(2) It derives its legitimacy from the Animal Identification Act, 2002 (Act no 6 of 2002);

(3) It also derives its legitimacy from the Municipal Structures Act (117 of 1998);

(4) It further derives its legitimacy from the Municipal Systems Act (32 of 2000);

(5) This By-law shall be implemented in terms of the objects of other relevant sister policies within the Municipality.

## **CHAPTER 2**

### **OPERATIONAL REQUIREMENTS**

#### **3. Establishment of Camps for grazing**

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

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

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

(4) The Municipality may lease such paddocks or enclosures for animals of residents on a first come first served basis, with priority given to emerging farmers.

#### **4. Closing of Camps**

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

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

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

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

## **5. Approval for animal grazing**

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

(2) A person who wishes to obtain approval shall apply on the Prescribed Form and submit it to the Municipality which may, after considering the following factors, grant approval:

- (a) For the total number of animals already accommodated in the camps;
- (b) For the total number of animals, and the kind of animal, which he or she wishes to have accommodated in a camp.

(3) The approval contemplated in subsection (1) may be granted subject to the conditions of the meadows or the provisions of an approved grazing or commonage management plan, and any other factor which the Municipality deems necessary.

(4) The right of depasturing is personal only and no one shall be entitled to cede this right.

## **6. Confinement of stock to camps**

A person depasturing on commonage must confine his or her stock to the camp set.

## **7. Numbers and conditions of animals**

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

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

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

## **8. Branding of stock**

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

(2) No person shall keep or depasture any animal on the Municipal Commonage without such an animal being branded.

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

## **9. Grazing fees**

(1) The Municipality may determine grazing fees that shall be paid to it.

(2) Should a person fail to pay a grazing fee, the Municipality may take such measures as necessary to recover the debt.

**10. Infected or contagious animals**

- (1) No person shall 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 disease shall, at the cost of the Owner, be inspected by a Veterinary Surgeon, and if it is found that the diseases is contagious or infectious, he may cause such stock to be isolated or destroyed.

**11. Carcasses of animals**

- (1) The Owner of an animal which has died on the commonage shall immediately cause the carcass to be buried, in the event that he fails, the Municipality shall cause such a carcass to be and recover such costs from the Owner.

**12. Prohibited conduct**

- (1) No person shall, without the prior written consent of the Municipality:
  - (a) Erect any hut, shelter, kraal, habitation or structure of any kind nor occupy camp or squat on any portion of the commonage.
  - (b) Accumulate, dump or deposit or cause to be accumulated, dumped or deposited on any portion of the commonage any derelict motor cars or other vehicles or machinery or any derelict parts thereof;
  - (c) Dig on or remove soil, clay, sand, gravel or boulders from the commonage;
  - (d) Make bricks or erect bricks, lime or charcoal kilns on the commonage;
  - (e) Cut, damage, burn, destroy, gather or remove any plants, shrubs, trees, timber, firewood, brushwood, manure or any grass growing or being upon any portion of the commonage;
  - (f) Interfere with or cause damage to any fence, gate, drinking trough, water tap or other appliance or thing, or set fire to the pasture or any bush, tree, shrub on the commonage.
  - (g) Make use of any road over the commonage other than roads allowed to be used by the Municipality from time to time, and roads that the public have a legal right to use;
  - (h) Deposit, or in any way leave, any poison for whatever purpose on the commonage.
  - (i) Kill, catch, capture, or hunt, or attempt to kill any game or birds of whatsoever description on the commonage.
  - (j) Set traps of whatsoever description on the commonage;

- (k) Destroy the nests, or remove the eggs or young there from, of any birds or water-fowl on the commonage; or
- (l) Fish in any dam, river or any other water on the commonage.

### CHAPTER 3

#### GENERAL PROVISIONS

##### 13. Appeals

- (1) Any person whose rights are affected by a decision of the Council or any authorised Official under this By-Law may:
  - (a) In terms of section 62 of the Local Government Municipal Systems Act 2000 (Act No. 32 of 2000) appeal against the decision by *giving* written notice of the appeal and the reasons for the appeal to the municipal manager within 21 days of the date of the issue of the notification of the decision.
  - (2) The Municipal Manager shall refer the appeal to the appropriate Appeal Authority in terms of the Local Government Municipal Systems Act 2000 (Act No.32 of 2000).
  - (3) The appeal authority shall commence with the appeal within 6 (six) weeks and decide the appeal within a reasonable period.

##### 14. Offences and penalties

- (1) Any person who:
  - (a) Contravenes or fails to comply with a provision of these By Laws or a direction issued by the Council in terms of these By-Laws, or a condition imposed under these By Laws;
  - (b) Obstructs or hinders any person in the execution of any power or the performance of any duty or function in terms of any provision of these By Laws; or
  - (c) Furnishes false, incorrect or misleading information when applying for a permission from the Council in terms of a provision of these By Laws, shall be guilty of an offence and shall upon conviction by a court be liable to a fine not exceeding R60 000, or imprisonment for a period not exceeding three years or both a fine and imprisonment.
- (2) Any expense incurred by the Council as a result of a contravention of this By-law or in the doing of anything which a person was directed to do under this by-law and which he or she failed to do, may be recovered by the Council from the person who committed the contravention or failed to do such thing.

##### 15. Regulations

The Municipality may make regulations not inconsistent with this By-law, prescribing:

- (a) any matter that may or must be prescribed in terms of this By-law; and
- (b) any matter that may facilitate the application of this By-law.

**16. Repeal of laws**

Any by-law(s) relating to the Municipal Commonage adopted by the Council or any erstwhile Council now comprising an administrative unit of the municipality, shall be repealed from the date of promulgation of this By-law.

**17. Waiver or suspension of this By-law**

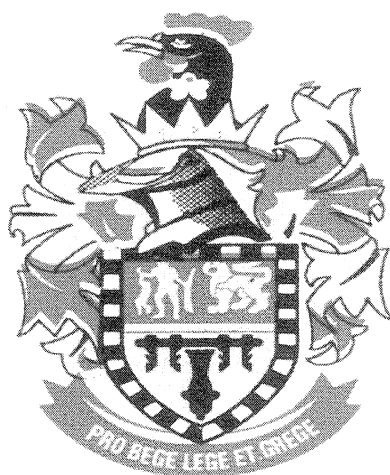
This By-law may be partly or wholly waived or suspended by the Council on temporary basis.

**18. Compliance and enforcement**

Violation of or non-compliance with this By-law shall give just cause for the instituting of prosecution against the Offender.

**19. Short title**

This by-law shall be called the By-law on Municipal Commonage, 2012, and shall take effect on a date determined by the municipality by proclamation in the Provincial Gazette.

**GREATER KOKSTAD MUNICIPALITY****BY-LAW ON UNSIGHTLY AND NEGLECTED BUILDINGS AND PREMISES**

**BY-LAW ON UNSIGHTLY AND NEGLECTED BUILDINGS AND PREMISES****TABLE OF CONTENTS**

| <b>CONTENTS</b>  | <b>PAGE</b> |
|--|-------------|
| <b>LOCAL GOVERNMENT NOTICE.....</b>                        | <b>3</b>    |
| <b>PURPOSE OF THE BY-LAW.....</b>                          | <b>3</b>    |
| <b>CHAPTER 1</b>   |             |
| <b>INTERPRETATION</b>                                      |             |
| <b>1. DEFINITIONS .....</b>                                | <b>3</b>    |
| <b>2. LEGAL FRAMEWORK AND STATUTORY REQUIREMENTS .....</b> | <b>3</b>    |
| <b>CHAPTER 2</b>   |             |
| <b>OPERATIONAL REQUIREMENTS</b>                            |             |
| <b>8. BUILDINGS WITHIN THE MUNICIPAL AREAS.....</b>        | <b>4</b>    |
| <b>CHAPTER 3</b>   |             |
| <b>GENERAL PROVISIONS</b>                                  |             |
| <b>10. APPEALS.....</b>                                    | <b>4</b>    |
| <b>11. OFFENCES AND PENALTIES.....</b>                     | <b>4-5</b>  |
| <b>12. REGULATIONS.....</b>                                | <b>6</b>    |
| <b>13. REPEAL OF LAWS.....</b>                             | <b>5</b>    |
| <b>14. WAIVER OR SUSPENSION OF THIS BY-LAW.....</b>        | <b>6</b>    |
| <b>15. COMPLIANCE AND ENFORCEMENT.....</b>                 | <b>6</b>    |
| <b>16. SHORT TITLE .....</b>                               | <b>6</b>    |

**LOCAL GOVERNMENT NOTICE****GREATER KOKSTAD MUNICIPALITY****BY-LAW RELATING TO UNSIGHTLY AND NEGLECTED BUILDINGS AND PREMISES**

The Municipal Manager hereby publishes, in terms of Section 13 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000], read with Section 162 of the Constitution of the Republic of South Africa Act, 1996 [Act No. 108 of 1996], the By-law on Unsightly and Neglected Buildings and Premises.

**Purpose of the By-law**

The purpose of this by-law is to:

- (a) To ensure a safe and a healthy environment in the interest of the community within the jurisdiction of the Municipality.
- (b) To provide control measures for matters connected therewith.

**CHAPTER 1****INTERPRETATION**

**1. Definitions-** In this by-law, the singular includes the plural and vice:

- (1) "**Building**" has the meaning assigned thereto in section 1 of the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977) and includes fencing.
- (2) "**Municipality**" shall mean the Greater Kokstad Municipality.
- (3) "**Municipal area**" shall mean the area under the jurisdiction and control of the Municipality.
- (4) "**Premises**" shall mean any land whatsoever (residential or commercial), whether vacant, occupied or with buildings thereon, situated within the municipal area.

**2. Legal framework and statutory requirements**

- (1) This By-law is premised from the relevant provisions of the Constitution of the Republic of South Africa (108 of 1996) as amended;
- (2) It derives its legitimacy from the National Buildings Regulations and Building Standards Act, 1997 (Act no. 103 of 1997);
- (3) It also derives its legitimacy from the Municipal Structures Act (117 of 1998);
- (4) It further derives its legitimacy from the Municipal Systems Act (32 of 2000);
- (5) This By-law shall be implemented in terms of the objects of other relevant sister policies within the Municipality.



## CHAPTER 2

### OPERATIONAL REQUIREMENTS

#### 3. Buildings within the Municipal Area

(1) Where any premises, in the opinion of the Municipality:

- (a) Have a building thereon which is unsightly, neglected or offensive and which causes the value of surrounding properties to be detrimentally affected.
- (b) Are neglected and over-grown.
- (c) have an unsightly accumulation of papers, cartons, garden refuse, rubble and or other waste material thereon.
- (d) Have an accumulation of motor wrecks or used motor parts thereon, which:
  - (i) detracts from the amenity or appearance of surrounding properties,
  - or
  - (ii) is offensive to the owners or occupiers of adjacent premises,

(2) The Municipality shall give notice in writing to the Owner or Occupier of such premises requiring him to improve such building(s) or the condition of such premises within 30 days so that the appearance or condition of such building or premises comply with the standards required by the Municipality.

## CHAPTER 3

### GENERAL PROVISIONS

#### 4. Appeals

(1) Any person whose rights are affected by a decision of the Council or any authorised Official under this By-Law may:

(a) In terms of section 62 of the Local Government Municipal Systems Act 2000 (Act No. 32 of 2000) appeal against the decision by *giving* written notice of the appeal and the reasons for the appeal to the municipal manager within 21 days of the date of the issue of the notification of the decision.

(2) The Municipal Manager shall refer the appeal to the appropriate Appeal Authority in terms of the Local Government Municipal Systems Act 2000 (Act No.32 of 2000).

(3) The Appeal Authority shall commence with the appeal within 6 (six) weeks and decide the appeal within a reasonable period.

#### 5. Offences and penalties

(1) If the owner fails to comply with the requirements of the notice served in terms of section 2 within the period specified in such notice, such owner shall be guilty of an offence and, on conviction, be liable to a fine not exceeding R60 000 or imprisonment not exceeding three years.

(2) The Municipality may, instead of instituting a prosecution and unless written objection from such Owner has been received before the expiry date of the period specified on the notice served on him, assume that such Owner has no

objection and tacitly agrees that the Municipality may, without further notice, enter upon such premises and through its Officials or a Contractor whose tender the Municipality has accepted, and at the cost of such Owner execute the work necessary to comply with the requirements of the said notice.

## **6. Regulations**

The Municipality may make regulations not inconsistent with this by-law, prescribing:

- (1) any matter that may or must be prescribed in terms of this by-law; and
- (2) any matter that may facilitate the application of this by-law.

## **7. Repeal of laws**

Any by-law(s) relating to the Unsightly & Neglected Buildings and Premises and adopted by the Council or any erstwhile Council now comprising an administrative unit of the Municipality, shall be repealed from the date of promulgation of this By-law.

## **8. Waiver or suspension of this By-law**

This By-law may be partly or wholly waived or suspended by the Council on temporary basis.

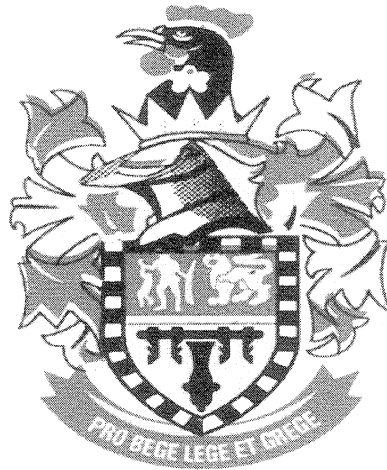
## **9. Compliance and enforcement**

Violation of or non-compliance with this By-law shall give just cause for the instituting of prosecution against the Offender.

## **10. Short title**

This by-law shall be called the By-law on Unsightly & Neglected Buildings and Premises and shall take effect on a date determined by the Municipality by proclamation in the Provincial Gazette.

**GREATER KOKSTAD MUNICIPALITY**



**BY-LAW ON BED & BREAKFAST AND GUEST HOUSES**

**BED & BREAKFAST AND GUEST HOUSES****TABLE OF CONTENTS**

| <b>CONTENTS</b>   | <b>PAGE</b> |
|---|-------------|
| <b>LOCAL GOVERNMENT NOTICE.....</b>   | <b>3</b>    |
| <b>PURPOSE OF THE BY-LAW.....</b>   | <b>3</b>    |
| <b>CHAPTER 1</b>  |             |
| <b>INTERPRETATION</b>   |             |
| <b>1. DEFINITIONS.....</b>  | <b>3-4</b>  |
| <b>2. LEGAL AND STATUTORY REQUIREMENTS .....</b>                                      | <b>4</b>    |
| <b>CHAPTER 2</b>  |             |
| <b>OPERATIONAL REQUIREMENTS</b>   |             |
| <b>3. REQUIREMENTS FOR PREMISES.....</b>  | <b>4-5</b>  |
| <b>4. SPECIAL CONSENT AND BUSINESS LICENSE REQUIRED.....</b>                          | <b>5-6</b>  |
| <b>5. SUSPENSION, CANCELLATION AND AMENDMENT OF SPECIAL CONSENT.....</b>              | <b>6</b>    |
| <b>6. DUTIES OF THE OPERATOR OF BED &amp; BREAKFAST AND GUEST HOUSE FACILITY.....</b> | <b>6</b>    |
| <b>CHAPTER 3</b>  |             |
| <b>GENERAL PROVISIONS</b>   |             |
| <b>7. APPEALS.....</b>  | <b>7</b>    |
| <b>8. OFFENCES AND PENALTIES .....</b>  | <b>7</b>    |
| <b>9. REGULATIONS.....</b>  | <b>7</b>    |
| <b>10. REPEAL OF LAWS.....</b>  | <b>8</b>    |
| <b>11. WAIVER OR SUSPENSION OF THIS BY-LAW.....</b>                                   | <b>8</b>    |
| <b>12. AMENDMENT OR ABOLITION OF THIS BY-LAW.....</b>                                 | <b>8</b>    |
| <b>13. SHORT TITLE .....</b>  | <b>8</b>    |

**LOCAL GOVERNMENT NOTICE****GREATER KOKSTAD MUNICIPALITY****BY-LAW RELATING TO BED & BREAKFAST AND GUEST HOUSES**

The Municipal Manager hereby publishes, in terms of Section 13 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000], read with Section 162 of the Constitution of the Republic of South Africa Act, 1996 [Act No. 108 of 1996], the By-law on Bed & Breakfast and Guest Houses.

**Purpose of the By-law**

The purpose of this by-law is to:

- (a) To regulate the control of Bed and Breakfast and Guest Houses operating within the Greater Kokstad Municipality.
- (b) To provide control measures for matters connected therewith.

**CHAPTER 1****INTERPRETATION**

**1. Definitions-** In this by-law, the singular includes the plural and vice:

(1) "**Authorized Official**" shall mean any person authorized as such by the Council for purposes of these By-Laws to perform and exercise any or all such functions specified therein;

(2) "**Bed and Breakfast**" shall mean a:

- (a) Commercial accommodation establishment operated from a private single dwelling House:
  - (i) Managed by a resident owner or resident lessee, providing sleeping accommodation and breakfast.
  - (ii) Aimed primarily at the tourist or business market.
  - (iii) Where the facilities and services offered are for the exclusive use and benefit of overnight Registered Guests.
- (iv) The term "Guest House Facility" has a corresponding meaning:

(3) "**Council**" shall mean the Council of the Greater Kokstad Local Municipality or its successor in law, its Executive Committee, and any structure, committee or person or other body acting by virtue of any power delegated to it in terms of legislation or an instructions given, as contemplated in section 59 of the Local Government Municipal Systems Act 2000 (Act No.32 of 2000); or a Service Provider fulfilling a responsibility under these by-laws, assigned to it in terms of section 81(2) of the Local Government Municipal Systems Act (Act No.32 of 2000) or any other law, as the case may be;

(4) "**Lettable Room**" shall mean a habitable room;

(5) "**Licensing Authority**" shall mean any local authority or person or body, designated or appointed under section 2 of the Business Act, 1991 (Ad No 71 of 1991);

(6) "**Municipality**" shall mean Greater Kokstad Municipality;

(7) **"Nuisance"** shall mean any condition or conduct which is injurious or offensive to any person or which is dangerous to or compromises the health or safety of any person, or which causes an annoyance or disturbance to any person or to the residents of any area or which constitutes a threat or a potential threat to the environment, or which may potentially harm or damage the environment;

(8) **"Special Consent"** shall mean the Council's Special Consent granted in terms of the Council's applicable Town Planning Scheme;

(9) **"Town Planning Scheme"** shall mean the Town Planning Scheme(s) of the Greater Kokstad Municipality;

(10) **"Words"** applying to any individual shall include persons and/ or groups, and reference to the masculine gender shall include females as well as males.

## **2. Legal Framework & Statutory Requirements**

(1) This By-law is premised from the relevant provisions of the Constitution of the Republic of South Africa (108 of 1996) as amended;

(2) It derives its legitimacy from the National Building Regulations and Building Standards Act, 1997 (Act No.103 of 1977);

(3) It also derives its legitimacy from the Municipal Structures Act (117 of 1998);

(4) It further derives its legitimacy from the Municipal Systems Act (32 of 2000);

(5) This By-law shall be implemented in terms of the objects of other relevant sister policies within the Municipality.

## **CHAPTER 2**

### **OPERATIONAL REQUIREMENTS**

#### **3. Requirements for premises**

(1) No persons shall operate a Bed and Breakfast or a Guest House facility on any premises unless he has complied with all applicable legislations, including:

(a) The National Building Regulations and Building Standards Act, 1997 (Act No.103 of 1977) where all buildings constructed on the premises must comply with this Act and its regulations;

(b) The Council's applicable Town Planning Scheme with specific reference to parking, floor area ratio, height, coverage and zoning, number of rooms, if prescribed by a Town Planning Scheme applicable to the area where the property is located and with Council's Outdoor Advertising By-Laws with reference to signage;

(c) The Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No 54 of 1972) and the Regulations governing general hygiene requirements for food premises and the transport of food, formulated under the Health Act, 1977 (Act No 63 of 1977), where a Certificate of Acceptability must be obtained from the Sisonke District Municipality's Senior Health Inspector;

(d) The Broadcasting Act, 1999 (Act No 4 of 1999) if the lettable room is supplied with a television set;

(e) The South African Music Rights Organization (SAMPRO) where a license is required if background music is to be played to the Guests;

(f) The Liquor Act 59/2003 (Act No 59 of 2003) if liquor, including complimentary drinks, are served to Guests;

(g) The Tobacco Products Control Amendment Act, 1999 (Act No 12 of 1999) where it is a requirement that signs are displayed in areas designated for smoking and no-smoking signs are displayed elsewhere;

(2) These premises shall provide:

- (a) Access to the bedrooms and bathrooms at all times for Registered Guests, including Guests with disabilities;
- (b) A serviceable lock and key (for privacy) to each lettable room;
- (c) An area where breakfast can be served, adequate for the use of, and easily accessible to any Guest on the premises;
- (d) A bathroom and toilet for each lettable room suitably placed in a separate compartment which is close to the lettable room and is easily accessible to the Guest and separate to that of the Owner of the facility;

(3) The operation of the facility shall not detract from the residential character and amenities of the property or the immediate surroundings;

(4) The facility shall be of such a nature that the predominant land use is retained and if in a residential area, the residential character of the house is retained;

(5) The facility shall not include a place of public assembly or a place of public amusement.

#### **4. Special consent and business license required**

(1) A person who wants to operate a Bed and Breakfast or Guest House facility shall apply to the Council in writing on the prescribed format for Council's Special Consent;

(2) When the Council receives an application for such Special Consent and, before deciding whether or not to approve the application, the Council:

- (a) May request the Applicant to provide any further information which the Council considers relevant to enable it to make an informed decision;
- (b) Shall take into consideration:
  - (i) The scale of the proposed establishment in relation to the character of the area;
  - (ii) Whether the premises are suitable for the proposed use;
  - (iii) Whether there is sufficient on-site parking facilities for motor vehicles;
  - (iv) The mixed nature (residential and commercial use) of the premises and accordingly apply special rating system; and
  - (v) Any other matter which would, in its opinion, interfere with the amenities and character of the neighborhood; and
- (b) Shall ensure that the relevant premises are inspected by authorized Officials as soon as is reasonably possible.

(3) Subject to subsection (2), the Council may:

- (a) Approve the application for Special Consent subject to such terms and conditions that are reasonably aimed at eliminating or reducing the risk, if any, which is likely to be caused by the relevant activity; or
- (b) Refuse the application for Special Consent.

(4) The Applicant shall also apply for and obtain a Business License from the Licensing Authority for the area in which the facility is located.

#### **5. Suspension, Cancellation and Amendment of Special Consent**

(1) The Council may by written notice to the Owner of the property on which a Special Consent was granted, suspend or cancel the Special Consent:

- (a) With immediate effect, if the authorized Official reasonably believes that it is urgently necessary to do so to eliminate or reduce a significant risk to public health posed by a nuisance; or
  - (b) After the expiry of the period stipulated in a notice affording the Owner a reasonable opportunity to comply with the notice and the Owner having failed to comply with the notice.
- (2) The Council may add to the conditions of the Special Consent by written notice to the Owner of the property, if the authorized Official reasonably believes that it is necessary to do so to protect public health or to take account of changed circumstances since the Special Consent was issued.

#### **6. Duties of the Operator of Bed & Breakfast or Guest House Facility**

(1) A person who operates a Bed and Breakfast or Guest House facility shall:

- (a) Be resident on the property or within the Greater Kokstad Municipality;
- (b) Abide by all relevant health, fire, business, labour, town planning, media laws and any applicable regulations;
- (c) Ensure that the application for Council's Special Consent to operate a Bed & Breakfast or Guest House facility is accompanied by the letters of consent from the registered Owners of the adjoining properties;
- (d) Keep all sanitary ablutions and water supply fittings in good working order;
- (d) Keep the premises and all furniture, fittings, appliances, equipment, containers, curtains, covers, hangings and other soft furnishings, tables linen, bed linen and cloths of whatever nature used in connection with the facility, in a clean, hygienic and good condition at all times;
- (e) Furnish fresh linen and unused soap for each letting and take adequate measures to eradicate pests, rodents, etc. on the premises.



## CHAPTER 3

### GENERAL PROVISIONS

#### 7. Appeals

(1) Any person whose rights are affected by a decision of the Council or any authorised Official under these By Laws may:

- (a) In terms of section 62 of the Local Government Municipal Systems Act 2000 (Act No. 32 of 2000) appeal against the decision by *giving* written notice of the appeal and the reasons for the appeal to the municipal manager within 21 days of the date of the issue of the notification of the decision.
- (3) The Municipal Manager shall refer the appeal to the appropriate appeal authority in terms of the Local Government Municipal Systems Act 2000 (Act No.32 of 2000).
- (4) The appeal authority shall commence with the appeal within 6 (six) weeks and decide the appeal within a reasonable period.

Or

- (5) In terms of section 67 (1) of the Town Planning Ordinance (Ordinance No. 27 of 1949), appeal against the decision within 28 (twenty eight) days of the date of posting or delivery of the notice to him/her. The applicant must also then within 21 (twenty one) days of notifying the municipality of his/her intention to appeal submit to the municipality a memorandum setting out the grounds for such appeal.

#### 8. Offences and penalties

(1) Any person who:

- (a) Contravenes or fails to comply with a provision of these By Laws or a direction issued by the Council in terms of these By-Laws, or a condition imposed under these By Laws;
  - (b) Obstructs or hinders any person in the execution of any power or the performance of any duty or function in terms of any provision of these By Laws; or
  - (c) Furnishes false, incorrect or misleading information when applying for a permission from the Council in terms of a provision of these By Laws, shall be guilty of an offence and shall upon conviction by a court be liable to a fine not exceeding R60 000, or imprisonment for a period not exceeding three years or both a fine and imprisonment.
- (2) Any expense incurred by the Council as a result of a contravention of this by-law or in the doing of anything which a person was directed to do under this by-law and which he or she failed to do, may be recovered by the Council from the person who committed the contravention or failed to do such thing.

#### 9. Regulations

The Municipality may make regulations not inconsistent with this by-law, prescribing:

- (a) any matter that may or must be prescribed in terms of this by-law; and
- (b) any matter that may facilitate the application of this by-law.

**10. Repeal of laws**

Any by-law(s) relating to Bed & Breakfast and Guest Houses adopted by the Council or any erstwhile Council now comprising an administrative unit of the municipality, shall be repealed from the date of promulgation of this by-law.

**11. Waiver or suspension of this By-law**

This By-law may be partly or wholly waived or suspended by the Council on temporary basis.

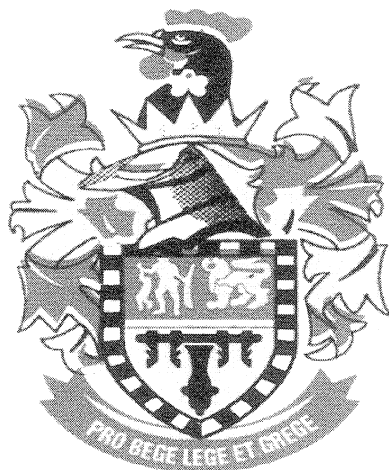
**12. Compliance and enforcement**

Violation of or non-compliance with this By-law shall give just cause for the instituting of prosecution against the Offender.

**13. Short title**

This by-law shall be called the By-law on Bed & Breakfast and Guest Houses, 2012, and shall take effect on a date determined by the municipality by proclamation in the Provincial Gazette.

**GREATER KOKSTAD MUNICIPALITY**



**BY-LAW ON POWERS, PRIVILEGES AND IMMUNITIES OF THE MUNICIPAL COUNCIL**

BY-LAW ON POWERS, PRIVILEGES AND IMMUNITIES OF THE MUNICIPAL COUNCIL

## POWERS, PRIVILEGES AND IMMUNITIES OF THE MUNICIPAL COUNCIL

### TABLE OF CONTENTS

| CONTENTS  | PAGE |
|---|------|
| (a) Definitions .....   | 4    |
| (b) Legal Framework and Requirements.....   | 4    |
| <b>1. PRECINCTS OF THE MUNICIPAL COUNCIL</b>  |      |
| 1.1 Description of Precincts of the Municipal Council .....   | 5    |
| 1.2 Control over Precincts of the Municipal Council.....  | 5    |
| 1.3 Presence of Security Services in Precincts of the Municipal Council.....                            | 5    |
| 1.4 Execution of Process and Arrests within the precincts of the Municipal<br>Council.....              | 5    |
| <b>2. PRIVILEGES, IMMUNITIES, INDEPENDENCE, AND PROTECTION OF MEMBERS AND THE<br/>MUNICIPAL COUNCIL</b> |      |
| 2.1 Freedom of speech in sittings.....  | 6    |
| 2.2 Prohibited acts in respect of the Municipal Council and Members .....                               | 6    |
| 2.3 Improper influence of Members.....  | 6-7  |
| 2.4 Attendance of Members before the courts.....  | 7    |
| 2.5 Giving evidence of proceedings.....   | 7    |
| 2.6 Persons creating disturbance.....   | 7    |
| <b>3. DISCIPLINARY ACTION AGAINST MEMBERS FOR CONTEMPT OF THE MUNICIPAL COUNCIL</b>                     |      |
| 3.1 Disciplinary action against Members for Contempt of the Council.....                                | 7-8  |
| 3.2 Conduct constituting contempt .....   | 8    |
| <b>4. PUBLICATIONS AND BROADCASTING</b>   |      |
| 4.1 Protection in respect of publications.....  | 8    |
| 4.2 Unauthorized publishing .....   | 9    |
| 4.3 Admissibility of journals as evidence.....  | 9    |
| 4.4 Broadcasting of proceedings .....   | 9    |

**5. GENERAL**

|   |    |
|---|----|
| 5.1 Liability for acts done under authority of the Council..... | 9  |
| 5.2 Civil Proceedings against the Council.....                  | 9  |
| 5.3 Duty of criminal courts in respect of the Members.....      | 10 |
| 5.4 Protection of Members of Public .....                       | 10 |
| 5.5 Hindering or obstructing Staff Members.....                 | 10 |
| 5.6 Offences.....   | 10 |

**6. WAIVER OR SUSPENSION OF THIS BY-LAW.....10****7. COMPLIANCE AND ENFORCEMENT.....10****8. AMENDMENT OR ABOLITION OF THIS BY-LAW.....10****9. SHORT TITLE AND COMMENCEMENT.....11**

## A. DEFINITIONS

In this context:

- (i) The term “**Chairperson**” shall refer to office-bearer acting as Chairperson of one of the Council committee;
- (ii) The term “**Committee**” shall refer to a committee or a sub-committee with terms of reference in terms of Council resolution or any enabling prescript;
- (iii) The term “**Council**” refer to the Greater Kokstad Municipal Council as constituted by Councilors;
- (iv) The term “**Disturbance**” shall refer to any act which interferes with or disrupts or which is likely to interfere with or disrupt the proceedings of Council or its committee;
- (v) The term “**Executive Committee/ Exco**” shall refer to a meeting convened by the office of the Honorable Mayor which extends to Executive Managers or section 57 (Act 32/2000) Employees
- (vi) The term “**Full Council**” shall refer to a meeting convened by both the members of executive committee and ordinary members of Council;
- (vii) The term “**Member(s)**” shall refer to a Councilor(s);
- (viii) The term “**Person**” shall refer to any natural or *juristic person*;
- (ix) The term “**Secretariat**” shall refer to staff member(s) rendering secretarial services to the Council;
- (x) The term “**Speaker**” shall refer to the of the Council; and
- (xi) The term “**Staff member or Official**” shall refer to any person employed by Council.

## B. LEGAL FRAMEWORK AND STATUTORY REQUIREMENTS

- (i) This By-law is premised from the relevant provisions of the Constitution of the Republic of South Africa (108 of 1996) as amended;
- (ii) It also derives its legitimacy from the Municipal Structures Act (117 of 1998) in particular section 28 (Privileges and Immunities);
- (iii) It further derives its legitimacy from the Municipal Systems Act (32 of 2000) in particular section 4(1)(b) (Rights and Duties of Municipal Councils);
- (iv) This By-law will be implemented in terms of the objects of other relevant sister policies within the Municipality.
- (v) This By-law is implemented in furtherance of the spirit of Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act, 2004.

## **1. PRECINCTS OF THE MUNICIPAL COUNCIL**

### **1.1 Description of Precincts of the Municipal Council**

- 1.1.1 The precincts of the Council is the area of land and every building or part of a building under Council's control, including:
  - 1.1.1.1 the chambers in which the proceedings of the Council are conducted and the galleries and lobbies of the chambers;
  - 1.1.1.2 every part of the building in which the chambers are situated, and every forecourt, yard, garden, enclosure or open space appurtenant thereto;
  - 1.1.1.3 the Councilors' Boardroom, Committee Rooms and other meeting places provided or used primarily for Council's purposes; and
  - 1.1.1.4 Every other building or part thereof provided or used in connection with the proceedings of the Council, while so used.

### **1.2 Control over Precincts of the Municipal Council**

- 1.2.1 The Speaker, subject to this By-law, the Rules of Order and Resolutions of this Council, exercises control and authority over the precincts on behalf of the Council.
- 1.2.2 The precincts shall be primarily and solely used for the purposes of the Council.

### **1.3 Presence of Security Services in Precincts of the Municipal Council**

- 1.3.1 Members of the Security Services shall:
  - 1.3.1.1 enter upon, or remain in the precincts for the purpose of performing any policing function; or
  - 1.3.1.2 perform any policing function in the precincts, only with the permission and under the authority of the Speaker.
- 1.3.2 when there is imminent danger to the life or safety of any person or damage to property, members of the security services may, without obtaining such permission enter upon and take action in the precincts in so far as it is necessary to avert that danger.
- 1.3.3 any such action must soon be reported to the Speaker.

### **1.4 Execution of Process and Arrests of Persons within Precincts of the Municipal Council**

- 1.4.1 A person shall not within the precincts:
- 1.4.2 execute, serve and or tender for service any summons, subpoena or other processes issued by court; or except as authorised by sections 1.3 or 8 arrest another person, without the express permission of, or in accordance with the directives of the Speaker or a person authorised by the Speaker.

## **2. PRIVILEGES, IMMUNITIES, INDEPENDENCE, AND PROTECTION OF THE MEMBERS AND THE MUNICIPAL COUNCIL**

### **2.1 Freedom of speech in the Council sittings**

2.1.1 the Speaker and Members have privileges and immunities in a sitting of the Executive Committee and Full Council and are not liable to civil and criminal proceedings, arrest, imprisonment or damages for:

2.1.1.1 anything they have said in, produced before or submitted to the respective sitting or any of their committees; or

2.1.1.2 anything revealed as a result of anything that they have said in, produced before or submitted to the Council or any of its committees.

### **2.2 Prohibited acts in respect of Municipal Council and Members**

2.2.1 A person shall not:

2.2.2 improperly interfere with or impede the exercise or performance by the Council or a committee of its authority or functions;

2.2.3 improperly interfere with the performance by a member of his or her functions as a member;

2.2.4 threaten or obstruct a member proceeding to or going from a meeting of the Council or committee;

2.2.5 assault or threaten a member or deprive a member any benefit, on account of the member's conduct in the Council or its committee;

2.2.6 while the Council or its committee is meeting, create or take part in any disturbance within the precincts; or

2.2.7 fail or refuse to comply with an instruction by a duly authorised staff member regarding:

2.2.7.1 the presence of persons at a particular meeting in the precincts; or

2.2.7.2 the possession of any article, including firearm, in the precincts or any part thereof.

### **2.3 Improper influence of Members**

2.3.1 A person shall not by fraud, intimidation, force, insult or threat of any kind or by the offer or promise of any inducement or benefit of any kind or by any other improper means:

2.3.2 influence a member in the performance of a member's function as a member;

2.3.3 induce a member to be absent from the Council or its committee; or

2.3.4 attempt to compel a member to declare himself or herself in favour of or against anything pending before or proposed or expected to be submitted to the Council or its committee.



2.3.4.1 A member shall not ask for, receive or accept any fee, compensation, gift, reward, favour or benefit, for the member or another person, for or in respect of:

2.3.4.2 voting in a particular manner, or not voting, on any matter before the Council or its committee;

2.3.4.3 promoting or opposing anything pending before or proposed or expected to be submitted to the Council or its committee; or

2.3.4.4 making a representation to the Council or its committee.

## **2.4 Attendance of Members before Courts of Law**

2.4.1 When a member is required to attend a court as a witness in any criminal or civil proceedings, or as a defendant in any civil proceedings, the Speaker or any person designated by the Speaker may issue a certificate stating that the member is required to attend to business in the Council.

2.4.2 Such a certificate is sufficient proof that a member is in attendance in the Council, and as such, the member shall be absolved from attending the court pending completion of that business.

## **2.5 Giving evidence of proceedings**

2.5.1 No member or staff member shall give evidence in any court or place outside the Council regarding the contents of the journals or the evidence given before, or any document submitted to, the Council or its committee, without first having obtained the leave of the Council.

2.5.2 During a recess or adjournment of the Council the Speaker or a person designated by the Speaker may give such leave.

## **2.6 Persons creating disturbance**

A person who creates or take part in any disturbance in the precincts while the Council or its committee is meeting, may be arrested and removed from the precincts, on the order of the Speaker or a person designated by the Speaker, by a staff member or a member of the security services.

# **3. DISCIPLINARY ACTION AGAINST MEMBERS FOR CONTEMPT OF THE MUNICIPAL COUNCIL**

## **3.1 Disciplinary action against Members for Contempt of the Council**

3.1.1 Subject to this By-law, the Council has all the powers necessary for enquiring into and pronouncing upon any act or matter declared by or under section 10.1 to be contempt of Council by a member, and taking the disciplinary action provided therefore.

3.1.2 The Council shall appoint a standing committee to deal with enquiries referred to in section 9.1.1.

3.1.3 Before the Council may take a disciplinary action against a member in terms of section 9.1.1, the standing committee shall:

3.1.3.1 enquire into the matter in accordance with a procedure that is reasonable and procedurally fair; and

3.1.3.2 table a report on its findings and recommendations to the Council.

3.1.4 The fact that the standing committee is enquiring into a matter or that the Council has taken disciplinary action against a member does not preclude criminal investigation against the member or in connection with the matter concerned.

3.1.5 When the Council finds a member guilty of contempt, the Council may, in addition to any other penalty to which the member may be liable under this By-law or any other law, impose anyone or more of the following penalties:

3.1.5.1 a formal warning;

3.1.5.2 a reprimand;

3.1.5.3 an order to apologise to the Council or any person, in a manner determined by the Council;

3.1.5.4 the withholding, for a specified period, of the member's right to the use or enjoyment of any specified facility provided to members by the Council;

3.1.5.5 the removal, or the suspension for a specified period, of the member from any Council position occupied by the member.

3.1.5.6 Except as provided in the Constitution, the Council does not have the power to terminate a member's membership of the Council.

3.1.5.7 This section does not affect the power of a person present at a meeting of the Council or its committee, to maintain order and discipline in the meeting.

#### **4. Conduct constituting contempt**

##### **4.1 A member is guilty of contempt of the Council if the member:**

4.1.1 contravenes sections 4, 5, 12, 14.1 or 19;

4.1.2 willfully fails or refuses to obey any rule, order or resolution of the Council; or

4.1.3 commits an act which in terms of the Rules of Order constitutes:

4.1.3.1 contempt of the Council; or

4.1.3.2 a breach or abuse of the Council privilege.

#### **5. PUBLICATIONS AND BROADCASTING**

##### **5.1 Protection in respect of publications**

5.1.1 No person shall be liable to civil or criminal proceedings in respect of the publication of any report, paper or minutes of Council or its committee by order or under the authority of the Council or committee concerned.

- 5.1.2 No member or staff member shall be liable to civil or criminal proceedings in respect of the publication to a member of a document that has been submitted to or is before the Council or its committee.

## **6. Unauthorized publishing**

### **6.1 No person shall willfully publish:**

6.1.1 any document if the publication of that document is prohibited by or in terms of the standing rules, an order or a resolution of the Council;

6.1.2 any document purporting that it has been published under the authority of the Council, its committee or the Speaker, while it has not been published under such authority; or

6.1.3 any document purporting that it is a verbatim account of proceedings of the Council or its committee, while it is not such an account.

## **7. Admissibility of journals as evidence**

In any proceedings before a court or any other tribunal in which the proceedings of the Council are relevant, a copy of the journals printed or purporting to have been printed by order of the Council or Speaker, is admissible as evidence of journals without any proof being given that the copy was so printed.

## **8. Broadcasting of proceedings**

8.1 No person shall broadcast or televise or otherwise transmit by any electronic means the proceedings of the Council, its committee, or any part thereof, except by order or under the authority of the Council, and in accordance with the conditions, if any, determined by the Speaker in terms of the Rules of Order.

8.2 No person shall be liable to civil or criminal proceedings in respect of the broadcasting, televising or electronic transmission of proceedings of the Council or its committee if it has been authorised under section 14.1 and complies with the conditions, if any, determined under that paragraph.

## **9. GENERAL**

### **9.1 Liability for acts done under authority of the Council**

No person shall be liable in damages or otherwise for any act done in good faith in terms of this By-law, or under the authority of the Council and within the legal powers of the Council or its committee, or under any order or summons issued by virtue of those powers.

## **10. Civil proceedings against Council**

10.1 In any civil proceedings against the Council or committee, the State Liability Act (No. 20 of 1957), applies *mutatis mutandis*.

10.2 For the purposes of section 16.1, where appropriate, a reference in the State Liability Act to the Minister of a department shall, where the proceedings are against:

16.2.1 the Council, be construed as a reference to the Speaker;

16.2.2 a Committee, be construed as a reference to the Chairperson of the Committee.

**11. Duty of criminal courts in respect of Members**

11.1 When a member of the Council has been convicted of an offence and sentenced to more than twelve (12) months' imprisonment without the option of a fine:

1.1.1 the Registrar or Clerk of the court sentencing that member must in writing inform the Speaker of the nature of the offence and the sentence imposed; and

1.1.2 if an appeal is noted against conviction or sentence, the Registrar or Clerk of the court hearing the appeal must in writing inform the Speaker of the noting of the appeal and of the outcome thereof.

**12. Protection of Members of Public**

12.1 A person, other than a member, who feels aggrieved by a statement or remark made by a member or a witness in or before the Council or its committee about that person, may submit a written request to the Speaker's Office to have a response recorded.

12.2 The Committee referred to in section 9.1.2 shall, subject to the Rules of Order, consider the request and, if approved, publish the response of the person on the notice board.

**13. Hindering or obstructing Staff Members**

A person shall not hinder or obstruct a staff member in the execution of the staff member's duties or while the staff member is proceeding to or going from the Council precinct in the course of or in connection with his or her duties.

**14. Offences**

14.1 A person, including a Member, who contravenes section 4 or 5.1 commits an offence and is liable to a fine or to imprisonment for a period not exceeding three (3) years or to both the fine and the imprisonment.

14.2 A person including a Member who contravenes section 12.1, 14.1 or 19 commits an offence and is liable to a fine or to imprisonment for a period not exceeding twelve (12) months or to both the fine and imprisonment.

14.3 A Member who contravenes section 5.2 commits an offence and is liable to a fine or to imprisonment for a period not exceeding fifteen (15) years or to both the fine and the imprisonment.

**15. WAIVER OR SUSPENSION OF THIS BY-LAW**

This By-law may be partly or wholly waived or suspended by the Council on temporary basis.

**16. COMPLIANCE AND ENFORCEMENT**

Violation of or non-compliance with this By-law will give just cause for disciplinary action to be effected.

**17. AMENDMENT OR ABOLITION OF THIS BY-LAW**

This By-law may be amended by the Council on consultation with relevant stakeholders.

**18. SHORT TITLE AND COMMENCEMENT**

This By-law shall be called Powers, Privileges and Immunities of Municipal the Council and shall come into full force and effect on the date of adoption by the Council.





