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THEEWATERSKLOOF MUNICIPALITY

CONTROL OF FIREWORKS BY-LAW

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996 the Municipal Council of the Theewaterskloof Municipality, hereby enacts as follows:

PREAMBLE

The Municipality has a responsibility to ensure a safe and healthy work and living environment for the residents of the Theewaterskloof Municipality, and the purpose of this by-law is to control the discharge of fireworks for the protection of people and property, and to reduce the impact of fireworks on the well-being of animals and pets.

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1. INTERPRETATION

In this by-law, the English text prevails in the event of any conflict with the Afrikaans text, and unless the context indicates otherwise –

“approval”, means an approval given by the Theewaterskloof Municipality, or an authorized official on behalf of the Theewaterskloof Municipality, to discharge fireworks, and **“approve”** has a similar meaning;

“authorized official”, means a police officer as contemplated in terms of the South African Police Services Act, 1995 (Act No 69 van 1995), as amended, or any peace officer authorized in terms of section 334 of the Criminal Procedures Act, 1977 (Act No 51 of 1977), as amended, or any employee of the Theewaterskloof Municipality, who is authorized by the Theewaterskloof Municipality to enforce the provisions of this by-law;

“**chief inspector**”, means the Chief Inspector of Explosives, as appointed by the responsible minister, in terms of section 4(1) of the Explosives Act, 2003 (Act No 15 of 2003), as amended;

“**designated place**”, means a place specifically designated in terms of section 4 of this by-law as a suitable place, where fireworks may be discharged;

“**fireworks**”, means any fireworks as contemplated in the definition of explosives, as included in the Explosives Act, 2003 (Act No 15 of 2003), as amended, which are –

- (a) manufactured for purpose of amusement and entertainment; and
- (b) divided in categories, as may be described, and shall include any article or item or similar product, which is generally considered to be fireworks;

“**Municipality**”, means the Theewaterskloof Municipality, and includes reference to any duly delegated and / or appointed officials and / or service providers in terms of service level agreements of the Theewaterskloof Municipality;

“**newspaper**”, means any newspaper registered as newspaper, and
“**newspapers**” has a similar meaning;

“**public place**”, means any premises or property or land, under the control of the Theewaterskloof Municipality, to which the public have access, and includes, but are not restricted to: any square; building; park; recreational area; sports grounds; open space; nature reserve; municipal street, alley or road reserve; public road; parking area, municipal commonage; unused, used, build-up or vacant municipal land; or a cemetery;

“**public road**”, means any public road as referred to in section 1 of the National Road Traffic Act, 1996 (Act No 93 of 1996), as amended, and includes any municipal road, alley or road reserve;

“**peace officer**”, means a peace officer as contemplated in section 1 of the Criminal Procedures Act, 1977 (Act No 51 of 1977), as amended, and the persons authorized by the Theewaterskloof Municipality to enforce the provisions of this by-law;

“**suitable premises**”, means a premises which comply to pre-determined safety and environmental requirements, for the discharge of fireworks and the presentation of firework displays

2. APPLICATION

- (1) Reference to any legislation in this by-law, shall be considered for purpose of this by-law, to be reference to the legislation as applicable on the date of promulgation of this by-law, or as amended from time to time.

- (2) When any stipulation of this by-law, is in conflict with any other by-law of the Municipality, which contain stipulations on the control of fireworks, the stipulations of this by-law shall prevail.

3. DESIGNATION OF PLACES AND CONDITIONS FOR THE DISCHARGE OF FIREWORKS

- (1) The Municipality may designate any public place or public road, or portions thereof, within the area of jurisdiction of the Municipality, as a suitable place which comply with pre-determined safety and environmental requirements, to discharge fireworks from.
- (2) The Municipality may, on application from any property owner, private person or institution, and with the consent from the owner or legal occupant of any suitable premises or public place, designate such premises as a suitable place which comply to pre-determined safety and environmental requirements, to discharge fireworks from.
- (3) The places designate in terms of subsections 3(1) and 3(2) of this by-law, or any amendment thereto, shall be made public by the Municipality, by means of a notice published in a registered newspaper and a notice posted on the official notice board of the Municipality, indicating the designated places where fireworks may be discharged from.
- (4) The Municipality may dictate conditions in terms of the dates, times and hours, when fireworks may be discharged in a designated area, or any other conditions stipulating the methods that may be used to discharge fireworks or the type of fireworks that shall be allowed.

4. DISCHARGING OF FIREWORKS

- (1) No person shall discharge any fireworks in any other place, but a place designated for the discharge of fireworks by the Municipality, in terms of subsections 3(1) and 3(2) of this by-law.
- (2) No person shall be allowed to present a public fireworks display on any premises, without a written authorization from the Chief Inspector of Explosives and the Municipality.
- (3) The discharge of emergency flares as part of a fireworks display shall be prohibited, and emergency flares may only be discharged in emergency situations, as part of an accepted emergency protocol.
- (4) No person shall be allowed to release any "Chinese lanterns" in the area of jurisdiction of the Municipality.

5. SEIZURE OF FIREWORKS

Any fireworks which are used or discharged without authorization, or which are found in the possession of persons in violation of section 4 of this by-law, may be seized and be disposed of in terms of the stipulations with regard to the seizure and disposal of goods of the Criminal Procedures Act, 1977 (Act No 51 of 1977), as amended.

6. APPEALS

A person whose rights are affected by a decision of the Municipality in terms of any delegated powers, may appeal against such a decision in terms of section 62 of the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000), as amended, by giving written notice of the appeal against the decision and the reasons for the appeal to the Municipal Manager, within twenty-one (21) days of the date of the notification of the decision.

7. OFFENCES AND PENALTIES

Any person who -

- (a) fails to comply to the instructions of an authorized official issued in terms of this by-law or a notice posted on a notice board;
- (b) fails to comply with any notice served in terms of this by-law;
- (c) contravenes any provision of this by-law; or
- (d) deliberately obstructs an authorized official in the execution of his or her duties in terms of this by-law,

is guilty of an offence and is liable on conviction, for -

- (i) a fine or imprisonment, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment;
- (ii) in the case of a successive or continuing offence, to an additional fine or additional period of imprisonment, or such additional imprisonment without the option of a fine, or to both such additional fine and such additional imprisonment, for every day such offence continues; and
- (iii) any further amount as an order of court for costs, equal to any costs and expenses, deemed by the Court, to have been incurred by the Municipality as a result of such contraventions.

8. SERVING OF NOTICES AND OTHER DOCUMENTS

- (1) A notice, instruction, letter of demand, or other document issued by the Municipality in terms of this by-law is deemed to be duly issued when a duly delegated official of the Municipality has signed it.
- (2) Any notice, instruction, letter of demand, or other document that is served on a person in terms of this by-law, is regarded as having been duly and effectively served –
 - (a) when it has been delivered to that person personally;
 - (b) when it has been left at that person's place of residence or business in the Republic of South Africa, with a person apparently older than sixteen years;
 - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic of South Africa, and proof of the posting thereof is provided;
 - (d) if that person's address in the Republic of South Africa is unknown, when it has been served on that person's agent or representative in the Republic of South Africa, in a manner as provided in subsections 8(2)(a), 8(2)(b) or 8(2)(c) of this by-law;
 - (e) if that person's address and agent or representative in the Republic of South Africa is unknown, when it has been posted in a conspicuous place on the property or premises to which it relates; or
 - (f) in the event of a body corporate, when it has been delivered at the Registered office or the business premises of the body corporate.
- (3) When any notice, instruction, letter of demand, or other document is served on a person in terms of this by-law, it is sufficient for purpose of the serving of the notice, instruction, letter of demand, or other document, to describe the person in the notice, instruction, letter of demand or other document, as the owner, occupant, or holder of the property or rights in question, and it is not a requirement to name that person.
- (4) A notice, instruction, letter of demand, or other document shall for purpose of authentication, be properly signed by the Municipality.

9. CONFLICT BETWEEN LEGISLATION

When any stipulation of this by-law, is in conflict with national and provincial legislation or regulations, the national and provincial legislation or regulations shall prevail.

10. REPEAL OF BY-LAWS

The provisions of any by-laws previously promulgated by the Municipality or by any of the disestablished municipalities now incorporated in the Municipality, are hereby repealed as far as they relate to matters provided for in this by-law.

11. SHORT TITLE

This by-law shall be called the Control of Fireworks By-law of the Theewaterskloof Municipality.

12. OPERATIVE DATE

This by-law shall take effect on the date of publication.

MUNISIPALITEIT VAN THEEWATERSKLOOF

VERORDENING INSAKE DIE BEHEER VAN VUURWERKE

Krakens artikel 156 van die Grondwet van die Republiek van Suid-Afrika, 1996 verorden die Munisipale Raad van die Munisipaliteit van Theewaterskloof hiermee as volg:

AANHEF

Die Munisipaliteit het 'n plig om 'n veilige en gesonde werk- en leefomgewing vir die inwoners van die Munisipaliteit van Theewaterskloof te skep, en hierdie verordening is bedoel om die afvuur van vuurwerke te beheer, met die oogmerk om mens en eiendom te beveilig en die impak daarvan op diere en troeteldiere te beperk.

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1. INTERPRETASIE

In hierdie verordening, geld die Engelse teks in die geval van enige teenstrydigheid met die Afrikaanse teks, en tensy dit uit die samehang anders blyk, beteken -

“aangewese gebied”, 'n plek as sodanig aangewys ingevolge artikel 4 van hierdie verordening as geskikte plek, vir die afvuur van vuurwerke;

“gemagtigde beampte”, 'n polisiebeamptes soos beoog in die Wet op die Suid-Afrikaanse Polisiediens, 1995 (Wet 68 van 1995), soos gewysig, of enige vredesbeampte gemagtig ingevolge artikel 334 van die Strafproseswet, 1977 (Wet No 51 van 1977), soos gewysig, of enige beampte van die Munisipaliteit van Theewaterskloof wat gemagtig is deur die Munisipaliteit van Theewaterskloof om die bepalinge van hierdie verordening af te dwing;

“geskikte perseel”, ‘n perseel wat aan die gestelde veiligheids en omgewingsvereistes voldoen, om gebruik te word vir die afvuur van vuurwerke en die hou van vuurwerkvertonings;

“goedkeuring”, ‘n goedkeuring verleen deur die Munisipaliteit van Theewaterskloof, met inbegrip van ‘n gemagtigde beampte van die Munisipaliteit van Theewaterskloof, vir die afvuur van vuurwerke, en **“goedkeur”** het ‘n ooreenstemmende betekenis;

“hoofinspekteur”, die Hoofinspekteur van Plofstowwe, aangestel deur die verantwoordelike Minister, ingevolge artikel 4(1) van die Wet op Plofstowwe, 2003 (Wet No 15 van 2003), soos gewysig;

“Munisipaliteit”, die Munisipaliteit van Theewaterskloof, wat insluit enige verwysing na behoorlike gemagtigde en / of aangestelde beamptes en / of diensverskaffers in terme van diensleweringooreenkomste van die Munisipaliteit van Theewaterskloof;

“nuusblad”, wat insluit **“nuusblaaië”**, enige koerant wat as nuusblad geregistreer is;

“openbare plek”, enige perseel of eiendom of grond waartoe die publiek toegang het, wat insluit, maar nie beperk is tot, enige plein; gebou; park; ontspanningsgebied; sportgronde; oop ruimte; reservaat; munisipale straat of steeg of straatreserwe; openbare pad; parkeerarea; munisipale meent; ongebruikte, gebruikte, beboude of onbeboude munisipale grond; of ‘n begraafplaas, waaroor die Munisipaliteit van Theewaterskloof jurisdiksie het;

“openbare pad”, wat insluit enige munisipale straat of steeg of padreserwe, enige openbare pad, soos bedoel in artikel 1 van die Nasionale Padverkeerswet, 1996 (Wet No 93 van 1996), soos gewysig;

“vredesbeampte”, ‘n vredesbeampte, soos omskryf in artikel 1 van die Strafproseswet, 1977 (Wet No 51 van 1977), soos gewysig, en die persone deur die Munisipaliteit van Theewaterskloof gemagtig om die bepalings van hierdie verordening toe te pas; en

“vuurwerke”, enige vuurwerke soos bedoel in die woordomskrywing van plofstowwe, soos vervat in die Wet op Plofstowwe, 2003 (Wet No 15 van 2003), soos gewysig, wat –
(a) vervaardig word met die oog op pret of vermaak; en
(b) verdeel word in sodanige klasse, as wat moontlik voorgeskryf mag word, en sal enige artikel of item insluit wat algemeen as ‘n vuurwerk of soortgelyke produk beskou en gebruik kan word.

2. TOEPASSING

- (1) Vir die doel van hierdie verordening, sal 'n verwysing na enige wetgewing geag word as 'n verwysing na die toepassing daarvan op die datum van afkondiging van hierdie verordening, en soos van tyd tot tyd gewysig.
- (2) Indien daar konflik tussen enige ander verordeninge van die Munisipaliteit, wat bepalings bevat wat vuurwerke reguleer, en hierdie verordening ontstaan, sal die bepalings van hierdie verordening geld.

3. AANWYS VAN PLEKKE EN VOORWAARDES VIR DIE AFVUUR VAN VUURWERKE

- (1) Die Munisipaliteit kan enige openbare plek of openbare pad of enige gedeeltes daarvan, binne die gebied van jurisdiksie van die Munisipaliteit, aanwys as 'n geskikte perseel wat aan die gestelde veiligheids en omgewingsvereistes voldoen, waar vuurwerke afgevuur mag word.
- (1) Die Munisipaliteit kan, op aansoek van enige grondeienaar, privaat persoon of instansie, en met instemming van die eienaar of wettige bewoner van enige geskikte private perseel of oop ruimte soos, sodanige perseel aanwys as 'n geskikte plek wat aan die gestelde veiligheids en omgewingsvereistes voldoen, waar vuurwerke afgevuur mag word.
- (2) Die lys plekke aangewys ingevolge subartikels 3(1) en 3(2), van hierdie verordening of enige wysiging daaraan, moet deur die Munisipaliteit bekend gemaak word, deur dit te publiseer in 'n geregistreerde nuusblad en te vertoon op die amptelike kennisgewingbord van die Munisipaliteit.
- (3) Die Munisipaliteit kan voorwaardes voorskryf ten opsigte van die datums, tye en ure waarop die afvuur van vuurwerke in enige aangewese gebied mag plaasvind, en kan ook verdere voorwaardes ten opsigte van die wyse van die afvuur of gebruik of tipe van vuurwerke voorskryf.

4. AFVUUR VAN VUURWERKE

- (1) Geen persoon mag enige vuurwerke afvuur buite 'n gebied, wat ingevolge subartikels 3(1) en 3(2) van hierdie verordening deur die Munisipaliteit aangewys is nie.
- (2) Geen persoon mag 'n openbare vuurwerkvertoning op enige perseel lewer sonder die skriftelike toestemming van die Hoofinspekteur van Plofstowwe en die Munisipaliteit nie.
- (3) Die afvuur van noodfakkels is slegs toelaatbaar in noodgevalle, waar die gebruik van sodanige noodfakkels 'n toelaatbare protokol is, en geen persoon mag noodfakkels afvuur as deel van 'n vuurwerke vertoning nie.

- (4) Geen persoon mag enige "Chinese lanterns" loslaat, in die gebied van jurisdiksie van die Munisipaliteit nie.

5. BESLAGLEGGING OP VUURWERKE

Beslag kan gelê word op enige vuurwerke, wat onwettige gebruik of afgevuur word, of wat in besit van persone gevind word met die oortreding van artikel 4 van hierdie verordening, en sodanige vuurwerke moet mee gehandel word ingevolge die toepaslike bepalings van die Strafproseswet, 1977 (Wet 51 No van 1977), soos gewysig, wat met beslaglegging en beskikking van goedere verband hou.

6. APPÈLLE

'n Persoon wie verontreg voel oor 'n besluit geneem deur die Munisipaliteit, ingevolge enige gedelegeerde magte, mag in terme van artikel 62 van die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet No 32 van 2000), soos gewysig, teen sodanige besluit appèlleer, deur binne een-en-twintig (21) dae vanaf datum van kennisgewing van die besluit, skriftelike kennis aan die Munisipale Bestuurder te gee van die appèl en redes vir die appèl te verstrek.

7. STRAFBEPALINGS

'n Persoon wat -

- (a) in gebreke bly om te voldoen aan 'n gemagtigde beampte se instruksies, uitgereik ingevolge hierdie verordening, of 'n kennisgewing aangebring op 'n kennisgewingbord;
- (b) in gebreke bly om te voldoen aan enige kennisgewing uitgereik ingevolge hierdie verordening;
- (c) enige bepaling van hierdie verordening oortree; of
- (d) opsetlik 'n gemagtigde beampte in die uitvoering van sy of haar pligte ingevolge hierdie verordening verhinder,

is skuldig aan 'n oortreding en mag by skuldigbevinding -

- (i) 'n boete of gevangenisstraf of gevangenisstraf sonder die keuse van 'n boete, of beide sodanige boete en sodanige gevangenisstraf opgelê word;
- (ii) in geval van 'n voortdurende oortreding, 'n bykomende boete of bykomende termyn gevangenisstraf of tot sodanige bykomende gevangenisstraf sonder die keuse van 'n boete, of tot beide sodanige boete en gevangenisstraf, vir elke dag wat sodanige oortreding voortduur, opgelê word; en

- (iii) 'n verdere bedrag as kostebevel opgelê word, gelykstaande aan enige koste en / of uitgawes wat die Hof bevind deur die Munisipaliteit aangegaan was, as gevolg van sodanige oortreding.

8. BEDIENING VAN KENNISGEWINGS EN ANDER DOKUMENTE

- (1) 'n Kennisgewing, bevel, aanskrywing, of ander dokument, wat ingevolge hierdie verordening deur die Munisipaliteit uitgereik word, word geag behoorlik uitgereik te wees, indien 'n beampte wat deur die Munisipaliteit gemagtig is, dit onderteken het.
- (2) Wanneer dit nodig is om enige gemagtigde kennisgewing, bevel, aanskrywing of ander dokument te bedien op 'n persoon ingevolge hierdie verordening, word dit geag effektief en na behore aan sodanige persoon beteken te wees –
 - (a) wanneer dit persoonlik aan die persoon afgelewer is;
 - (b) wanneer dit by die persoon se plek van inwoning of besigheid in die Republiek van Suid-Afrika gelaat is, by 'n persoon wat duidelik ouer as sestien jaar is;
 - (c) wanneer dit gepos is per geregistreerde of gesertifiseerde pos aan die persoon se laaste bekende woon- of besigheidsadres in die Republiek van Suid-Afrika, en 'n erkenning van die versending verskaf word;
 - (d) indien die persoon se adres in die Republiek van Suid-Afrika onbekend is, wanneer dit aan die persoon se agent of verteenwoordiger in die Republiek van Suid-Afrika bedien is op so 'n manier, soos in subartikels 8(1)(a), 8(1)(b) of 8(1)(c) van hierdie verordening bepaal;
 - (e) indien die persoon se adres en agent in die Republiek van Suid-Afrika onbekend is, wanneer dit opsigtelik vertoon word op die vaste eiendom of perseel, indien enige, waarop dit betrekking het; of
 - (f) in die geval van 'n bestuursliggaam, wanneer dit by die geregistreerde kantoor of die sakeperseel van sodanige bestuursliggaam afgelewer word.
- (3) Wanneer enige kennisgewing, bevel, aanskrywing of ander dokument aan 'n persoon ingevolge hierdie verordening bedien moet word, is dit nie nodig om dit by name te noem nie, maar sal dit voldoende wees as die persoon daarin beskryf word as die eienaar, bewoner of houer van sodanige vaste eiendom of ander reg, wat ook al die geval mag wees.
- (4) 'n Bevel, kennisgewing of ander dokument wat waarmerking vereis, moet behoorlik deur die Munisipaliteit onderteken wees.

9. TEENSTRYDIGHEDE MET ANDER WETGEWING

In die geval van teenstrydigheid tussen enige bepaling van hierdie verordening, en nasionale en provinsiale wetgewing of regulasies, sal sodanige nasionale en provinsiale wetgewing of regulasies voorrang geniet.

10. HERROEPING VAN VERORDENINGE

Die bepalinge van enige ander verordeninge voorheen uitgevaardig deur die Munisipaliteit of deur enige van die afgeskafte munisipaliteite wat nou by die Munisipaliteit geïnkorporeer is, word hiermee herroep in soverre dit betrekking het op aangeleenthede waarvoor in hierdie verordening voorsiening gemaak word.

11. KORT TITEL

Hierdie verordening heet die Verordening insake die Beheer van Vuurwerke van die Munisipaliteit van Theewaterskloof,

12. INWERKINGTREDING

Hierdie verordening tree op datum van publikasie daarvan in werking.

THEEWATERSKLOOF MUNICIPALITY COMMONAGE BY-LAW

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996, the Municipal Council of the Theewaterskloof Municipality hereby enacts as follows:

PREAMBLE

The objective of this by-law is to –

- (i) provide for arrangements for the use and management of the municipal commonage; and
- (ii) provide for the control of animals on the municipal commonage.

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1. INTERPRETATIONS

In this by-law, the English text prevail in the event of any conflict with the Afrikaans text, and unless the context indicates otherwise -

“agriculture”, means the cultivation of the soil for the production of crops;

“Animal Identification Act”, means the Animal Identification Act, 2002 (Act No 6 of 2002), as amended;

“brand”, means any mark registered in terms of section 5 (2) of the Animal Identification Act, 2002 (Act No 6 of 2002), as amended, which is marked or branded or implanted as a microchip on an animal, and includes as the circumstances may require any representation of such a mark intended for an animal, but does not include any -

(a) mark made or placed on the horn or hoof of an animal ;

(b) mark made with paint on an animal;

(c) any tag attached to the ear of an animal, or any mark made on such tag;
or

(d) notch or hole made on any body part of an animal;

“crops”, means the produce of cultivated plants;

“enclosure”, means a closed off area used for the protection of animals;

“equine”, means any horse, mule or donkey, or member of the horse family;

“large stock”, means cattle and equine, and includes any other species of animals which are for the purposes of the Animal Identification Act, 2002 (Act No 6 of 2002), as amended, declared or deemed to be large stock;

“Municipality”, means the Theewaterskloof Municipality, and includes reference to any duly delegated and / or appointed officials and / or service providers in terms of service level agreements of the Theewaterskloof Municipality;

“municipal commonage”, means land owned by, or under control of the Theewaterskloof Municipality, which has a zoning of undetermined use and which may be set aside by the Theewaterskloof Municipality for grazing or for such other purposes or use as may be deemed necessary by the Theewaterskloof Municipality;

“paddock”, means a closed off or fenced portion of land;

“small stock”, means pigs, sheep and goats, and includes any other species of animals which are for the purposes of the Animal Identification Act, (Act No 6 of 2002), as amended, declared or deemed to be small stock; and

“veterinary surgeon”, means a person who is qualified and registered in accordance with the provisions of the Veterinary and Para-Veterinary Professions Act, 1982 (Act No 19 of 1982), as amended, to practice as veterinary surgeon.

2. UTILIZATION OF THE MUNICIPAL COMMONAGE

- (1) The Municipality may use the municipal commonage subject to other statutory provisions and municipal by-laws for any purpose, and may fence off portions of the municipal commonage –
 - (a) as paddocks for the grazing of the livestock of the residents of the municipal area; or
 - (b) as garden plots for agricultural use by the residents of the municipal area.
- (2) The Municipality may reserve certain portions of the municipal commonage for the grazing of small and large stock, and other parts for the planting of crops or other purposes.
- (3) The Municipality may erect enclosures or similar structures for the protection of the animals of residents of the municipal area.

3. CLOSING OF PADDOCKS FOR GRAZING AND RESTRICTIONS ON THE USE OF AREAS OF THE MUNICIPAL COMMONAGE

- (1) The Municipality may, whenever it is considered to be necessary for the maintenance of an area of the municipal commonage or for purpose of soil conservation or allowing a meadow to regenerate grass growth or the regeneration of natural vegetation, close an area of the municipal commonage or a paddock or a section thereof for certain periods of the year and prohibit the use thereof or the grazing of animals thereon.
- (2) No person may allow an animal to graze in a paddock or a portion thereof or allow that any portion of the municipal commonage be cultivated or be used for any purpose, when the paddock or area concerned has been closed by the Municipality.
- (3) An animal found in a paddock or any other portion of the municipal commonage, which has been closed for grazing or other purposes in terms of subsection 3(1) of this by-law, may be impounded in terms of the provisions of the Impoundment of Animals By-law of the Theewaterskloof Municipality.

4. APPROVAL TO UTILIZE THE MUNICIPAL COMMONAGE

- (1) No person may allow any animal to graze in a paddock or any portion thereof, or cultivate or use any portion of the municipal commonage, without first having obtained written approval from the Municipality.
- (2) A person, who wishes to obtain approval to graze animals or cultivate or use any portion of the municipal commonage, shall submit an application on the prescribed application form to the Municipality.
- (3) The application to utilize the municipal commonage shall be considered by the Municipality for approval, subject to the following considerations -
 - (a) the number of animals already accommodated in an area or a specific paddock or the agricultural activities already allowed in an area;
 - (b) the number and kind of animals or crops, which are to be accommodated;
 - (c) the condition of the soil or pastures in the area concerned or specific paddock;
 - (d) the management recommendations of an approved grazing or commonage management plan, and
 - (e) any other consideration which the Municipality deems to be applicable.
- (4) The grazing rights or any other right of use granted to an applicant or any group of people shall be confined to that applicant or such group of people, and no person or group of people shall be entitled to transfer or cede such rights to another person or persons.

5. CONFINEMENT OF GRAZING, AGRICULTURAL AND OTHER ACTIVITIES TO ALLOCATED AREAS

A person granted grazing rights and any other right of use on the municipal commonage, shall confine his or her stock or agricultural or other activities, to the pastures or areas allocated by the Municipality to such a person for the specific use.

6. RENTAL FEES FOR THE USE OF THE MUNICIPAL COMMONAGE

The Municipality may determine fees and tariffs for the use of the municipal commonage for grazing, agricultural and other purposes, and any person making use of the municipal commonage for the grazing of animals, agriculture cultivation or any other purpose, are liable for the payment of such fees and tariffs to the Municipality.

7. THE NUMBER, HEALTH AND CONDITION OF ANIMALS

- (1) The Municipality may determine the number and kinds of animals that shall be accommodated and allowed in total or for a specific area, pasture or applicant, on the municipal commonage.
- (2) A person keeping an animal on the municipal commonage, shall ensure that the animal concerned always has access to sufficient potable water and food, and remain in good health.
- (3) A person keeping an animal on the municipal commonage, shall ensure that the animal concerned is restricted to the allocated pasture or area, and that the animal concerned do not wander onto a public road or public place.
- (4) The Municipality may require from a person keeping or applying to keep an animal on the municipal commonage, to provide to the Municipality a sworn affidavit with regard to the ownership, health, inoculation and condition of such an animal.
- (5) A person commits an offence, when he or she –
 - (a) keeps more than the predetermined number of animals on an allotted area or pasture, as contemplated in subsection 7(1) of this by-law;
 - (b) fails to ensure that an animal has access to sufficient potable water and food, or remain in good health, as contemplated in subsection 7(2) of this by-law;
 - (c) fails to submit an affidavit, as contemplated in subsection 7(4) of this by-law; or
 - (d) provides false information to the Municipality.

8. BRANDING OF LIVESTOCK

- (1) A person, who has been granted grazing rights for livestock on the municipal commonage, shall ensure that all his or her animals are branded in terms of section 7 of the Animal Identification Act.
- (2) No person may keep or allow any animal to graze on the municipal commonage, without such animal being branded.
- (3) Livestock found on the municipal commonage without the required branding, may be impounded by the Municipality in terms of the provisions of the Impoundment of Animals By-law of the Theewaterskloof Municipality.

9. INFECTED OR CONTAGIOUS ANIMALS

- (1) No person may graze any livestock on the municipal commonage, or allow or leave any livestock to graze on the municipal commonage, which are infected or suspected of being infected with any contagious or infectious disease.
- (2) Any livestock found on the municipal commonage, suspected of being infected with any contagious or infectious disease, shall be examined by a veterinary surgeon at the cost of the owner of such animals, and when it is found that such animals are infected by a contagious or infectious disease, the veterinary surgeon may order such livestock to be isolated or quarantined or destroyed.

10. ANIMAL CARCASSES OR REMAINS

The owner of an animal which has died on the municipal commonage, shall immediately ensure that the carcass or remains of such animal are disposed of at an appropriate place and in an appropriate way, in terms of statutory provisions, and when the owner fail to do so, the Municipality shall dispose of the carcass or remains on behalf of the owner, and shall recover the expenses thereof from the owner.

11. PROHIBITED CONDUCT

- (1) No person may without the prior written consent of the Municipality –
 - (a) erect any hut, shelter, kraal, building or structure of any kind on any portion of the municipal commonage;

- (b) occupy, reside, camp or squat on any portion of the municipal commonage, nor cause or encourage the habitation thereof;
- (c) accumulate or dispose of, or cause the accumulation or disposal of, any derelict motor vehicles, other vehicles or machinery or any unusable parts thereof, on any portion of the municipal commonage;
- (d) excavate, mine or remove soil, clay, sand, gravel, rocks or boulders from any part of the municipal commonage;
- (e) manufacture or burn bricks, or erect brick, lime or charcoal kilns on any part of the municipal commonage;
- (f) cut, harvest, damage, burn, destroy, gather or remove any plants, shrubs, wild flowers, trees, timber, firewood, brushwood, compost or any grass, from or on any portion of the municipal commonage;
- (g) interfere with or cause damage to any signage, fence, gate, drinking trough, water supply or other object or appliance, on any portion of the municipal commonage;
- (h) set fire to a pasture or veldt or any bush, tree, shrub or vegetation on any portion of the municipal commonage;
- (i) make use of any road over the municipal commonage, other than the roads proclaimed as public roads or the roads made specifically admissible from time to time by the Municipality for the public;
- (j) dispose of any poison or any hazardous substances or chemical substances on any portion of the municipal commonage;
- (k) kill or trap wild animals or birds of any kind, on any portion of the municipal commonage;
- (l) destroy the nests, or remove the eggs or progeny of any bird or water-fowl, on any portion of the municipal commonage;
- (m) fish in any dam, river or any watercourse, on any portion of the municipal commonage; or
- (n) encroach with a boundary onto any portion of the municipal commonage.

- (2) The Municipality may take any steps necessary to rectify any contravention of subsection 11(1) of this by-law, and may recover the costs incurred by the Municipality for the rectification of a transgression, from the person responsible for the contravention.

12. EXEMPTIONS

- (1) Any person may by means of a written application, accompanied by a complete motivation, apply to the Municipality for exemption from any provision of this by-law.
- (2) The Municipality may after consideration of an application and the motivation therefore –
 - (a) grant an exemption in writing, stipulate the conditions in terms of which the exemption is granted, and the period for which such exemption is valid;
 - (b) alter or cancel any exemption or condition of an exemption; or
 - (c) refuse to grant an exemption, and provide the reasons for the refusal to the applicant.
- (3) An exemption does not take effect before an applicant has undertaken in writing to comply with all conditions imposed by the Municipality for a specific exemption, and when an activity is commenced before such undertaking has been provided to the Municipality, an exemption shall immediately lapse.
- (4) When any condition of an exemption is not complied with, the exemption shall immediately lapse.

13. COMMUNITY LIASON FORUMS

- (1) The Municipality may establish one or more liaison forums in a community for the purposes of –
 - (a) creating opportunities for a local community to participate in the affairs of the Municipality;
 - (b) to advise the Municipality on matters, referred to the liaison forum for input by the Municipality; and

- (c) promoting the achievement of a properly controlled and administered municipal commonage.
- (2) A community liaison forum may consist of –
- (a) a member or members of an interest group, and / or affected persons or parties;
 - (b) a member or members of a community; and
 - (c) a designated official or officials of the Municipality, or organs of state.
- (3)(a) The Municipality may when considering an application for an approval or an exemption in terms of this by-law, request the input of a community liaison forum.
- (b) A liaison forum or any person or persons contemplated in subsection 13(2) of this by-law, may on their own initiative provide input to the Municipality for consideration.

14. AGREEMENTS AND THE DEVELOPMENT OF A MUNICIPAL COMMONAGE MANAGEMENT PLAN

- (1) The Municipality may, in consultation with a community liaison forum, enter into a written agreement with any party regarding the use of the municipal commonage or any part thereof, or may develop a municipal commonage management plan for the management and development of the municipal commonage.
- (2) The Municipality may cancel any agreement, when any of the conditions of an agreement are transgressed or any provisions of this by-law are not adhered to.

15. SERVING OF NOTICES AND OTHER DOCUMENTS

- (1) A notice, instruction, letter of demand, or other document issued by the Municipality in terms of this by-law, is deemed to be duly issued when a duly delegated official of the Municipality has signed it.
- (2) Any notice, instruction, letter of demand, or other document that is served on a person in terms of this by-law, is regarded as having been duly and effectively served –

- (a) when it has been delivered to that person personally;
 - (b) when it has been left at that person's place of residence or business in the Republic of South Africa, with a person apparently older than sixteen years;
 - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic of South Africa, and proof of the posting thereof is provided;
 - (d) if that person's address in the Republic of South Africa is unknown, when it has been served on that person's agent or representative in the Republic of South Africa, in a manner as provided in subsections 15(2)(a), 15(2)(b) or 15(2)(c) of this by-law;
 - (e) if that person's address and agent or representative in the Republic of South Africa is unknown, when it has been posted in a conspicuous place on the property or premises to which it relates; or
 - (f) in the event of a body corporate, when it has been delivered at the registered office or the business premises of the body corporate.
- (3) When any notice, instruction, letter of demand, or other document is served on a person in terms of this by-law, it is sufficient for purpose of the serving of the notice, instruction, letter of demand, or other document, to describe the person in the notice, instruction, letter of demand or other document, as the owner, occupant, or holder of the property or rights in question, and it is not a requirement to name that person.
- (4) A notice, instruction, letter of demand, or other document shall for purpose of authentication, be properly signed by the Municipality.

16. APPEALS

A person whose rights are affected by a decision of the Municipality in terms of any delegated powers, may appeal against such a decision in terms of section 62 of the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000), as amended, by giving written notice of the appeal against the decision and the reasons for the appeal to the Municipal Manager, within twenty one (21) days of the date of the notification of the decision.

17. OFFENCES AND PENALTIES

Any person who contravenes or fails to comply with the provisions of this by-law, or fails to comply with a notice served in terms of this by-law, or fails to comply to an instruction of an authorized official or posted on a notice board, or interferes with an authorized official in the execution in his or her duties, is guilty of an offence and is liable on conviction, for -

- (a) a fine or imprisonment, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment;
- (b) in the case of a successive or continuing offence, to an additional fine or additional period of imprisonment, or such additional imprisonment without the option of a fine, or to both such additional fine and such additional imprisonment for every day such offence continues; and
- (c) any further amount as an order of court for costs, equal to any costs and / or expenses, deemed by the Court to have been incurred by the Municipality as a result of such contraventions.

18. CONFLICT BETWEEN LEGISLATION

When any stipulation of this by-law, is in conflict with national and provincial legislation or regulations, the national and provincial legislation or regulations shall prevail.

19. REPEAL OF BY-LAWS

The provisions of any by-laws previously promulgated by the Municipality or by any of the disestablished municipalities now incorporated in the Municipality, are hereby repealed as far as they relate to matters provided for in this by-law.

20. SHORT TITLE

This by-law shall be called the Commonage By-law of the Theewaterskloof Municipality.

21. OPERATIVE DATE

This by-law shall take effect on the date of publication.

MUNISIPALITEIT VAN THEEWATERSKLOOF

VERORDENING INSAKE MEENTGRONDE

Kragtens artikel 156 van die Grondwet van die Republiek van Suid-Afrika, 1996 verorden die Munisipale Raad van die Munisipaliteit van Theewaterskloof hiermee soos volg:

AANHEF

Die oogmerke met hierdie verordening is om –

- (i) voorsiening te maak vir reëlings vir die gebruik en bestuur van die munisipale meent; en
- (ii) voorsiening te maak vir die beheer van diere op die munisipale meent..

INHOUDSOPGAWE

- 1. Interpretasie
- 2. Benutting van die munisipale meent
- 3. Sluiting van kampe en areas van die munisipale meent vir weiding en gebruik
- 4. Goedkeuring om die munisipale meent te benut
- 5. Die beperking van beweiding, landbou en ander aktiwiteite tot toegekende areas
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- 14. Ooreenkomste en die opstel van 'n bestuursplan vir die munisipale meent
- 15. Bediening van kennisgewings en ander dokumente
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- 19. Herroeping van verordening
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1. INTERPRETASIE

In hierdie verordening, geld die Engelse teks in die geval van enige teenstrydigheid met die Afrikaanse teks, en tensy dit uit die samehang anders blyk, beteken -

“brandmerk”, enige merkteken geregistreer in terme van artikel 5(2) van die Wet op die Identifikasie van Diere, 2002 (Wet No 6 van 2002), soos gewysig, wat op ‘n dier gemerk, ingebrand of as ‘n mikroskyfie ingeplant of aangebring word, en sluit in enige voorstelling van sodanige merkteken wat nagelang omstandighede vir ‘n dier bedoel is, maar sluit uit -

- (a) ‘n merkteken gemerk of aangebring op die horing of hoof van ‘n dier;
- (b) ‘n merkteken met verf op ‘n dier aangebring;
- (c) ‘n etiket geheg aan ‘n oor van ‘n dier, of enige merkteken gemaak op sodanige etiket; of
- (d) ‘n keep of gaatjie gemaak op enige liggaamsdeel van ‘n dier;

“beskutting”, ‘n afgeskermdde area vir die beskerming van diere;

“gewasse”, die opbrengs van die kweek van plante vir voedsel;

“groot vee”, beeste en perde, en sluit enige ander spesie van diere in, wat vir doeleindes van die Wet op die Identifikasie van Diere, 2002 (Wet No 6 van 2002), soos gewysig, as groot vee verklaar of beskou word;

“kamp”, ‘n afgekampte of omheinde gedeelte grond;

“klein vee”, varke, skape en bokke en sluit enige ander spesie van diere in, wat vir doeleindes van die Wet op die Identifikasie van Diere, 2002 (Wet No 6 van 2002), soos gewysig, as klein vee verklaar of beskou word;

“landbou”, die bewerking van die grond vir die verbouing van gewasse;

“Munisipaliteit”, die Munisipaliteit van Theewaterskloof, wat insluit enige verwysing na behoorlike gemagtigde en / of aangestelde beamptes en / of diensverskaffers in terme van diensleweringsooreenkomste van die Munisipaliteit van Theewaterskloof;

“munisipale meent”, enige grond in besit van of onder beheer van die Munisipaliteit van Theewaterskloof, wat ‘n sonering as onbepaald het, en wat deur die Munisipaliteit van Theewaterskloof gereserveer of gebruik mag word vir weiding of sodanige ander doel of gebruik, as wat na die mening van die Munisipaliteit van Theewaterskloof nodig mag wees;

“perde”, enige perd, muil of donkie, of ‘n lid van die perde familie; en

“veearts”, ‘n persoon wat in terme van die Wet op Veeartsnykundige en Para-Veeartsnykundige Professions, 1982 (Wet No 19 van 1982), soos gewysig, gekwalifiseer en geregistreer is om as veearts te praktiseer.

“Wet op die Identifikasie van Diere”, die Wet op die Identifikasie van Diere, 2002 (Wet No 6 van 2002), soos gewysig.

2. BENUTTING VAN DIE MUNISIPALE MEENT

- (1) Die Munisipaliteit mag die munisipale meent onderhewig aan ander statutêre bepalings en munisipale verordeninge vir enige doeleindes aanwend, en mag gedeeltes van die munisipale meent afkamp –
 - (a) as kampe vir die weiding van die vee van die inwoners van die munisipale area;
 - (b) of as tuinplote vir landboukundige gebruik deur die inwoners van die munisipale area.
- (2) Die Munisipaliteit mag bepaalde dele van die munisipale meent reserveer vir beweiding deur groot en klein vee, en ander dele reserveer vir die aanplant van gewasse of vir ander doeleindes aanwend.
- (3) Die Munisipaliteit mag beskuttings of soortgelyke strukture oprig vir die beskerming van diere van die inwoners van die munisipale area.

3. SLUITING VAN KAMPE EN AREAS VAN DIE MUNISIPALE MEENT VIR WEIDING EN GEBRUIK

- (1) Die Munisipaliteit mag, indien dit as wenslik geag word vir die onderhoud van ‘n area van die munisipale meent of vir doeleindes van grondbewaring of vir die herstel van weiding in ‘n kamp of die herstel van natuurlike plantegroei, ‘n area van die munisipale meent, of ‘n kamp of gedeeltes daarvan sluit vir sekere periodes van ‘n jaar, en die gebruik of beweiding daarvan verbied.
- (2) Geen persoon mag toelaat dat ‘n dier in ‘n kamp of ‘n gedeelte daarvan wei, of toelaat dat enige gedeelte van die munisipale meent bewerk word of dat dit vir enige doel gebruik word, indien die betrokke kamp of area deur die Munisipaliteit vir gebruik gesluit is nie.

- (3) 'n Dier wat in 'n kamp of enige deel van die munisipale meent gevind word, wat in terme van subartikel 3(1) van hierdie verordening vir beweiding of ander redes gesluit was, mag geskut word in terme van die bepaling van die Verordening insake die Skut van Diere van die Munisipaliteit van Theewaterskloof.

4. GOEDKEURING OM DIE MUNISIPALE MEENT TE BENUT

- (1) Geen persoon mag toelaat dat enige dier in 'n kamp of gedeelte daarvan wei, of dat enige gedeelte van die munisipale meent bewerk of gebruik word, alvorens die Munisipaliteit se toestemming daarvoor verkry is nie.
- (2) 'n Persoon wat goedkeuring wil bekom om op die munisipale meent diere te laat wei of om enige gedeelte van die munisipale meent te bewerk of te benut, moet 'n aansoek daarvoor op die voorgeskrewe aansoekvorm by die Munisipaliteit indien.
- (3) 'n Aansoek vir die gebruik van die munisipale meent sal deur die Munisipaliteit vir goedkeuring oorweeg word, onderhewig aan die volgende oorwegings –
- (a) die aantal diere wat alreeds in 'n area of 'n spesifieke kamp akkommodeer word of die landboukundige aktiwiteite wat reeds in 'n area toegelaat word;
 - (b) die aantal en tipe diere of gewasse, wat akkomodeer moet word;
 - (c) die toestand van die grond of weiding in 'n betrokke area of spesifieke kamp;
 - (d) die bestuursaanbevelings vervat in 'n goedgekeurde weiding- of meentbestuursplan; en
 - (e) enige ander oorweging wat die Munisipaliteit as nodig ag.
- (4) Die weidingregte of enige ander grondgebruikregte toegeken aan 'n applikant of 'n groep persone, word beperk tot die applikant en sodanige groep persone, en mag nie oorgedra of gesedeer word nie.

5. DIE BEPERKING VAN WEIDING, LANDBOU EN ANDER AKTIWITEITE TOT TOEGEKENDE AREAS

'n Persoon aan wie daar weidingsregte of enige ander reg van gebruik toegeken word, moet sy of haar diere of landboukundige aktiwiteite, beperk tot die kampe en areas, wat deur die Munisipaliteit toegeken is vir gebruik deur sodanige persoon en die spesifieke gebruik.

6. HUURGELDE VIR DIE GEBRUIK VAN DIE MUNISIPALE MEENT

Die Munisipaliteit mag fooie en tariewe vir die gebruik van die munisipale meent vir weiding, landbou en ander doeleindes vasstel, en enige persoon wat van die munisipale meent gebruik wil maak vir die weiding van diere, landbouwerking of enige ander doel, sal aanspreeklik vir die betaling van die betrokke fooie en tariewe aan die Munisipaliteit wees.

7. DIE GETAL, GESONDHEID EN TOESTAND VAN DIERE

- (1) Die Munisipaliteit mag in totaal, per area of kamp, of per applikant, die aantal en tipe diere bepaal wat op die munisipale meent geakkommodeer en toegelaat sal word.
- (2) 'n Persoon wat 'n dier op munisipale meentgronde aanhou, moet verseker dat die betrokke dier altyd toegang tot voldoende drinkbare water en voedsel het, en in goeie gesondheid verkeer.
- (3) 'n Persoon wat 'n dier op munisipale meentgronde aanhou, moet verseker dat die dier beperk word tot die toegekende kamp of area vir die betrokke dier, en dat die betrokke dier nie na 'n openbare pad of publieke plek afdwaal nie.
- (4) Die Munisipaliteit mag van 'n persoon vereis, wat 'n dier aanhou of aansoek doen om 'n dier aan te hou op die munisipale meent, om 'n beëdigde verklaring in te dien oor die eienaarskap, gesondheid, inenting en kondisie van sodanige dier.
- (5) 'n Persoon begaan 'n oortreding, indien hy of sy –
 - (a) meer as die voorafbepaalde aantal diere op 'n toegekende area of in 'n toegekende kamp, soos voorsien in subartikel 7(1) van hierdie verordening, aanhou;

- (b) versuim om toe te sien dat diere toegang het tot genoegsame drinkbare water en kos, en in goeie gesondheid bly, soos voorsien in subartikel 7(2) van hierdie verordening;
- (c) versuim om 'n verklaring in te dien, soos voorsien in subartikel 7(4) van hierdie verordening; of
- (d) vals inligting aan die Munisipaliteit verskaf.

8. MERK VAN VEE

- (1) 'n Persoon aan wie weidingsregte op die munisipale meent vir vee toegeken word, moet toesien dat sy of haar diere in ooreenstemming met artikel 7 van die Wet op die Identifikasie van Diere, gebrandmerk word.
- (2) Geen persoon mag diere aanhou of toelaat dat diere op die munisipale meent wei, wat nie gebrandmerk is nie.
- (3) Vee wat op die munisipale meent gevind word, wat nie oor die vereiste brandmerke beskik nie, mag deur die Munisipaliteit in terme van die bepalings van die Verordening insake die Skut van Diere van die Munisipaliteit van Theewaterskloof, geskut word.

9. BESMETTE DIERE EN DIERE MET AANSTEEKLIKE SIEKTES

- (1) Geen persoon mag enige vee, wat besmet is of wat na vermoede besmet mag wees met 'n aansteeklike of besmetlike siekte, op die munisipale meent laat wei of toelaat dat sodanige diere daar wei of sodanige diere daar laat om te wei nie.
- (2) Enige vee wat op die munisipale meent gevind word, wat na vermoede met 'n aansteeklike of besmetlike siekte besmet mag wees, moet deur 'n veearts ondersoek word op die koste van die eienaar van sodanige diere, en indien dit bevind word dat sodanige diere 'n aansteeklike of besmetlike siekte het, mag die veearts gelas dat die betrokke vee ge-isoleer of onder kwarantyn geplaas of vernietig word.

10. DIEREKARKASSE OF -OORSKOTTE

Die eienaar van 'n dier wat op die munisipale meent gevrek het, moet onmiddelik toesien dat daar met die karkas of oorskot van sodanige dier op 'n geskikte plek en 'n geskikte wyse, in terme van statutêre bepalings weggedoen word mee, en indien die eienaar versuim om as sodanig te handel, mag die Munisipaliteit namens die eienaar wegdoen met die karkas of oorskot, en die verbandhoudende kostes van die eienaar verhaal.

11. VERBODE GEDRAG

- (1) Geen persoon mag sonder die vooraf skriftelike toestemming van die Munisipaliteit –
 - (a) enige hut, skerm, kraal, gebou of struktuur op enige gedeelte van die munisipale meent oprig nie;
 - (b) enige gedeelte van die munisipale meent okkupeer of op enige gedeelte bly of kampeer of plak nie, of sodanige bewoning veroorsaak of aanmoedig nie;
 - (c) enige verlate motorwrakke, ander voertuie of masjienerie of enige onbruikbare parte daarvan, op enige gedeelte van die munisipale meent laat ophoop of wegdoen daarmee, of toelaat dat sodanige afval opgehoop of mee weggedoen word nie;
 - (d) op enige deel van die munisipale meent, uitgrawings doen, myn of grond, klei, sand, gruis, klippe of rotse verwyder nie;
 - (e) op enige deel van die munisipale meent, stene vervaardig of brand, of steen-, kalk- of steenkooloonde oprig nie;
 - (f) enige plante, struike, wilde blomme, bome, saaghout, brandhout, kreupelhout, kompos of enige gras, op of vanaf enige deel van die munisipale meent sny, oes, beskadig, brand, vernietig, versamel of verwyder nie;
 - (g) op enige deel van die munisipale meent, enige kennisgewing, heining, hek, drinkbak, watertoevoer of ander voorwerp of toestel beskadig of daarmee inmeng nie;
 - (h) op enige deel van die munisipale meent, die weiding of veld of bosse, bome, struike of plante aan die brand steek nie;

- (i) gebruik maak van enige pad oor die munisipale meent, wat nie 'n openbare pad is nie of 'n pad is wat van tyd tot tyd spesifiek deur die Munisipaliteit oopgestel word vir publieke gebruik;
 - (j) op enige deel van die munisipale meent, enige gif of gevaarlike substansies of chemiese substansies weggooi nie;
 - (k) enige wilde diere of voëls, op enige deel van die munisipale meent doodmaak of met 'n strik vang nie;
 - (l) op enige deel van die munisipale meent neste vernietig, voëleiers verwyder of die nageslag van enige voël of watervoëls vang nie;
 - (m) op enige deel van die munisipale meent visvang in enige dam, rivier of waterloop nie; of
 - (n) op enige deel van die munisipale meent, die grens van die munisipale meent oorskry nie.
- (2) Die Munisipaliteit mag enige stappe soos benodig implementeer, om enige oortreding soos voorsien in subartikel 11(1) van hierdie verordening, aan te spreek en mag die kostes aangegaan deur die Munisipaliteit vir die korreksie van 'n oortreding, van die persoon verantwoordelik vir die oortreding, verhaal.

12. VRYSTELLINGS

- (1) Enige persoon mag by wyse van 'n skriftelike aansoek, vergesel van 'n volledige motivering, by die Munisipaliteit aansoek doen vir vrystelling van enige bepaling van hierdie verordening.
- (2) Die Munisipaliteit mag na oorweging van 'n aansoek en die motivering daarvoor –
 - (a) op skrif 'n vrystelling toestaan, die voorwaardes aandui ingevolge waarvan die vrystelling toegestaan word en die periode aandui waarvoor die vrystelling geldig sal wees;
 - (b) 'n vrystelling kansleer of enige voorwaarde daarvan wysig; of
 - (c) weier om 'n vrystelling toe te staan, en die redes vir sodanige weiering aan die applikant te verskaf.

- (3) 'n Vrystelling word eers van krag, nadat 'n applikant skriftelik onderneem het om te voldoen aan al die voorwaardes soos deur die Munisipaliteit vir 'n spesifieke vrystelling bepaal word, en indien daar met 'n aktiwiteit begin word voordat sodanige onderneming aan die Munisipaliteit gegee word, sal 'n vrystelling onmiddelik verval.
- (4) Wanneer daar nie voldoen word aan enige voorwaarde van 'n vrystelling nie, sal sodanige vrystelling onmiddelik verval.

13. GEMEENSKAPSKAKELFORUMS

- (1) Die Munisipaliteit mag skakelforums in 'n gemeenskap instel, met die doel om –
- (a) geleenthede vir die gemeenskap te skep, om aan die aangeleenthede van die Munisipaliteit deel te neem;
 - (b) advies oor aangeleenthede te lewer, wanneer die skakelforum deur die Munisipaliteit versoek word om insette te lewer; en
 - (c) die bereiking van 'n behoorlik gekontroleerde en geadministreerde munisipale meent te bevorder.
- (2) 'n Skakelforum mag bestaan uit –
- (a) 'n lid of lede van 'n belangegroep en / of geaffekteerde persone of groepe;
 - (b) 'n lid of lede van 'n gemeenskap; en
 - (c) 'n aangewese beampte of beamptes van die Munisipaliteit of owerheidinstellings.
- (3) (a) Die Munisipaliteit mag wanneer 'n aansoek om toestemming of vrystelling ingevolge hierdie verordening oorweeg word, die insette van 'n skakelforum versoek.
- (b) 'n Skakelforum of enige persoon of persone bedoel in subartikel 13(2) van hierdie verordening, mag op eie inisiatief 'n inset aan die Munisipaliteit vir oorweging verskaf.

14. OOREENKOMSTE EN DIE ONTWIKKELING VAN 'N BESTUURSPLAN VIR DIE MUNISIPALE MEENT

- (1) Die Munisipaliteit mag in konsultasie met 'n gemeenskapskakelforum, 'n ooreenkoms met enige party aangaan vir die gebruik van die munisipale meent of enige gedeelte daarvan, of mag 'n munisipale meentbestuursplan vir die bestuur en ontwikkeling van die munisipale meent opstel.
- (2) Die Munisipaliteit mag enige ooreenkoms kanselleer, wanneer enige voorwaarde van 'n ooreenkoms oortree word of wanneer daar nie aan enige bepaling van hierdie verordening voldoen word nie.

15. BEDIENING VAN KENNISGEWINGS EN ANDER DOKUMENTE

- (1) 'n Kennisgewing, bevel, aanskrywing, of ander dokument wat ingevolge hierdie verordening deur die Munisipaliteit uitgereik word, word geag behoorlik uitgereik te wees indien 'n beampte wat deur die Munisipaliteit gemagtig is, dit onderteken het.
- (2) Wanneer dit nodig is om enige gemagtigde kennisgewing, bevel, aanskrywing of ander dokument te bedien op 'n persoon ingevolge hierdie verordening, word dit geag effektief en na behore aan sodanige persoon beteken te wees –
 - (a) wanneer dit persoonlik aan die persoon afgelewer is;
 - (b) wanneer dit by die persoon se plek van inwoning of besigheid in die Republiek van Suid-Afrika gelaat is, by 'n persoon wat duidelik ouer as sestien jaar is;
 - (c) wanneer dit gepos is per geregistreerde of gesertifiseerde pos aan die persoon se laaste bekende woon- of besigheidsadres in die Republiek van Suid-Afrika, en 'n erkenning van die versending verskaf word;
 - (d) indien die persoon se adres in die Republiek van Suid-Afrika onbekend is, wanneer dit aan die persoon se agent of verteenwoordiger in die Republiek van Suid-Afrika bedien is op so 'n manier, soos in subartikels 15(1)(a), 15(1)(b) of 15(1)(c) van hierdie verordening bepaal;
 - (e) indien die persoon se adres en agent in die Republiek van Suid-Afrika onbekend is, wanneer dit opsigtelik vertoon word op die vaste eiendom of perseel, indien enige, waarop dit betrekking het; of

- (f) in die geval van 'n bestuursliggaam, wanneer dit by die geregistreerde kantoor of die sakeperseel van sodanige bestuursliggaam afgelewer word.
- (3) Wanneer enige kennisgewing, bevel, aanskrywing of ander dokument aan 'n persoon ingevolge hierdie verordening bedien moet word, is dit nie nodig om dit by name te noem nie, maar sal dit voldoende wees as die persoon daarin beskryf word as die eienaar, bewoner of houer van sodanige vaste eiendom of ander reg, wat ook al die geval mag wees.
- (4) 'n Bevel, kennisgewing of ander dokument wat waarmerking vereis moet behoorlik deur die Munisipaliteit onderteken wees.

16. APPÈLLE

'n Persoon wie verontreg voel oor 'n besluit geneem deur die Munisipaliteit ingevolge enige gedelegeerde magte, mag in terme van artikel 62 van die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet No 32 van 2000), soos gewysig, teen sodanige besluit appèlleer, deur binne een-en-twintig (21) dae vanaf datum van kennisgewing van die besluit, skriftelike kennis aan die Munisipale Bestuurder te gee van die appèl, en redes vir die appèl te verstrek.

17. STRAFBEPALINGS

'n Persoon wat enige bepaling van hierdie verordening oortree, of versuim om daaraan te voldoen, of versuim om te voldoen aan 'n instruksie uitgereik deur 'n gemagtigde beampte ingevolge hierdie verordening, of 'n instruksie aangebring op 'n kennisgewingbord, of 'n gemagtigde beampte verhinder in die uitvoering van sy of haar pligte, begaan 'n oortreding en kan by skuldigbevinding -

- (a) 'n boete of gevangenisstraf opgelê word, of gevangenisstraf sonder die keuse van 'n boete, óf beide sodanige boete en sodanige gevangenisstraf opgelê word;
- (b) in die geval van 'n voortgesette misdryf, 'n bykomende boete of bykomende tydperk van gevangenisstraf of sodanige bykomende gevangenisstraf sonder die opsie van 'n boete of beide sodanige bykomende boete en gevangenisstraf vir elke dag waarop sodanige misdryf voortduur, opgelê word; en

- (c) 'n verdere bedrag as kostebevel opgelê word, gelykstaande aan enige kostes en / of uitgawes wat die Hof bevind deur die Munisipaliteit aangaan was, as gevolg van sodanige oortreding.

18. TEENSTRYDIGHEDE MET ANDER WETGEWING

In die geval van teenstrydigheid tussen enige bepaling van hierdie verordening, en nasionale en provinsiale wetgewing of regulasies, sal sodanige nasionale en provinsiale wetgewing of regulasies voorrang geniet.

19. HERROEPING VAN VERORDENING

Die bepalings van enige ander verordeninge voorheen uitgevaardig deur die Munisipaliteit of deur enige van die afgeskafte munisipaliteite wat nou in die Munisipaliteit geïnkorporeer is, word hierby herroep in soverre dit betrekking het op aangeleenthede waarvoor in hierdie verordening voorsiening gemaak word.

20. KORT TITEL

Hierdie verordening staan bekend as die Verordening insake Meentgronde van die Munisipaliteit van Theewaterskloof.

21. INWERKINGTREDING

Hierdie verordening tree op datum van publikasie daarvan in werking.

MUNISIPALITEIT VAN THEEWATERSKLOOF

PUBLIC BUSES AND TAXIES BY-LAW

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996 the Municipal Council of the Theewaterskloof Municipality, hereby enacts as follows:

PREAMBLE

The purpose of this by-law is to -

- (a) improve the safety of passengers using public transport;
- (b) provide for procedures, methods and practices to control public transport; and
- (c) regulate public transport facilities for all forms of public transport, subject to legislation.

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1. INTERPRETATION

In this by-law the English text prevails in the event of any conflict with the Afrikaans text, and unless the context indicates otherwise—

“authorized official”, means any peace officer authorized in terms of section 334 of the Criminal Procedures Act, 1977 (Act No 51 of 1977), as amended, or any employee of the Theewaterskloof Municipality, who is authorized by the Theewaterskloof Municipality to enforce the provisions of this by-law;

“bus”, means a motor vehicle designated, or lawfully adapted by a registered manufacturer in compliance with the National Road Traffic Act, 1996 (Act No 93 of 1996), as amended, to carry more than 16 passengers, including the driver, and includes a **“bus train”** or any variation thereof;

“bus stop”, means any temporary or permanent designated place or demarcated area in or on a public road, indicated by a road sign as a bus stop, which is exclusively reserved for the stopping of buses to load or off-load passengers;

“bus parking place”, means any marked parking place in or on a public road indicated by a road sign as a parking place for buses, which is exclusively reserved for the parking of buses;

“driver”, in relation to a taxi or a bus, means any person who is the driver of such a vehicle;

“Municipality”, means the Theewaterskloof Municipality, and includes reference to any duly delegated and / or appointed officials and / or service providers in terms of service level agreements of the Theewaterskloof Municipality;

“owner”, means with regard to any taxi or bus, the owner of a taxi or bus which is registered in an area to transport passengers for compensation;

“public road”, means any public road as referred to in section 1 of the National Road Traffic Act, 1996 (Act No 93 of 1996), as amended, and includes any municipal road, alley or road reserve;

“road traffic sign”, has the meaning assigned to it in the National Road Traffic Act, 1996 (Act No 93 of 1996), as amended, and the regulations promulgated in terms thereof;

“road transport permit”, means an authorization to transport passengers on a specific route, as determined by a competent authority;

“taxi”, means a mini bus, motorcar or any other vehicle, excluding a bus or vehicle used as a school bus, used to transport passengers for compensation;

“taxi rank facility”, means a temporary or permanent designated place or demarcated area, in or on a public road, indicated by a road sign as a taxi rank facility, which is exclusively reserved for the stopping of taxi's to load or off-load passengers;

“to transport someone for compensation or charter”, means to use a vehicle to transport passengers or to make a vehicle available to transport passengers to a destination, on payment of a fee or for compensation;

“the Act”, means the National Road Traffic Act, 1996 (Act No 93 of 1996), as amended, and the regulations promulgated in terms thereof; and

“traffic officer”, means an official appointed in terms of section 3A of the National Road Traffic Act, 1996 (Act No 93 of 1996), as amended.

CHAPTER 1: FACILITIES FOR BUSES

2. BUS STOPS AND SPECIAL PARKING FOR BUSES

- (1) A Municipality may establish bus stops for use by buses to load and off-load passengers and may provide special parking places for buses.
- (2) No bus may be parked at a bus stop, where passengers are loaded and off-loaded, except when waiting for passengers to embark.
- (3) Road traffic signs and road markings shall be placed at bus stops and bus parking places, to confirm the reservation thereof as bus stops or bus parking places, and to regulate the use thereof.
- (4) A bus stop or a bus parking place may be reserved by the Municipality for a specific operator or only for specific buses or shall be made available for use by all buses.
- (5) The Municipality may reserve special areas, by demarcating and designating such areas by means of road traffic signs and notice boards, for the parking of buses during special occasions or on specific days.
- (6) Any person who parks a vehicle other than a bus on a bus stop or a bus parking place, shall be guilty of an offence.

3. LOADING AND OFF-LOADING OF PASSENGERS

No person, except for a traffic officer or an authorized official, shall stop a public bus or any other bus at any place to load or off-load passengers, except at a bus stop or at a bus parking place.

4. DISPLAY OF DESTINATION

The person in charge of a public bus, shall display the destination of a bus distinctly on such bus.

CHAPTER 2: FACILITIES FOR TAXIES

5. TAXI RANK FACILITIES AND SPECIAL PARKING PLACES FOR TAXIES

- (1) A Municipality may establish taxi rank facilities for use by taxis to load or off-load passengers and may provide special parking places for taxis.
- (2) Road traffic signs and road markings shall be placed at taxi facilities and taxi parking places, to confirm the reservation thereof as taxi rank or taxi parking places, and to regulate the use thereof.
- (3) A taxi rank facility or a parking place for taxis may be reserved by the Municipality for a specific operator or only for use by a specific taxi association or shall be available for use by all taxis.
- (4) The Municipality may reserve special areas, by demarcating and designating such areas by means of road traffic signs and notice boards, for the parking of taxis during special occasions or on specific days.
- (5) Any person who parks a vehicle other than a registered taxi on a taxi rank or a taxi parking place, shall be guilty of an offence.

6. USE OF TAXI RANK FACILITIES

- (1) No person shall park or stop a taxi, or allow it to be stopped or be parked in a taxi rank facility, when such vehicle is not roadworthy.
- (2) No person shall operate a taxi from a taxi rank facility, or tender it for the transport of passengers, when the owner or operator is not in possession of a valid receipt or proof that the fees and tariffs levied by the Municipality for the use of the facility concerned have been paid.
- (3) Subject to the provisions of this by-law or any other regulation promulgated in this regard, the driver of a taxi shall comply to the following operational directives for a taxi rank facility, when tendering his or her taxi for the transport of passengers at a taxi rank facility -
 - (a) all taxi's shall queue in order of arrival to pick up passengers;
 - (b) a taxi shall only move along in a queue, when the taxi in the front of the queue has picked up passengers and left the taxi rank;
 - (c) no taxi in the queue may be left alone for longer than ten (10) minutes; and

- (d) taxies queuing shall be available and ready at all times to transport passengers on payment of the required fee, and no driver may unreasonably refuse to transport any passenger, on condition that a seat is available in the taxi concerned and that the passenger's destination correlate with the route of the taxi in terms of the allocated road transport permit for the taxi.

7. GENERAL CONDITIONS FOR TAXIES AND TAXI DRIVERS

- (1) No person may tender a taxi for the transport of passengers, which is not roadworthy.
- (2) No taxi driver may –
 - (a) tender his or her taxi for use in any other place, than a taxi rank;
 - (b) prevent the driver of any other taxi to pick up passengers, or try to prevent that another taxi driver legally obtain and transport passengers;
 - (c) offer to transport passengers on a route or in an area, for which the allocated road transport permit of the taxi concerned do not provide for;
 - (d) prevent or try to prevent passengers, to use bus transport out of their own choice;
 - (e) misbehave, act disorderly, cause a disturbance or act in such a way, that his or her conduct give offence or create a nuisance for the general public; and
 - (f) park or stop a vehicle used as a taxi in such a way, that such taxi creates an obstruction for other taxies and road traffic in general.
- (3) The owner or person in charge of a taxi shall display the approved route that the taxi may operate on in terms of a valid road transport permit, distinctly on the taxi concerned.

CHAPTER 3: GENERAL PROVISIONS

8. FEES AND TARIFFS

Fees and tariffs for the use of facilities for buses and taxies shall be annually determined by the Municipality.

9. EXEMPTIONS

Notwithstanding the provisions of this by-law, the Municipality may on written application, exempt any person or group of persons from any or all the requirements of this by-law and when considering such application for exemption, the Municipality may impose any condition or requirement for approval it deems appropriate.

10. COMMUNITY LIAISON FORUMS

- (1) The Municipality may establish liaison forums in a community for the purposes of –
 - (a) creating opportunities for the local community to participate in the affairs of the Municipality;
 - (b) to advise the Municipality on matters, referred to a liaison forum by the Municipality, and
 - (c) promoting a safe environment .
- (2) A liaison forum may consist of –
 - (a) a member or members of an interested group or affected persons or parties;
 - (b) a member or members of a community; and
 - (c) a designated official or officials of the Municipality or other organs of state.
- (3)(a) The Municipality may, when considering an application for an approval, a permit or an exemption in terms of this by-law, request the input of a liaison forum.
- (b) A liaison forum or any person or persons contemplated in subsection 10(2) of this by-law, may on their own initiative provide input to the Municipality for consideration.

11. SERVING OF NOTICES AND OTHER DOCUMENTS

- (1) A notice, instruction, letter of demand, or other document issued by the Municipality in terms of this by-law is deemed to be duly issued, when a duly delegated official of the Municipality has signed it.
- (2) Any notice, instruction, letter of demand, or other document that is served on a person in terms of this by-law, is regarded as having been duly and effectively served –
 - (a) when it has been delivered to that person personally;

- (b) when it has been left at that person's place of residence or business in the Republic of South Africa, with a person apparently older than sixteen years;
 - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic of South Africa, and proof of the posting thereof is provided;
 - (d) if that person's address in the Republic of South Africa is unknown, when it has been served on that person's agent or representative in the Republic of South Africa, in a manner as provided in subsections 11(2)(a), 11(2)(b) or 11(2)(c) of this by-law;
 - (e) if that person's address and agent or representative in the Republic of South Africa is unknown, when it has been posted in a conspicuous place on the property or premises to which it relates; or
 - (f) in the event of a body corporate, when it has been delivered at the registered office or the business premises of the body corporate.
- (3) When any notice, instruction, letter of demand, or other document is served on a person in terms of this by-law, it is sufficient for purpose of the serving of the notice, instruction, letter of demand, or other document, to describe the person in the notice, instruction, letter of demand or other document, as the owner, occupant, or holder of the property or rights in question, and it is not a requirement to name that person.
- (4) A notice, instruction, letter of demand, or other document shall for purpose of authentication, be properly signed by the Municipality.

12. APPEALS

A person whose rights are affected by a decision of the Municipality in terms of any delegated powers, may appeal against such a decision in terms of section 62 of the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000), as amended, by giving written notice of the appeal against the decision and the reasons for the appeal to the Municipal Manager, within twenty one (21) days of the date of the notification of the decision.

13. OFFENCES AND PENALTIES

Any person who -

- (a) fails to comply to the instructions of an authorized official issued in terms of this by-law;
- (b) fails to comply with any notice served in terms of this by-law;
- (c) contravenes any provision of this by-law;

- (d) fails to comply to any instruction posted on a notice board; or
- (e) deliberately obstructs an authorized official in the execution of his or her duties in terms of this by-law,

is guilty of an offence and is liable on conviction, for -

- (i) a fine or imprisonment, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment;
- (ii) in the case of a successive or continuing offence, to an additional fine or additional period of imprisonment, or such additional imprisonment without the option of a fine, or to both such additional fine and such additional imprisonment, for every day such offence continues; and
- (iii) any further amount as an order of court for costs, equal to any costs and / or expenses, deemed by the Court to have been incurred by the Municipality as a result of such contraventions.

14. CONFLICT BETWEEN LEGISLATION

When any stipulation of this by-law is in conflict with national and provincial legislation or regulations, the national and provincial legislation or regulations shall prevail.

15. REPEAL OF BY-LAWS

The provisions of any by-laws previously promulgated by the Municipality or by any of the disestablished municipalities now incorporated in the Municipality are hereby repealed as far as they relate to matters provided for in this by-law.

16. SHORT TITLE

This by-law shall be called the Public Buses and Taxies By-law of the Theewaterskloof Municipality.

17. OPERATIVE DATE

This by-law shall take effect on the date of publication.

MUNISIPALITEIT VAN THEEWATERSKLOOF

VERORDENINGE INSAKE OPENBARE BUSSE EN TAXI'S

Kragtens artikel 156 van die Grondwet van die Republiek van Suid-Afrika, 1996, verorden die Munisipale Raad van die Munisipaliteit van Theewaterskloof hiermee soos volg:

AANHEF

Die doel van hierdie verordening is om -

- (a) die veiligheid van passasiers wat van openbare vervoer gebruik maak te bevorder;
- (b) om voorsiening te maak vir prosedures, metodes en praktyke om openbare vervoer te beheer; en
- (c) om onderhewig aan wetgewing, openbare vervoerfasiliteite te reguleer vir alle vorme van openbare vervoer.

INHOUDSOPGAWE

- 1. Interpretasie

HOOFSTUK 1: FASILITEITE VIR BUSSE

- 2. Bushaltes en spesiale parkering vir busse
- 3. Op- en aflaai van passasiers
- 4. Vertoon van bestemming

HOOFSTUK 2: FASILITEITE VIR TAXI'S

- 5. Taxistaanplek fasiliteite en spesiale parkering vir taxi's
- 6. Gebruik van taxistaanplek fasiliteite
- 7. Algemene voorwaardes vir taxi's en taxibestuurders

HOOFSTUK 3: ALGEMENE BEPALINGS

- 8. Fooie en tariewe
- 9. Vrystellings
- 10. Gemeenskapskakeforums
- 11. Bediening van kennisgewings en ander dokumente
- 12. Appelle
- 13. Strafbepalings
- 14. Teenstrydigheid met ander wetgewing
- 15. Herroeping van verordeninge
- 16. Kort titel
- 17. Inwerkingtreeding

1. INTERPRETASIE

In hierdie verordening, geld die Engelse teks in die geval van enige teenstrydigheid met die Afrikaanse teks, en tensy dit uit die samehang anders blyk, beteken:

“**bestuurder**”, met betrekking tot ‘n taxi of ‘n bus, enige persoon wat sodanige voertuig bestuur;

“**bus**”, ‘n motorvoertuig bestem, of wettiglik in ooreenstemming met die Nasionale Padverkeerswet, 1996 (No 93 van 1996), soos gewysig, deur ‘n geregistreerde vervaardiger omskep, om meer as 16 passasiers te vervoer, wat die drywer van sodanige voertuig insluit, en sluit in enige “**bus trein**” of variasie daarvan;

“**bushalte**”, enige aangewese plek of afgebakende oppervlak, hetsy tydelik of permanent, in of op ‘n openbare pad, wat deur ‘n padverkeersteken aangedui word as ‘n bushalte, wat uitsluitlik vir die stilhou van busse vir die op en aflaai van passasiers gereserveer word;

“**busparkeerplek**”, enige gemerkte parkeerplek in of op ‘n openbare pad wat deur ‘n padverkeersteken aangedui word as ‘n busparkeerplek, en wat uitsluitlik gereserveer word vir die parkering van busse;

“**die Wet**”, die Nasionale Padverkeerswet, 1996 (No 93 van 1996), soos gewysig, en die regulasies daarkragtens uitgevaardig;

“**eienaar**”, met betrekking tot enige taxi of bus, die eienaar van ‘n taxi of bus wat as sodanig in ‘n gebied geregistreer is om sake te doen by wyse van die vervoer van passasiers teen vergoeding;

“**gemagtigde beampte**”, enige vredesbeampte gemagtig ingevolge artikel 334 van die Strafproseswet, 1977 (Wet No 51 van 1977), soos gewysig, of enige beampte van die Munisipaliteit van Theewaterskloof wat deur die Munisipaliteit van Theewaterskloof gemagtig is om die bepalings van hierdie verordening af te dwing;

“**Munisipaliteit**”, die Munisipaliteit van Theewaterskloof, wat insluit enige verwysing na behoorlik gemagtigde en / of aangestelde beamptes en / of diensverskaffers in terme van diensleweringsooreenkomste van die Munisipaliteit van Theewaterskloof;

“**openbare pad**”, wat insluit enige munisipale straat of steeg of padreserwe, of enige publieke pad, soos bedoel in artikel 1 van die Nasionale Padverkeerswet, 1996 (Wet No 93 van 1996), soos gewysig;

“**padverkeersteken**”, die betekenis wat ingevolge die Nasionale Padverkeerswet, 1996 (Wet No 93 van 1996), soos gewysig, en die regulasies daarvolgens uitgevaardig, daarin toegeskryf word;

“**padvervoerpermit**”, ‘n magtiging om passasiers te vervoer op ‘n spesifieke roete, soos bepaal deur ‘n bevoegde owerheid;

“taxi”, ‘n minibus, motor of enige ander voertuig, uitgesonderd ‘n bus of voertuig wat as skoolbus aangewend word, wat gebruik word om passasiers teen vergoeding te vervoer;

“taxistaanplek fasiliteit”, enige aangewese plek of afgebakende terrein, hetsy tydelik of permanent, in of op ‘n openbare pad, wat deur ‘n padverkeersteken aangedui word as ‘n taxistaanplek fasiliteit, wat uitsluitlik vir die stilhou van taxi’s gereserveer word vir die op- en aflaai van passasiers;

“teen vergoeding of huur iemand te vervoer”, om ‘n voertuig te gebruik om passasiers te vervoer of om ‘n voertuig beskikbaar te stel met die doel om passasiers na ‘n bestemming, teen betaling van huur of geldelike vergoeding te vervoer; en

“verkeersbeampte”, ‘n beampte soos aangestel in terme van artikel 3A van die Wet op Nasionale Padverkeer, 1996 (Wet No 93 van 1996), soos gewysig.

HOOFSTUK 1: FASILITEITE VIR BUSSE

2. BUSHALTES EN SPESIALE PARKERING VIR BUSSE

- (1) ‘n Munisipaliteit mag bushaltes vir gebruik deur busse vir die op- en aflaai van passasiers en / of en spesiale parkeerplekke vir die parkering van busse vestig.
- (2) Geen bus mag by ‘n bushalte, waar passasiers opgelaai en afgelaai word, geparkeer word nie, behalwe in afwagting vir die oplaai van passasiers.
- (3) Padverkeerstekens en padverkeersmerke moet by bushaltes en busparkeerplekke aangebring word om die reservering daarvan vir gebruik as bushalte of busparkeerplek te bevestig, en die gebruik daarvan te reguleer.
- (4) ‘n Bushalte of ‘n parkeerplek vir busse mag deur die Munisipaliteit vir gebruik deur ‘n spesifieke operateur of slegs vir spesifieke busse gereserveer word of oopgestel word vir gebruik deur alle busse.
- (5) Die Munisipaliteit mag spesiale areas reserveer, afbaken en aandui met die nodige verkeerstekens of kennisgewingborde, vir die parkering van busse tydens spesiale geleenthede of op spesifieke dae.
- (6) Enige persoon wat ‘n motorvoertuig, anders as ‘n bus, op ‘n bushalte of ‘n busparkeerplek stop of parkeer, begaan ‘n oortreding.

3. OP- EN AFLAAI VAN PASSASIERE

Geen persoon, met die uitsondering van ‘n verkeersbeampte of ‘n gemagtigde beampte, mag ‘n openbare bus of enige bus op enige plek stop met die doel om passasiers op- of af te laai nie, behalwe by ‘n bushalte of ‘n busparkeerplek.

4. VERTOON VAN BESTEMMING

Die persoon in beheer van 'n openbare bus moet die bestemming waarheen die bus op pad is, duidelik op die bus vertoon.

HOOFSTUK 2: FASILITEITE VIR TAXI'S

5. TAXISTAANPLEK FASILITEITE EN SPESIALE PARKERING VIR TAXI'S

- (1) 'n Munisipaliteit mag taxistaanplek fasiliteite vir gebruik deur taxis vir die op- en aflaai van passasiers en spesiale parkeerplekke vir die parkering van taxi's vestig.
- (2) Padverkeerstekens en padverkeersmerke moet by taxistaanplek fasiliteite en taxiparkeerplekke aangebring word om die reservering daarvan vir gebruik as taxistaanplek of taxiparkeerplek te bevestig, en die gebruik daarvan te reguleer.
- (3) 'n Taxistaanplek fasiliteit of 'n parkeerplek vir taxi's mag deur die Munisipaliteit gereserveer word vir gebruik deur 'n spesifieke operateur of 'n spesifieke taxi assosiasie of oopgestel word vir gebruik deur alle taxi's.
- (4) Die Munisipaliteit mag spesiale areas reserveer, afbaken en aandui met die nodige verkeerstekens of kennisgewingborde, vir die parkering van taxi's tydens spesiale geleenthede of op spesifieke dae.
- (5) Enige persoon wat 'n motorvoertuig, anders as 'n geregistreerde taxi op 'n taxistaanplek of 'n parkeerplek vir taxi's stop of parkeer, begaan 'n oortreding.

6. GEBRUIK VAN TAXI STAANPLEK FASILITEITE

- (1) Geen persoon mag 'n onpadwaardige taxi, in 'n taxistaanplek fasiliteit parkeer of stop of toelaat dat sodanige taxi in 'n taxi staanplek is nie.
- (2) Niemand mag 'n taxi vanuit 'n taxistaanplek fasiliteit bedryf of dit beskikbaar stel vir die vervoer van passasiers, tensy die eienaar of bestuurder van sodanige taxi in besit is van 'n geldige kwitansie of bewys wat aantoon dat die fooie en tariewe wat deur die Munisipaliteit vir die gebruik van die betrokke taxistaanplek fasiliteit gehef word, betaal is.
- (3) Behoudens die bepalings van hierdie verordening of enige ander regulasie uitgevaardig in hierdie verband, moet die bestuurder van 'n taxi wanneer hy of sy vanaf 'n taxistaanplek fasiliteit opereer vir die vervoer van passasiers, die volgende operasionele riglyne vir 'n taxistaanplek fasiliteit eerbiedig –
 - (a) alle taxi's tou in volgorde van aankoms, vir die oplaai van passasiers;
 - (b) 'n taxi beweeg slegs aan in 'n tou, nagelang taxi's voor in die tou passasiers oplaai en vertrek;

- (c) geen taxi in die tou mag vir langer as tien (10) minute alleen gelaat word nie, en
- (d) taxi's wat tou, moet beskikbaar en gereed wees om te alle tye passasiers teen vergoeding te vervoer, en geen bestuurder mag onredelik weier om enige passasier in sy of haar taxi te vervoer nie, met dien verstande dat 'n sitplek in die betrokke taxi beskikbaar is en die passasier se bestemming ooreenstem met die betrokke taxi se roete ingevolge die toegekende padvervoerpermit.

7. ALGEMENE VOORWAARDES VIR TAXI'S EN TAXIBESTUURDERS

- (1) Geen persoon mag 'n taxi wat nie padwaardig is nie, vir die vervoer van passasiers aanbied.
- (2) Geen taxibestuurder mag –
 - (a) sy of haar taxi op 'n ander plek as in 'n taxistaanplek fasiliteit, aanbied vir verhuring nie;
 - (b) die bestuurder van enige ander taxi verhoed of poog om te verhoed dat sodanige taxibestuurder wettig passasiers bekom en vervoer nie;
 - (c) aanbied om teen vergoeding passasiers te vervoer op 'n roete of in 'n gebied, waarvoor die geldende padvervoerpermit van die betrokke taxi nie voorsiening maak nie;
 - (d) verhoed of probeer verhoed, dat passasiers uit eie voorkeur van busvervoer gebruik maak nie;
 - (e) hom of haar wanordelik gedra, of op so 'n wyse optree dat sy of haar gedrag aanstoot gee of 'n oorlas vir die algemene publiek veroorsaak nie, en
 - (f) 'n voertuig aangewend as taxi, op so 'n wyse parkeer of tot stilstand bring, dat die betrokke taxi 'n hindernis vir ander taxi's of padverkeer in die algemeen veroorsaak nie.
- (3) Die eienaar of persoon in beheer van 'n taxi, moet die goedgekeurde roete waop die taxi mag opereer in terme van 'n wettige padvervoerpermit, duidelik op die betrokke taxi laat vertoon.

HOOFSTUK 3: ALGEMENE BEPALINGS

8. FOOIE EN TARIEWE

Foosie en tariewe vir die gebruik van fasiliteite vir busse en taxi's moet jaarliks deur die Munisipaliteit bepaal word.

9. VRYSTELLINGS

Nieteenstaande die bepalings van hierdie verordening, mag die Munisipaliteit indien daar skriftelik daarvoor aansoek gedoen word, enige persoon of groep van persone van enige of al die vereistes van hierdie verordening vrystel, en by die oorweging van sodanige aansoek vir vrystelling mag die Munisipaliteit enige voorwaardes of vereistes vir goedkeuring, na goeddunke daarstel.

10. GEMEENSKAPSKAKELFORUMS

- (1) Die Munisipaliteit mag skakelforums in 'n gemeenskap instel met die doel om –
 - (a) geleenthede vir die plaaslike gemeenskap te skep om die aangeleenthede van die Munisipaliteit deel te neem;
 - (b) advies oor aangeleenthede te lewer, wanneer 'n skakelforum deur die Munisipaliteit versoek word om advies te lewer, en
 - (c) die bevordering van 'n veilige omgewing.
- (2) 'n Skakelforum mag bestaan uit –
 - (a) 'n lid of lede van 'n belangegroep, of geaffekteerde persone of partye;
 - (b) 'n lid of lede van 'n gemeenskap;
 - (c) 'n aangewese beampte of beamptes van die Munisipaliteit of ander owerheidsinstellings.
- (3)
 - (a) Die Munisipaliteit mag wanneer 'n aansoek om toestemming, 'n permit of 'n vrystelling ingevolge hierdie verordening oorweeg word, waar van toepassing, die insette van 'n skakelforum versoek.
 - (b) 'n Skakelforum of enige persoon of persone bedoel in subartikel 10(2) van hierdie verordening, mag op eie inisiatief 'n inset aan die Munisipaliteit vir oorweging verskaf.

11. BEDIENING VAN KENNISGEWINGS EN ANDER DOKUMENTE

- (1) 'n Kennisgewing, bevel, aanskrywing, of ander dokument wat ingevolge hierdie verordening deur die Munisipaliteit uitgereik word, word geag behoorlik uitgereik te wees, indien 'n beampte wat deur die Munisipaliteit gemagtig is, dit onderteken het.
- (2) Wanneer dit nodig is om enige gemagtigde kennisgewing, bevel, aanskrywing of ander dokument te bedien op 'n persoon ingevolge hierdie verordening, word dit geag effektief en na behore aan sodanige persoon beteken te wees –
 - (a) wanneer dit persoonlik aan die persoon afgelewer is;

- (b) wanneer dit by die persoon se plek van inwoning of besigheid in die Republiek van Suid-Afrika gelaat is, by 'n persoon wat duidelik ouer as sestien jaar is;
 - (c) wanneer dit gepos is per geregistreerde of gesertifiseerde pos aan die persoon se laaste bekende woon- of besigheidsadres in die Republiek van Suid-Afrika, en 'n erkenning van die versending verskaf word;
 - (d) indien die persoon se adres in die Republiek van Suid-Afrika onbekend is, wanneer dit aan die persoon se agent of verteenwoordiger in die Republiek van Suid-Afrika bedien is op so 'n manier, soos in subartikels 11(1)(a), 11(1)(b) of 11(1)(c) van hierdie verordening bepaal;
 - (e) indien die persoon se adres en agent in die Republiek van Suid-Afrika onbekend is, wanneer dit opsigtelik vertoon word op die vaste eiendom of perseel, indien enige, waarop dit betrekking het; of
 - (f) in die geval van 'n bestuursliggaam, wanneer dit by die geregistreerde kantoor of die sakeperseel van sodanige bestuursliggaam afgelewer word.
- (3) Wanneer enige kennisgewing, bevel, aanskrywing of ander dokument aan persone ingevolge hierdie verordening bedien moet word, is dit nie nodig om dit by name te noem nie, maar sal dit voldoende wees as die persoon daarin beskryf word as die eienaar, bewoner of houer van sodanige vaste eiendom, of ander reg, wat ook al die geval mag wees.
- (4) 'n Bevel, kennisgewing of ander dokument wat waarmerking vereis, moet behoorlik deur die Munisipaliteit onderteken wees.

12. APPÈLLE

'n Persoon wie verontreg voel oor 'n besluit geneem deur die Munisipaliteit, ingevolge enige gedelegeerde magte, mag in terme van artikel 62 van die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet No 32 van 2000), soos gewysig, teen sodanige besluit appèlleer deur binne een-en-twintig (21) dae vanaf datum van kennisgewing van die besluit, skriftelike kennis aan die Munisipale Bestuurder te gee van die appèl en redes vir die appèl te verstrek.

13. STRAFBEPALINGS

Enige persoon wat –

- (a) in gebreke bly om aan 'n gemagtigde beampte se instruksies uitgereik ingevolge hierdie verordening, te voldoen;
- (b) in gebreke bly om aan enige kennisgewing uitgereik ingevolge hierdie verordening, te voldoen;

- (c) enige bepaling van hierdie verordening oortree;
 - (d) enige instruksie aangebring op 'n kennisgewingbord verontagsaam, of
 - (e) opsetlik 'n gemagtigde beampte in die uitvoering van sy of haar pligte verhinder,
- is skuldig aan 'n oortreding en mag by skuldigbevinding -
- (i) 'n boete of gevangenisstraf, of gevangenisstraf sonder die keuse van 'n boete, of beide sodanige boete en sodanige gevangenisstraf, opgelê word;
 - (ii) in geval van 'n voortdurende oortreding, 'n bykomende boete of bykomende termyn gevangenisstraf of tot sodanige bykomende gevangenisstraf sonder die keuse van 'n boete, of tot beide sodanige boete en gevangenisstraf, vir elke dag wat sodanige oortreding voortduur, opgelê word; en
 - (iii) 'n verdere bedrag as kostebevel opgelê word, gelykstaande aan enige koste en / of uitgawes wat die Hof bevind deur die Munisipaliteit aangegaan was, as gevolg van sodanige oortreding.

14. TEENSTRYDIGHEDE MET ANDER WETGEWING

In die geval van teenstrydigheid tussen enige bepaling van hierdie verordening, en nasionale en provinsiale wetgewing of regulasies, sal sodanige nasionale en provinsiale wetgewing of regulasies voorrang geniet.

15. HERROEPING VAN VERORDENINGE

Die bepalinge van enige ander verordeninge voorheen uitgevaardig deur die Munisipaliteit, of deur enige van die afgeskafte munisipaliteite wat nou in die Munisipaliteit geïnkorporeer is, word hiermee herroep in soverre dit betrekking het op aangeleenthede waarvoor in hierdie verordening voorsiening gemaak word.

16. KORT TITEL

Hierdie verordening sal bekend staan as die Verordening insake Openbare Busse en Taxi's van die Munisipaliteit van Theewaterskloof.

17. INWERKINGTREDING

Hierdie verordening tree op datum van publikasie daarvan in werking.

THEEWATERSKLOOF MUNICIPALITY

SPORT FACILITIES BY-LAW

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996 the Municipal Council of the Theewaterskloof Municipality, hereby enacts as follows:

PREAMBLE

The Theewaterskloof Municipality –

- (i) recognize the right of the community to use and utilize as individuals and / or organized groups, public sport facilities for sport activities;
- (ii) accept the responsibility to utilize the resources of the Theewaterskloof Municipality in the best interest of the community, for the development and maintenance of municipal sport facilities; and
- (iii) is of intention to control and administer the developed municipal sport facilities by means of the provisions of this by-law to the benefit of the community.

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1. INTERPRETATION

In this by-law, the English text prevails in the event of any conflict with the Afrikaans text, and unless the context indicates otherwise –

“authorized official”, means any peace officer authorized in terms of section 334 of the Criminal Procedures Act, 1977 (Act No 51 of 1977), as amended, or any employee of the Theewaterskloof Municipality, who is authorized by the Theewaterskloof Municipality to enforce the provisions of this by-law;

“appurtenance”, means any accessories, installation, mechanism, contrivance, instrument, apparatus, machine and implement, on or at the premises of a sport facility;

“Municipality”, means the Theewaterskloof Municipality, and includes reference to any duly delegated and / or appointed officials and / or service providers in terms of service level agreements of the Theewaterskloof Municipality;

“municipal sport facilities”, means any land, area, premises, track, field, building, facility or structure, or any part thereof, which is owned, managed or controlled by the Theewaterskloof Municipality, and which are designated, demarcated, reserved or used for sport activities, and include any contrivance, equipment, apparatus, pavillion, change room, ablution or storage facility on or at such facility, which are normally associated with such sport facility, and includes any references to **“facility”** and **“amenities”**;

“organized sport activity”, means a sport meeting, game of sport, sport demonstration or sport practice, which are organized, held or controlled by a sport organization, sport body or sport club, or any other institution or person;

“sport activity”, means the participation in any organised sportactivity, and includes participation in training sessions;

“sport accessories”, means any equipment, contrivance, apparatus, object or any other item required for a specific type of sport and used on or at a sportfield, sport arena, sport facility or athletics track, irrespective whether such accessory is fixed, movable or removable;

“sport organization”, means a sport club, sport body or an association or group of persons who are participating in or are coaching or managing a sport;

“sport equipment”, has a similar meaning as **“sport accessories”**;

“under the influence of liquor or drugs”, means a person, who as a consequence of the abuse of liquor and / or drugs, to such an extent lost control over his or her mental or physical ability or both, that he or she is no longer able to maintain or behave himself or herself, or is not capable of performing any action without endangering himself or herself or other persons, or is misbehaving in such a way that it is infringing on the constitutional rights of other persons;

2. APPLICATION OF THE BY-LAW

This by-law shall be applicable for all sport facilities under the control and administration of the Municipality.

**CHAPTER 1:
ADMINISTRATION, ACCESS, TARIFFS AND PROHIBITED CONDUCT**

3. THE ADMINISTRATION OF, CONTROL OVER AND MAINTENANCE OF SPORT FACILITIES

- (1) The Municipality may establish a sport committee or body, with the aim of advising the Municipality on matters related to municipal sport facilities.
- (2) The Municipality shall administer all municipal sport facilities or any other sport facilities under the control of the Municipality, in terms of the provisions of this by-law and / or provisions as determined by the Municipality for a specific sport facility.
- (3) The Municipality may acquire land or buildings, with the aim to develop local municipal sport facilities, or may dispose of existing sport facilities or any rights thereto, in terms of the objectives of this by-law.
- (4) A person or sport organization who are making use of or are leasing a municipal sport facility, shall use or lease such municipal sport facility subject to the provisions of this by-law and in terms of conditions as determined from time to time by the Municipality.
- (5) No lessee or user of a municipal sport facility shall, subject to the provisions and conditions of any lease agreement for a municipal sport facility, applicable provincial and national statutory stipulations and the provisions of the Liquor Trading Days and Hours By-law of the Theewaterskloof Municipality –
 - (a) bring his or her own supply of liquor to a sport facility, without the prior approval of the Municipality and the liquor license holder; or
 - (b) sell any liquor at a sport facility, without the prior approval of the Municipality and a liquor license as required.
- (6) When the Municipality allows the sale of liquor at a municipal sport facility, the sale and use of liquor shall be subjected to the following conditions -
 - (a) no alcoholic beverages may be served in a glass bottle, glass cup or other container made of glass;
 - (b) beer, cider and alcoholic cordials may only be served in cans, kegs, plastic cups or cups from similar material, and
 - (c) the sport organization, lessee and / or liquor license holder shall maintain good order within the sport facility.
- (7) The Municipality may close a municipal sport facility for use, when –
 - (a) the facility essentially become useless as a consequence of -
 - (i) vandalism;
 - (ii) any other type of serious damage; or
 - (iii) the non-availability of municipal services.
 - (b) the sport facility constitutes a danger to human life or property; or

(c) an emergency has arisen which requires such closure.

(8) The Municipality may close a municipal sport facility, for purpose of urgent or other repair or maintenance work at such facility, or at the discretion of the Municipality for any other reason.

4. ACCESS TO MUNICIPAL SPORT FACILITIES

- (1) The Municipality may post a notice at or near the entrance of a municipal sport facility, on which the hours is indicated when the public may use the facility.
- (2) The right of access to a municipal sport facility shall be reserved by the Municipality, and an authorized official may instruct a person who contravenes a provision of this by-law, to immediately leave the premises of a sport facility, and should such person fail to obey such instruction of an authorized officer, the authorized officer may have the person concerned removed.
- (3) The Municipality has the right to determine the maximum capacity of a municipal sport facility in terms of the number of users allowed, and may once the maximum capacity has been reached refuse further access to the facility and may implement measures as required to prevent further access.

5. PROHIBITED CONDUCT

No person shall in or at a municipal sport facility –

- (a) access the facility concerned, except through an entrance designated for that purpose;
- (b) access the facility concerned at any other time without approval, except for the hours designated as the hours when the facility is open for the public;
- (c) smoke in a sport facility, except in those areas designated for the purpose by means of appropriate signage;
- (d) wear footwear that may damage the surface of any field or track at a sport facility;
- (e) dress indecently or be undressed in public;
- (f) relieve or urinate him or herself in public;
- (g) excluding a child under the age of five (5) years, use or enter change rooms or ablution facilities or any facility reserved for the use by persons of the opposite sex;
- (h) use profane or indecent language, or behave in such a manner that other persons are offended or a nuisance is created or the public order is disturbed;
- (i) destroy, damage or deface any part of a sport facility, or sport accessories or appurtenance at a sport facility;
- (j) dispose of waste in any other way, than in containers provided for it;

- (k) in any manner interfere with the surface of a sport track or field, or any sport accessories or appurtenances;
- (l) unlawfully light a fire, except in those areas specifically designated for fires at a sport facility;
- (m) drive a vehicle on a lawn or a track or a field on the premises of a sport facility, except an authorized official or a member of the South African Police in the execution of their duties;
- (n) do anything which are specifically forbidden by signs and / or notices on a premises;
- (o) drive or use a motorcycle, three or four wheel quad bike, scooter, electric motor vehicle, bicycle, roller-blade, roller-skate, skate board, tricycle or any other form of transport or entertainment, except when allowed for at a specific facility or when special consent has been granted for it, or when required from an authorized official or a member of the South African Police in the execution of their duties;
- (p) without the prior written consent of the Municipality and the applicable food preparation license of the competent authority, sell, hawk, advertise, offer for sale or exhibit any article or goods for sale or lease, or distribute a pamphlet, book, advertisement, handbill or other printed material;
- (q) interfere with an authorized official in the execution of his or her duties at a sport facility in terms of this by-law;
- (r) bring or allow any animal into a sport facility, when the presence of animals are specifically prohibited by signs at the sport facility, or without a lead or halter, or without direct supervision by a competent person, but excluding a guide dog accompanying a blind or a disabled person, or an animal used by an authorized official or a member of the South African Police in the execution of their duties, or when prior consent has been given by the Municipality;
- (s) bear, display or use a firearm or any other dangerous weapon, except an authorized official or a member of the South African Police in the execution of their duties;
- (t) without the prior written consent of the Municipality, erect or attempt to erect any tent or similar construction, stall, booth, stand, screen, or fence;
- (u) bring into a sport facility, or use any substance or matter or apparatus, which may endanger the safety of people or which can be used to disrupt proceedings or disturb public order; and
- (v) be under the influence of liquor and / or drugs.

CHAPTER 2: ORGANIZED SPORT ACTIVITIES

6. ORGANIZED USE OF SPORT FACILITIES

- (1) The Municipality may allow the use of municipal sport facilities by sport organizations affiliated to national sport federations or other members of the public.

- (2) An organization to which a sporting facility or a portion thereof has been allocated for use on a regular basis, shall ensure that the facility concerned is properly used and utilized.
- (3) When an organization fails to properly use or utilize a municipal sport facility or any part thereof, allocated to such organization by the Municipality, the Municipality may suspend or cancel the continuation of use by such organization of the sport facility concerned.

7. BOOKING AND LEASING OF MUNICIPAL SPORT FACILITIES

- (1) The Municipality may make a municipal sport facility available in terms of such conditions and fees determined by the Municipality, for lease for purpose of organized sport or for sport days or for special occasions, or may make it available for use free of charge or grant admission free of charge to certain persons.
- (2) The representative of an organization or a person that is of intention to lease a municipal sport facility must complete a prescribed application form and submit it to the Municipality for consideration.
- (3) The Municipality shall when considering the application, as contemplated in subsection 7(2) of this by-law, except for other relevant factors that may be applicable, take the following matters specifically into consideration -
 - (a) the principles and objectives of this by-law;
 - (b) that the sport facility should be used primarily for sport activities or for such other activities that may be approved from time to time;
 - (c) that the intended use of a sport facility should not create a nuisance for other users of the sport facility concerned, or for the occupants of adjoining premises; and
 - (d) that the use of the facility will not constitute a danger to any person or property or shall negatively affect the environment.
- (4) The Municipality may approve the use of a sport facility subject to the conditions as contemplated in subsection 7(3) of this by-law, or can refuse approval.
- (5) The Municipality shall notify the involved applicant in writing, whether the application has been approved or refused, and –
 - (a) when an application has been refused, the reasons why the application has been refused shall be provided to the applicant, or
 - (b) when an application has been approved, a notice of approval shall be provided to the applicant, which shall specify the conditions of use.
- (6) An applicant may not advertise or announce a sport activity or sport meeting for which an application has been submitted, before the Municipality provide approval that such advertising or announcement may take place.

- (7) The Municipality may before an application is approved, as contemplated in subsection 7(4) of this bylaw, require from the applicant to take out the following insurance policies at an approved and registered insurance company –
- (a) insurance for an amount as specified by the Municipality, to cover any structural or any other damage on or at the sport facility concerned, as a result of the use thereof; and
 - (b) insurance for public liability, with the Municipality as nominated beneficiary.
- (8) An applicant which supplies false information on an application form or who deceitfully pretend that the conditions have been complied with, shall be guilty of an offence.

8. CANCELLATION, POSTPONEMENT OR EXTENSION OF BOOKINGS

- (1) An applicant who applied for the use of a municipal sport facility, may cancel such booking, and when any fees have been paid up-front for such facility, the Municipality may pay back the fees to the applicant, in accordance with the tariff policy of the Municipality.
- (2) (a) After approval has been given for the use of a municipal sport facility, an applicant may apply for the postponement of the booking date or for the use of the facility at an alternative date.
- (b) When an application for postponement or an alternative date has been approved, fees already paid shall be transferred to the new booking date.
- (c) The Municipality may refuse an application for postponement or an alternative date of use, when the sport facility concerned has already been booked for the alternative date by another applicant or when the shifting of the date of booking is not considered to be desirable.
- (3) An applicant may apply for extension of the period of use of a municipal sport facility, on condition that such application be in writing and that the facility concerned shall be for the requested periods available for use.
- (4) The Municipality may cancel the lease of a municipal sport facility, for the reasons as contemplated in section 3(8) of this by-law, or when the Municipality require the facility for municipal purpose for the same period as the lease concerned, subject thereto that fees already paid shall be paid back to the lessee.
- (5) When the Municipality cancel a booking in terms of the provisions of subsection 8(4) of this by-law, the lessee shall within a reasonable time be informed in writing of the cancellation.
- (6) The applicant concerned shall subject to the provisions of subsection 8(4) of this by-law, have no claim against the Municipality for any losses incurred because of the cancellation of a booking for a municipal sport facility or for any costs as a result of the cancellation.

9. TERMINATION OF LEASE AGREEMENTS OF MUNICIPAL SPORT FACILITIES

- (1) Prior to or on termination of a lease agreement, the lessee and the Municipality shall inspect the municipal sport facility concerned, to evaluate the condition of the facility.
- (2) The lessee shall –
 - (a) return the municipal sport facility to the Municipality in the original condition it was leased to the lessee;
 - (b) repair any damages or broken items, accessories and appurtenances;
 - (c) clean the sport facility concerned to the satisfaction of the Municipality; and
 - (d) vacate the sport facility concerned within the stipulated time period.
- (3) The Municipality may, when a lessee fails to comply to the provisions of subsections 9(2)(a), 9(2)(b) of 9(2)(c) of this by-law, replace or repair any item, sport accesories or appurtenance of a sport facility, or repair any damages and / or clean the sport facility concerned, and recover the costs thereof from the deposit of the lessee or from the lessee him/herself.
- (4) The Municipality may, when a lessee fails to vacate a municipal sport facility in time, levy an additional tariff for the period exceeding the lease period.

10. DUTIES OF SPORT ORGANIZATIONS AS LESSEES

- (1) Before a sport organization as lessee may take possession of a municipal sport facility for use thereof, the sport organization as lessee shall inspect such facility and report any difienicies or deffects to the Municipality.
- (2) When a lessee fails to report any existing difienicies or deffects, it shall be construed as an acceptance by the sport organization as lessee,that the facility is in an acceptable condition.
- (3) The sport organization as lessee shall comply to any conditions stipulated by the Municipality in terms of the provisions of this by-law, and the sport organization as lessee shall implement all reasonable measures, to ensure that the members of the organization, and persons attending sport activities, either as participants, spectators or officials, comply to the provisions of section 5 of this by-law.

CHAPTER 3: GENERAL PROVISIONS

11. APPEALS

A person whose rights are affected by a decision of the Municipality in terms of any delegated powers, may appeal against such a decision in terms of section 62 of the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000), as amended, by giving written notice of the appeal against the decision and the reasons for the appeal to the Municipal Manager, within twenty-one (21) days of the date of the notification of the decision.

12. OFFENCES AND PENALTIES

Any person who -

- (a) fails to comply to the instructions of an authorized official issued in terms of this by-law or a notice on a notice board;
- (b) fails to comply with any notice served in terms of this by-law;
- (c) contravenes any provision of this by-law;
- (d) fails to comply to any instruction posted on a notice board; or
- (e) deliberately obstructs an authorized official in the execution of his or her duties in terms of this by-law,

is guilty of an offence and is liable on conviction, for -

- (i) a fine or imprisonment, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment;
- (ii) in the case of a successive or continuing offence, to an additional fine or additional period of imprisonment, or such additional imprisonment without the option of a fine, or to both such additional fine and such additional imprisonment, for every day such offence continues; and
- (iii) any further amount as an order of court for costs, equal to any costs and / or expenses, deemed by the Court, to have been incurred by the Municipality as a result of such contraventions.

13. SERVING OF NOTICES AND OTHER DOCUMENTS

- (1) A notice, instruction, letter of demand, or other document issued by the Municipality in terms of this by-law is deemed to be duly issued, when a duly delegated official of the Municipality has signed it.
- (2) Any notice, instruction, letter of demand, or other document that is served on a person in terms of this by-law, is regarded as having been duly and effectively served –
 - (a) when it has been delivered to that person personally;
 - (b) when it has been left at that person's place of residence or business in the Republic of South Africa, with a person apparently older than sixteen years;
 - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic of South Africa, and proof of the posting thereof is provided;
 - (d) if that person's address in the Republic of South Africa is unknown, when it has been served on that person's agent or representative in the Republic of South Africa, in a manner as provided in subsections 13(2)(a), 13(2)(b) or 13(2)(c) of this by-law;
 - (e) if that person's address and agent or representative in the country of South Africa is unknown, when it has been posted in a conspicuous place on the property or premises to which it relates; or

- (f) in the event of a body corporate, when it has been delivered at the registered office or the business premises of the body corporate.
- (3) When any notice, instruction, letter of demand, or other document is served on a person in terms of this by-law, it is sufficient for purpose of the serving of the notice, instruction, letter of demand or other document, to describe the person as the owner, occupant, or holder of the property or rights in question, and it is not a requirement to name that person.
- (4) A notice, instruction, letter of demand, or other document shall for purpose of authentication, be properly signed by the Municipality.

14. CONFLICT BETWEEN LEGISLATION

When any stipulation of this by-law, is in conflict with national and provincial legislation or regulations, the national and provincial legislation or regulations shall prevail.

15. REPEAL OF BY-LAWS

The provisions of any by-laws previously promulgated by the Municipality or by any of the disestablished municipalities now incorporated in the Municipality, are hereby repealed as far as they relate to matters provided for in this by-law.

16. SHORT TITLE

This by-law shall be called the Sporting Facilities By-law of the Theewaterskloof Municipality.

17. OPERATIVE DATE

This by-law shall take effect on the date of publication.

MUNISIPALITEIT VAN THEEWATERSKLOOF
VERORDENINGE INSAKE SPORTFASILITEITE

**Kragtens artikel 156 van die Grondwet van die Republiek van Suid-Afrika, 1996,
verorden die Munisipale Raad van die Munisipaliteit van Theewaterskloof
hiermee soos volg:**

AANHEF

Die Munisipaliteit van Theewaterskloof –

- (i) erken die reg van die gemeenskap om publieke sportfasiliteite te kan gebruik en te benut vir die beoefening van sport, hetsy as individue en / of as georganiseerde groepe;
- (ii) aanvaar die verantwoordelikheid om die hulpbronne van die Munisipaliteit van Theewaterskloof in die beste belang van die gemeenskap aan te wend, vir die ontwikkeling en instandhouding van munisipale sportfasiliteite; en
- (iii) beoog om die munisipale sportfasiliteite aldus ontwikkel, te beheer en te administreeer tot voordeel van die gemeenskap, in terme van die bepalings van hierdie verordening.

INHOUDSOPGAWE

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- 2. Toepassing van die verordening

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- 3. Die administrasie, beheer oor en instandhouding van sportfasiliteite
- 4. Toegang tot munisipale sportfasiliteite
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- 6. Ge-organiseerde gebruik van munisipale sportfasiliteite
- 7. Bespreking en huur van munisipale sportfasiliteite
- 8. Kansellasië, uitstel of verlenging van besprekings
- 9. Beëindiging van huurooreenkomste vir munisipale sportfasiliteite
- 10. Pligte van sportorganisasies as huurders

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- 11. Appèlle
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- 13. Bediening van kennisgewings en ander dokumente
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1. INTERPRETASIE

In hierdie verordening, geniet die Engelse teks voorrang in die geval van 'n teenstrydigheid met die Afrikaanse teks, en tensy dit uit die samehang anders blyk, beteken –

“gemagtigde beampte”, enige vredesbeampte gemagtig ingevolge artikel 334 van die Strafproseswet, 1977 (Wet No 51 van 1977), soos gewysig of enige beampte van die Munisipaliteit van Theewaterskloof wat deur die Munisipaliteit van Theewaterskloof gemagtig is om die bepalings van hierdie verordening af te dwing;

“ge-organiseerde sportbedrywigheid”, 'n sportbyeenkoms, sportwedstryd, sportdemonstrasie of sportoefening, wat deur 'n sportorganisasie of sportliggaam of sportklub of enige ander instansie of persoon, georganiseer, aangebied of beheer word;

“Munisipaliteit”, die Munisipaliteit van Theewaterskloof, wat insluit enige verwysing na behoorlik gemagtigde en / of aangestelde beamptes en / of diensverskaffers in terme van diensleweringsooreenkomste van die Munisipaliteit van Theewaterskloof;

“munisipale sportfasiliteite”, wat die begrip **“fasiliteit”** en **“gerief”** insluit, enige grond, area, perseel, baan, veld, gebou, fasiliteit of struktuur, of gedeelte daarvan, wat deur die Munisipaliteit van Theewaterskloof besit, bestuur of beheer word en wat vir die beoefening van sport aangewys, afgebaken, gereserveer en gebruik word, en sluit enige toestel, toerusting, apparaat, pawiljoen, kleedkamer, ablusie- of stoorgierief op of by sodanige fasiliteite in, wat normaalweg met sodanige sport fasiliteit assosieer word;

“onder die invloed van drank en / of dwelms”, 'n persoon wat weens die inname van alkohol en / of dwelms tot so 'n mate beheer oor sy of haar geestes- of liggaamlike vermoëns of beide verloor het, dat hy of sy nie in staat is om hom- of haarself te handhaaf of te gedra nie, of nie in staat is om enige handeling op so 'n wyse te verrig, dat dit nie 'n gevaar vir hom- of haarself of ander persone inhou nie, of as sodanig inbreek maak op die grondwetlike regte van ander persone nie;

“sportaktiwiteit”, die beoefening van enige ge-organiseerde sport, insluitend deelname aan oefensessies;

“sport bykomstighede”, enige toerusting, toestelle, apparate, voorwerpe of enige ander item op of by 'n sportveld, sportarena, sportfasiliteit of atletiekbaan, wat nodig is vir die beoefening van 'n spesifieke sportsoort, hetsy of dit bevestig, losstaande of verwyderbaar is;

“sport accessories”, means any equipment, contrivance, apparatus, object or any other item required for a specific type of sport and used on or at a sportfield, sport arena, sport facility or athletics track, irrespective whether such accessory is fixed, movable or removable;

“sportorganisasie”, 'n sportklub, sportliggaam, of assosiasie of groep van persone wat aan sport deelneem, sport afrig of sport bestuur;

“sporttoerusting”, die ooreenkomstige betekenis van **“sport bykomstighede”**; en

“toebehore”, enige benodighede, installasie, meganisme, toestel, instrument, apparaat, gereedskap, masjien en werktuig op of by die perseel van 'n sportfasiliteit.

2. TOEPASSING VAN DIE VERORDENING

Hierdie verordening is van toepassing op alle sportfasiliteite onder die beheer en administrasie van die Munisipaliteit.

HOOFSTUK 1: ADMINISTRASIE, TOEGANG, TARIWE EN VERBODE GEDRAG

3. DIE ADMINISTRASIE, BEHEER OOR EN INSTANDHOUDING VAN SPORTFASILITEITE

- (1) Die Munisipaliteit mag 'n sportkomitee of –liggaam instel, om die Munisipaliteit van advies te bedien oor aangeleenthede wat met munisipale sportfasiliteite verband hou.
- (2) Die Munisipaliteit moet alle munisipale sportfasiliteite of enige ander sportfasiliteite onder die beheer van die Munisipaliteit, ooreenkomstig die bepalings van hierdie verordening en / of bepalings wat deur die Munisipaliteit vir 'n spesifieke sportfasiliteit bepaal word, administreer.
- (3) Die Munisipaliteit mag grond of geboue verkry, met die doel om plaaslike munisipale sportfasiliteite te ontwikkel, en kan met bestaande sportfasiliteite of enige regte daartoe handel ooreenkomstig die doelstellings van hierdie verordening.
- (4) 'n Persoon of sportorganisasie wat van munisipale sportfasiliteite gebruik maak of dit huur, doen dit onderworpe aan die bepalings van hierdie verordening en ingevolge voorwaardes wat deur die Munisipaliteit van tyd tot tyd bepaal word.
- (5) Onderworpe aan die bepalings en voorwaardes wat in enige huurkontrak vir 'n munisipale sportfasiliteit uiteengesit word, en onderworpe aan enige toepaslike provinsiale en nasionale statutêre bepalings en die Verordening insake Drankhandelsdae en Ure van die Munisipaliteit van Theewaterkloof, mag geen huurder of gebruiker van sodanige sportfasiliteit –
 - (a) sy of haar eie voorraad alkoholiese drank na 'n sportfasiliteit bring, sonder die toestemming van die Munisipaliteit of die dranklisensiehouer nie; of
 - (b) enige alkoholiese drank op of by 'n sportfasiliteit verkoop sonder skriftelike magtiging van die Munisipaliteit en die toepaslike dranklisensie nie.
- (6) Indien die Munisipaliteit die verkoop of gebruik van alkohol by 'n munisipale sportfasiliteit toelaat, sal die verkoop of verbruik van alkohol onderworpe aan die volgende voorwaardes wees -
 - (a) geen alkoholiese drank mag in 'n glasbottel, glaskoppie of ander houer wat van glas gemaak is, bedien word nie;
 - (b) bier, sider en alkoholiese vrugtedranke mag net in blikkies, vaattjies, plastiek houers of houers van soortgelyke materiaal bedien word; en
 - (c) die sportorganisasie, huurder en / of dranklisensiehouer moet die goeie orde binne die sportfasiliteit handhaaf.

- (7) Die Munisipaliteit mag 'n munisipale sportfasiliteit sluit vir gebruik, wanneer –
- (a) die fasiliteit weselik onbruikbaar geraak het weens –
 - (i) vandalisme;
 - (ii) enige ander tipe ernstige skade; of
 - (iii) die afwesigheid van munisipale dienste.
 - (b) die sportfasiliteit 'n gevaar vir menseleuens of eiendom inhou; of
 - (c) 'n noodtoestand ontstaan het, wat sodanige sluiting nodig maak.
- (8) Die Munisipaliteit mag 'n munisipale sportfasiliteit tydelik sluit, ten einde dringende of ander herstel- of instandhoudingswerk uit te voer by sodanige fasiliteit, of om enige ander rede wat na die mening van die Munisipaliteit nodig mag wees.

4. TOEGANG TOT MUNISIPALE SPORTFASILITEITE

- (1) Die Munisipaliteit mag 'n kennisgewing by of naby die ingang van 'n munisipale sportfasiliteit aanbring, waarop die ure waartydens die sportfasiliteit deur die publiek gebruik mag word, aangedui word.
- (2) Die reg van toegang tot 'n munisipale sportfasiliteit word deur die Munisipaliteit voorbehou, en 'n gemagtigde beampte mag 'n persoon wat 'n bepaling van hierdie verordening oortree het, opdrag gee om die perseel van 'n sportfasiliteit onmiddellik te verlaat, en indien sodanige persoon versuim om aan die betrokke opdrag gehoor te gee, kan 'n gemagtigde beampte die betrokke persoon laat verwyder.
- (3) Die Munisipaliteit het die reg om die maksimum kapasiteit van 'n munisipale sportfasiliteit, in terme van die aantal gebruikers te bepaal, en kan sodra hierdie maksimum kapasiteit oorskry word, enige verdere toegang tot sodanige sportfasiliteit verbied, en mag verdere maatreëls tref wat nodig is om toegang te beperk.

5. VERBODE GEDRAG

Geen persoon mag op of by 'n munisipale sportfasiliteit –

- (a) die betrokke fasiliteit binne gaan, op enige ander wyse as deur 'n ingang wat vir dié doel aangewys word nie;
- (b) die betrokke fasiliteit op enige tydstip, behalwe die ure wat sodanige fasiliteit vir lede van die publiek oop is, sonder toestemming binnegaan of gebruik nie;
- (c) rook nie, behalwe in areas wat spesiaal vir daardie doel met toepaslike kennisgewingborde aangewys word;
- (d) skoeisel dra wat die oppervlak van enige veld of baan by 'n sportfasiliteit kan beskadig nie;
- (e) in die openbaar onbetaamlik geklee of ongekleed wees nie;
- (f) hom- of haarself in die openbaar ontlast of urineer nie;

- (g) met uitsondering van kinders onder die ouderdom van vyf (5) jaar, kleedkamers of ablusiegeriewe of enige geriewe wat vir die teenoorgestelde geslag opsygesit word, gebruik of binnegaan nie;
- (h) onweloweglike of vuiltaal gebruik nie, of op sodanige wyse optree, dat dit 'n oorlas vir ander mense veroorsaak of aanstoot gee of die openbare orde versteur;
- (i) enige deel van 'n sportfasiliteit, of sport bykomstighede of toebehore van 'n sportfasiliteit vernietig, beskadig of ontsier nie;
- (j) vullis neer gooi of stort nie, behalwe in houers wat vir daardie doel voorsien is;
- (k) op enige wyse peuter met die oppervlak van 'n sportbaan of -veld, of met enige sportbykomstighede of toebehore;
- (l) onwettig enige vuur aansteek nie, behalwe op sodanige plekke spesifiek daarvoor by 'n sportfasiliteit voorsien;
- (m) 'n voertuig op 'n grasperk of 'n baan of veld op die perseel van 'n sportfasiliteit bestuur of bring nie, behalwe 'n gemagtigde beampte of 'n lid van die Suid-Afrikaanse Polisiediens in die uitvoering van hulle pligte;
- (n) enige handeling verrig wat uitdruklik by wyse van 'n kennisgewing en / of tekens op 'n perseel verbied word nie;
- (o) 'n motorfiets, drie- of vierwielmotorfiets, bromponie, elektriese motorvoertuig, fiets, lemrolskaatse, rolskaatse, skaatsplank, driewiel of enige soortgelyke vorm van vervoer of vermaak ry of gebruik nie, behalwe indien dit toelaatbaar word by 'n spesifieke fasiliteit of indien spesiale magtiging daarvoor verleen word, of dit van 'n gemagtigde beampte of 'n lid van die Suid-Afrikaanse Polisiediens vereis word in die uitvoering van hulle pligte;
- (p) sonder die vooraf skriftelike toestemming van die Munisipaliteit en die nodige voedselvoorbereidinglisensie van die bevoegde owerheid, waar toepaslik, enige item of goedere verkoop, smous, te koop aanbied, of enigiets vertoon of adverteer vir verkoping of verhuring nie, of 'n pamflet, boek, advertensie, strooibiljet of ander gedrukte materiaal versprei nie;
- (q) enige gemagtigde beampte in die uitvoering van sy of haar pligte by 'n sportfasiliteit, ingevolge hierdie verordening, belemmer nie;
- (r) enige dier strydig met 'n verbod wat op 'n kennisgewingbord daarvoor aangebring is, of sonder die vooraf verkreë toestemming van die Munisipaliteit of sonder 'n leiband of halter, of wat nie onder die direkte beheer van 'n bevoegde persoon is nie, op 'n sportfasiliteit bring of toelaat, maar uitgesonderd 'n gidshond wat 'n blinde en / of gestremde persoon vergesel of enige dier gebruik deur 'n gemagtigde beampte of lid van die Suid-Afrikaanse Polisiediens in die uitvoering van hulle pligte;
- (s) 'n vuurwapen of ander gevaarlike wapen dra, vertoon of gebruik nie, behalwe 'n gemagtigde beampte of 'n lid van die Suid-Afrikaanse Polisiediens;

- (t) sonder die vooraf skriftelike toestemming van die Munisipaliteit, enige tent of soortgelyke konstruksie, stalletjie, hokkie, staanplek, skerm of heining oprig of probeer oprig nie;
- (u) enige middel, materiaal of apparaat wat die veiligheid van mense in gevaar kan stel of wat gebruik kan word om verrigtinge te ontwig of die openbare orde kan versteur, by 'n sport fasiliteit inbring of gebruik nie; of
- (v) onder die invloed van drank en / of dwelms wees nie.

HOOFSTUK 2: GE-ORGANISEERDE SPORTBEDRYWIGHEDE

6. GE-ORGANISEERDE GEBRUIK VAN MUNISIPALE SPORTFASILITEITE

- (1) Die Munisipaliteit mag munisipale sportfasiliteite tot die beskikking stel van sportorganisasies wat by 'n nasionale sportfederasie ge-affilieer is of ander lede van die publiek vir gebruik.
- (2) 'n Organisasie aan wie 'n munisipale sportfasiliteit of 'n gedeelte daarvan, vir gebruik op gereelde basis toegewys is, moet toesien dat die betrokke fasiliteit na behore gebruik en benut word.
- (3) Indien 'n organisasie versuim om 'n munisipale sportfasiliteit of 'n gedeelte daarvan, toegeken deur die Munisipaliteit aan die betrokke organisasie behoorlik te gebruik en te benut, mag die Munisipaliteit die organisasie se voortgesette gebruik van die betrokke sportfasiliteit opskort of kanselleer.

7. BESPREKING EN HUUR VAN MUNISIPALE SPORTFASILITEITE

- (1) Die Munisipaliteit kan 'n munisipale sportfasiliteit vir die doel van ge-organiseerde sport of vir sportdae of vir spesiale geleenthede verhuur, ingevolge sodanige voorwaardes en tariewe as wat nodig mag wees, of dit gratis beskikbaar stel of gratis toegang vir geselekteerde persone verleen.
- (2) Die verteenwoordiger van 'n organisasie of persoon wat 'n munisipale sportfasiliteit wil huur, moet die voorgeskrewe aansoekvorm invul en dit by die Munisipaliteit indien vir oorweging.
- (3) Die Munisipaliteit moet by oorweging van die aansoek, soos verwys na in subartikel 7(2) van hierdie verordening, afgesien van ander relevante faktore, die volgende oorwegings spesifiek in aanmerking neem -
 - (a) die beginsels en doelstellings van hierdie verordening;
 - (b) dat die sportfasiliteit hoofsaaklik vir die beoefening van sport of vir sodanig ander goedgekeurde aktiwiteite soos van tyd tot tyd bepaal, gebruik behoort te word;
 - (c) dat die beoogde gebruik van 'n sportfasiliteit nie 'n oorlas vir ander gebruikers van die betrokke sportfasiliteit, of vir die okkupeerders van aanliggende persele sal inhou nie; en

- (d) dat die gebruik van die sportfasiliteit nie 'n gevaar vir enige persoon of eiendom sal inhou of 'n negatiewe uitwerking op die omgewing sal hê nie.
- (4) Die Munisipaliteit kan die gebruik van 'n sportfasiliteit toestaan onderworpe aan enige voorwaardes soos verwys na in subartikel 7(3) van hierdie verordening, of kan toestemming weier.
- (5) Die Munisipaliteit moet die betrokke aansoeker skriftelik in kennis stel of die aansoek goedgekeur of geweier is, en –
- (a) indien die aansoek geweier is, moet die redes waarom die aansoek geweier word, aan die aansoeker verstrek word; of
- (b) indien die aansoek goedgekeur is, moet 'n opgaaf van die goedkeuring aan die aansoeker verskaf word, waarin die voorwaardes van gebruik uiteengesit word.
- (6) 'n Aansoeker mag nie 'n sportaktiwiteit of –byeenkoms, waarvoor 'n aansoek ingedien was, adverteer of aankondig, voordat die Munisipaliteit goedkeuring vir sodanige advertering of aankondiging verleen het nie.
- (7) Die Munisipaliteit mag alvorens 'n aansoek goedgekeur word, soos voorsien in subartikel 7(4) van hierdie verordening, van 'n aansoeker vereis om die volgende spesifieke versekeringspolis uit te neem by 'n goedgekeurde en geregistreerde versekeringsmaatskappy –
- (a) versekering vir 'n bedrag soos gespesifiseer deur die Munisipaliteit, om enige strukturele of ander skade wat op of by die betrokke sportfasiliteit kan ontstaan weens die voorgenome gebruik, te dek; en
- (b) versekering vir openbare aanspreeklikheid, met die Munisipaliteit as die genomineerde begunstigde.
- (8) 'n Aansoeker wat vals inligting in 'n aansoekvorm verstrek of valslik voorgee dat daar aan al die gestelde voorwaardes voldoen is, pleeg 'n misdryf.

8. KANSELASIE, UITSTEL OF VERLENGING VAN BESPREKINGS

- (1) 'n Aansoeker wat aansoek gedoen het vir die gebruik van 'n munisipale sportfasiliteit, kan sodanige aansoek kanselleer, en indien fooie reeds vir sodanige fasiliteit betaal was, kan die terugbetaling van fooie aan die aansoeker, ooreenkomstig die Munisipaliteit se tariewebeleid, geskied.
- (2) (a) Nadat goedkeuring vir gebruik van 'n munisipale sportfasiliteit deur die Munisipaliteit verleen is, kan 'n aansoeker vir die verskuiwing van die datum van bespreking aansoek doen, of vir die gebruik van sodanige fasiliteit op 'n alternatiewe datum.
- (b) Indien 'n aansoek om uitstel goedgekeur word, sal enige gelde wat reeds betaal is, ter vereffening van die gelde betaalbaar vir die gewysigde bespreking oorgedra word; en
- (c) Die Munisipaliteit mag 'n aansoek om uitstel of datumverskuiwing weier, indien die betrokke munisipale sportfasiliteit reeds deur 'n ander applikant vir die alternatiewe

datum bespreek is of indien die uitstel of die verskuiwing nie wenslik is nie.

- (3) 'n Aansoeker kan aansoek doen dat die tydperk van gebruik van 'n munisipale sportfasiliteit verleng word, met dien verstande dat sodanige aansoek op skrif gestel word en dat die betrokke fasiliteit vir sodanige tydperke vir gebruik beskikbaar moet wees.
- (4) Die Munisipaliteit kan die huur van 'n munisipale sportfasiliteit, as gevolg van die omstandighede soos voorsien in subartikel 3(8) van hierdie verordening kanselleer, of indien die Munisipaliteit die betrokke fasiliteit vir dieselfde tydperk as die huurperiode vir munisipale doeleindes benodig, met dien verstande dat die tariewe wat reeds ten opsigte van die betrokke bespreking betaal was, dan ten volle aan die huurder terugbetaal moet word.
- (5) Indien die Munisipaliteit 'n bespreking kanselleer ingevolge die bepalings van subartikel 8(4) van hierdie verordening, moet die betrokke huurder binne 'n redelike tydperk skriftelik van die kansellering in kennis gestel word.
- (6) Onderworpe aan die bepalings van subartikel 8(4) van hierdie verordening, het 'n aansoeker, geen eis teen die Munisipaliteit vir die verlies van die gebruik van 'n betrokke munisipale sportfasiliteit of vir skade wat mag voortspruit uit 'n kansellering nie.

9. BEËINDIGING VAN HUUROOREENKOMSTE VIR MUNISIPALE SPORTFASILITEITE

- (1) By of voor die beëindiging van 'n huurooreenkoms, moet die huurder en die Munisipaliteit die betrokke munisipale sportfasiliteit wat verhuur was inspekteer, om die toestand van die fasiliteit te evalueer.
- (2) Die huurder moet –
 - (a) die munisipale sportfasiliteit aan die Munisipaliteit terugbesorg in die oorspronklike toestand waarin dit verhuur was;
 - (b) enige skade herstel en gebreekte items, toerusting en toebehore regmaak;
 - (b) betrokke sportfasiliteit laat skoonmaak tot die bevrediging van die Munisipaliteit; en
 - (d) die betrokke sportfasiliteit binne die vereiste tydperk ontruim.
- (3) Indien die huurder versuim om te voldoen aan die bepalings van subartikels 9(2)(a), 9(2)(b) of 9(2)(c) van hierdie verordening, mag die Munisipaliteit enige gebreekte items, sporttoerusting of -toebehore van 'n sportfasiliteit laat vervang of regmaak, of skade laat herstel en die betrokke fasiliteit laat skoonmaak, en die kostes van die huurder se deposito of andersyds van die huurder self verhaal.
- (4) Indien 'n huurder versuim om 'n sportfasiliteit betyds te ontruim, kan die Munisipaliteit 'n bykomende tarief hef vir die tydperk waartydens die huurder die sportfasiliteit, ná die verstryking van die huurtydperk, beset het.

10. PLIGTE VAN SPORTORGANISASIES AS HUURDERS

- (1) Alvorens 'n sportorganisasie as huurder, besit neem van 'n munisipale sportfasiliteit om dit te gebruik, moet die huurder sodanige fasiliteit inspekteer, en enige gebreke of defekte wat voorkom, skriftelik aan die Munisipaliteit rapporteer.
- (2) Indien die huurder versuim om enige bestaande gebreke of defekte te rapporteer, word dit geag as aanvaarding deur die sportorganisasie as huurder te wees, dat die fasiliteite in 'n behoorlike toestand is.
- (3) Die sportorganisasie as huurder moet voldoen aan enige voorwaardes wat deur die Munisipaliteit ingevolge die bepalings van hierdie verordening gestel word en die sportorganisasie as huurder moet alle redelike maatreëls tref om te verseker dat sy lede en die persone wat sportaktiwiteite bywoon, hetsy as deelnemers, toeskouers of beamptes, aan die bepalings van artikel 5 van hierdie verordening voldoen.

HOOFSTUK 3: ALGEMENE BEPALINGS

11. APPÈLLE

'n Persoon wie verontreg voel oor 'n besluit geneem deur die Munisipaliteit, ingevolge enige gedelegeerde magte, mag in terme van artikel 62 van die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet No 32 van 2000), soos gewysig, teen sodanige besluit appèlleer deur binne een-en-twintig (21) dae vanaf datum van kennisgewing van die besluit, skriftelike kennis aan die Munisipale Bestuurder te gee van die appèl en redes vir die appèl te verstrek.

12. STRAFBEPALINGS

Enige persoon wat –

- (a) in gebreke bly om te voldoen aan 'n gemagtigde beampte se instruksies ingevolge hierdie verordening uitgereik;
- (b) in gebreke bly om aan enige kennisgewing uitgereik ingevolge hierdie verordening te voldoen;
- (c) enige bepaling van hierdie verordening oortree;
- (d) enige instruksie aangebring op 'n kennisgewingbord verontagsaam, of
- (e) opsetlik 'n gemagtigde beampte in die uitvoering van sy of haar pligte ingevolge hierdie verordening verhinder,

is skuldig aan 'n oortreding en mag by skuldigbevinding –

- (i) 'n boete of gevangenisstraf, of gevangenisstraf sonder die keuse van 'n boete, of beide sodanige boete en sodanige gevangenisstraf, opgelê word;
- (ii) in geval van 'n voortdurende oortreding, 'n bykomende boete of bykomende termyn gevangenisstraf of tot sodanige bykomende gevangenisstraf sonder die

- keuse van 'n boete, of tot beide sodanige boete en gevangenisstraf, vir elke dag wat sodanige oortreding voortduur, opgelê word; en
- (iii) 'n verdere bedrag as kostebevel opgelê word, gelykstaande aan enige koste en/of uitgawes wat die Hof bevind deur die Munisipaliteit aangegaan was, as gevolg van sodanige oortreding.

13. BEDIENING VAN KENNISGEWINGS EN ANDER DOKUMENTE

- (1) 'n Kennisgewing, bevel, aanskrywing, of ander dokument wat ingevolge hierdie verordening deur die Munisipaliteit uitgereik word, word geag behoorlik uitgereik te wees indien 'n beampete wat deur die Munisipaliteit gemagtig is, dit onderteken het.
- (2) Wanneer dit nodig is om enige gemagtigde kennisgewing, bevel, aanskrywing of ander dokument te bedien op 'n persoon ingevolge hierdie verordening, word dit geag effektief en na behore aan sodanige persoon beteken te wees –
- (a) wanneer dit persoonlik aan die persoon afgelewer is;
- (b) wanneer dit by die persoon se plek van inwoning of besigheid in die Republiek van Suid-Afrika gelaat is, by 'n persoon wat duidelik ouer as sestien jaar is;
- (c) wanneer dit gepos is per geregistreerde of gesertifiseerde pos aan die persoon se laaste bekende woon- of besigheidsadres in die Republiek van Suid-Afrika, en 'n erkenning van die versending verskaf word;
- (d) indien die persoon se adres in die Republiek van Suid-Afrika onbekend is, wanneer dit aan die persoon se agent of verteenwoordiger in die Republiek van Suid-Afrika bedien is op so 'n manier, soos in subartikels 13(1)(a), 13(1)(b) of 13(1)(c) van hierdie verordening bepaal;
- (e) indien die persoon se adres en agent in die Republiek van Suid-Afrika onbekend is, wanneer dit opsigtelik vertoon word op die vaste eiendom of perseel, indien enige, waarop dit betrekking het; of
- (f) in die geval van 'n bestuursliggaam, wanneer dit by die geregistreerde kantoor of die sakeperseel van sodanige bestuursliggaam afgelewer word.
- (3) Wanneer enige kennisgewing, bevel, aanskrywing of ander dokument aan 'n persoon ingevolge hierdie verordening bedien moet word, is dit nie nodig om dit by name te noem nie, maar sal dit voldoende wees as die persoon daarin beskryf word as die eienaar, bewoner of houer van sodanige vaste eiendom of ander reg, wat ook al die geval mag wees.
- (4) 'n Bevel, kennisgewing of ander dokument wat waarmerking vereis moet behoorlik deur die Munisipaliteit onderteken wees.

14. TEENSTRYDIGHEDE MET ANDER WETGEWING

In die geval van teenstrydighede tussen enige bepaling van hierdie verordening, en nasionale en provinsiale wetgewing of regulasies, sal sodanige nasionale en provinsiale wetgewing of regulasies voorrang geniet.

15. HERROEPING VAN VERORDENING

Die bepalings van enige ander verordeninge, voorheen uitgevaardig deur die Munisipaliteit of deur enige van die afgeskafte munisipaliteite, wat nou in die Munisipaliteit geïnkorporeer is, word hierby herroep in soverre dit betrekking het op aangeleenthede waarvoor in hierdie verordening voorsiening gemaak word.

16. KORT TITEL

Hierdie verordening word die Verordening insake Sportfasiliteite genoem.

17. INWERKINGTREDING

Hierdie verordening tree op datum van publikasie daarvan in werking.

THEEWATERSKLOOF MUNICIPALITY

PROPERTY RATES BY-LAW

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996, the Municipal Council of the Theewaterskloof Municipality hereby enacts as follows:

PREAMBLE

- (1) **WHEREAS** section 229(1) of the Constitution of the Republic of South Africa, 1996 authorize a municipality to impose:
- (a) rates on property and surcharges on fees for services provided by or on behalf of the Municipality; and
 - (b) when authorized by national legislation, other taxes, levies and duties.
- (2) **AND WHEREAS** a municipal council shall in terms of section 3 of the Local Government: Municipal Property Rates Act, 2004 (Act No 6 of 2004), as amended, adopt a policy consistent with the afore stated act, on the levying of rates on ratable property in the Municipality.
- (3) **AND WHEREAS** a municipality shall in terms of section 6(1) of the Local Government: Municipal Property Rates Act, 2004 (Act No 6 of 2004), as amended, adopt a by-law to give effect to the implementation of the adopted rates policy.
- (4) **AND WHEREAS** a municipality may in terms of section 6(2) of the Local Government: Municipal Property Rates Act, 2004 (Act No 6 of 2004), as amended, differentiate between categories of properties, and different categories of owners of properties liable for the payment of rates, in the by-law adopted in terms of section 6(1) of the afore stated act.

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1. INTERPRETATION

In this by-law the English text prevails in the event of any conflict with the Afrikaans text, and unless the context indicates otherwise -

“**Constitution**”, means the Constitution of the Republic of South Africa 1996;

“**Credit Control and Debt Collection By-Law and / or Policy**”, means the Credit Control and Debt Collection By-Law and / or the Policy of the Theewaterskloof Municipality as required by sections 96(b), 97 and 98 of the Municipal Systems Act, 2000 (Act No 32 of 2000), as amended;

“**Municipal Systems Act**”, means the Local Government: Municipal Systems Act, 2004 (Act No 6 of 2004), as amended;

“**Municipality**”, means the Theewaterskloof Municipality;

“**Property Rates Act**”, means the Local Government: Municipal Property Rates Act, 2004 (Act No 6 of 2004), as amended;

“**rate**” or “**rates**”, means municipal rates on property as envisaged in section 229(1)(a) of the Constitution of the Republic of South Africa 1996;

“**rates policy**”, means a rates policy adopted by the Theewaterskloof Municipality in terms of this by-law.

2. ADOPTION AND IMPLEMENTATION OF A RATES POLICY

- (1) The Municipality shall adopt and implement a rates policy on the levying of rates on ratable property in the area of jurisdiction of the Municipality, which complies with the provisions of the Municipal Property Rates Act, and sections 12 and 13 of the Municipal Systems Act.
- (2) The Municipality shall not be entitled to levy rates, other than in terms of a valid rates policy.

3. CONTENTS OF A RATES POLICY

The rates policy shall *inter alia* -

- (a) apply to all rates levied by the Municipality pursuant to the adoption of the annual budget of the Municipality;
- (b) comply with the requirements for -

- (i) the adoption and content of a rates policy as contemplated in section 3 of the Property Rates Act;
 - (ii) a community participation processes as contemplated in section 4 of the Property Rates Act; and
 - (iii) the annual review of a rates policy as contemplated in section 5 of the Property Rates Act;
- (c) specify any additional principles, criteria and implementation measures consistent with the Property Rates Act, for the levying of rates;
- (d) provide for the implementation of regulations as promulgated in terms of section 19(1)(b) of the Property Rates Act; and
- (e) include additional enforcements mechanisms, if any, as the Municipality may wish to impose in addition to the enforcement mechanisms contained in the Credit Control and Debt Collection By-Law and / or the Rates Policy of the Municipality.

4. INFORMATION IN APPLICATIONS, STATEMENTS AND DECLARATIONS

- (1) No person shall furnish any false or misleading information in any application, statement or declaration, which shall affect the liability for rates, or rates payable on any property.
- (2) The Municipality shall be informed in writing, within twenty-one (21) days, after any amendment to the circumstances or facts contained in the application, statement or declaration contemplated in sub-section 4(1) of this by-law.
- (3) Any person who contravenes the provisions of sub-sections 4(1) and 4(2) of this by-law, is guilty of an offence and may on conviction, be liable for a fine or imprisonment, or both such fine and such imprisonment.

5. ENFORCEMENT OF A RATES POLICY

The rates policy of the Municipality shall be enforced through the Credit Control and Debt Collection By-Law of the Municipality, and any further enforcement mechanisms stipulated in the rates policy of the Municipality.

6. REPEAL OF BY-LAWS

- (1) The provisions of any by-laws previously promulgated by the Municipality, or by any of the disestablished municipalities now incorporated in the Municipality, are hereby repealed as far as they relate to matters provided for in this by-law.

(2) The following by-law of the Theewaterskloof Municipality is hereby specifically repealed:

Date published	Name of by-law	As a whole or partially
PG 6639 dated 3 July 2009	Property Rates Bylaw	As a whole

7. SHORT TITLE

This by-law shall be called the Property Rates By-Law of the Theewaterskloof Municipality.

8. OPERATIVE DATE

This by-law shall take effect on the date of publication.

MUNISIPALITEIT VAN THEEWATERSKLOOF

VERORDENING INSAKE EIENDOMSBELASTING

AANHEF

- (1) **NADEMAAL** artikel 229(1) van die Grondwet van die Republiek van Suid-Afrika, 1996 'n munisipaliteit magtig:
- (a) om eiendomsbelasting en bobelasting te hef op fooie vir dienste deur of namens die Munisipaliteit verskaf; en
 - (b) indien deur nasionale wetgewing daartoe gemagtig, om ander belastings en heffings te hef, en regte op te lê.
- (2) **EN NADEMAAL** 'n munisipale raad ingevolge artikel 3 van die Wet op Plaaslike Regering: Munisipale Eiendomsbelasting, 2004 (Wet No 6 van 2004), soos gewysig, 'n beleid oor die heffing van belasting op belasbare eiendom in die Munisipaliteit, in ooreenstemming met artikel 3 van die gemelde wet, moet aanvaar
- (3) **EN NADEMAAL** 'n munisipaliteit ingevolge artikel 6(1) van die Wet op Plaaslike Regering: Munisipale Eiendomsbelasting, 2004 (Wet No 6 van 2004), soos gewysig, 'n verordening moet aanvaar, om uitwerking te gee aan die inwerkingstelling van die aanvaarde beleid oor eiendomsbelasting.
- (4) **EN NADEMAAL** 'n munisipaliteit ingevolge artikel 6(2) van die Wet op op Plaaslike Regering: Munisipale Eiendomsbelasting, 2004 (Wet No 6 van 2004), soos gewysig, in die verordeninge wat ingevolge artikel 6(1) van die gemelde wet aanvaar is, tussen die verskillende kategorieë eiendomme, en die verskillende kategorieë eienaars van eiendomme, wat aanspreeklik is vir die betaling van belasting ingevolge die gemelde wet, mag differensieër.

INHOUDSOPGAWE

1. Interpretasie
2. Aanvaarding en inwerkingstelling van 'n belastingbeleid
3. Inhoud van 'n belastingbeleid
4. Inligting in aansoeke, state en verklarings
5. Afdwinging van 'n belastingbeleid
6. Herroeping van verordeninge
7. Kort titel
8. Inwerkingtreeding

1. INTERPRETASIE

In hierdie verordening, geld die Engelse teks in die geval van enige teenstrydigheid met die die Afrikaanse teks, en tensy dit uit die samehang anders blyk, beteken -

“belasting” of **“belastings”**, 'n munisipale belasting op eiendom soos beoog in artikel 229(1)(a) van die Grondwet van die Republiek van Suid-Afrika, 1996;

“Grondwet”, die Grondwet van die Republiek van Suid-Afrika, 1996;

“Munisipale Stelselswet”, die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet No 32 van 2000), soos gewysig;

“Munisipaliteit”, die Munisipaliteit van Theewaterskloof;

“belastingbeleid”, 'n belastingbeleid wat deur die Munisipaliteit van Theewaterskloof ingevolge hierdie verordening aanvaar is;

“Verordening insake Kredietbeheer en Skuldinvordering en / of Beleid”, die Verordening insake Kredietbeheer en Skuldinvordering en / of die Beleid van die Munisipaliteit van Theewaterskloof, soos voorsien ingevolge artikels 96(b), 97 en 98 van die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet No 32 van 2000), soos gewysig;

“Wet op Eiendomsbelasting”, die Wet op Plaaslike Regering: Munisipale Eiendomsbelasting, 2004 (Wet No 6 van 2004), soos gewysig.

2. AANVAARDING EN INWERKINGSTELLING VAN 'N BELASTINGBELEID

- (1) Die Munisipaliteit moet 'n belastingbeleid in ooreenstemming met die Wet op Eiendomsbelasting, en artikels 12 en 13 van die Munisipale Stelselswet, vir die heffing van belastings op belasbare eiendom in die area van jurisdiksie van die Munisipaliteit aanvaar en in werking stel.
- (2) Die Munisipaliteit sal nie geregtig wees om belastings te hef, behalwe ingevolge 'n geldige belastingbeleid nie.

3. INHOUD VAN 'N BELASTINGBELEID

Die belastingbeleid moet, *inter alia* -

- (a) van toepassing wees op alle belastings wat deur die Munisipaliteit gehef word, nadat die Munisipaliteit se jaarlikse begroting aanvaar is;

- (b) voldoen aan die vereistes vir -
 - (i) die aanvaarding en inhoud van 'n belastingbeleid, soos voorsien in artikel 3 van die Wet op Eiendomsbelasting;
 - (ii) 'n proses van gemeenskapsdeelname, soos voorsien in artikel 4 van die Wet op Eiendomsbelasting; en
 - (iii) die jaarlikse hersiening van 'n belastingbeleid, soos voorsien in artikel 5 van die Wet op Eiendomsbelasting;
- (c) enige verdere beginsels, maatstawwe en toepassingmaatreëls in ooreenstemming met die Wet op Eiendomsbelasting vir die heffing van belastings soos gespesifiseer;
- (d) voorsiening maak vir die toepassing van die regulasies soos gepromulgeer ingevolge artikel 19(1)(b) van die Wet op Eiendomsbelasting; en
- (e) sodanige verdere toepassingmeganismes, indien enige, wat die Munisipaliteit verkies om in te stel, bykomend tot die toepassingmeganismes voorsien in die Verordening insake Kredietbeheer en Skuldinvordering en / of die Belastingbeleid van die Munisipaliteit.

4. INLIGTING IN AANSOEKE, STATE EN VERKLARINGS

- (1) Geen persoon mag enige vals of misleidende inligting verskaf in 'n aansoek, staat of verklaring, wat belastingpligtigheid of belasting betaalbaar op eiendom, sal beïnvloed nie.
- (2) Die Munisipaliteit moet binne een-en twintig (21) dae, na verandering van enige omstandighede of feite, wat die aansoek, state of verklaring soos voorsien in subartikel 4(1) van hierdie verordening, wesentlik sal wysig of verander, skriftelik daarvan in kennis gestel word.
- (3) Enige persoon wat die bepalinge van sub-artikels 4(1) en 4(2) van hierdie verordening oortree, is skuldig aan 'n misdryf, en by mag by skuldigbevinding strafbaar wees met 'n boete of met gevangenisstraf, of met beide sodanige boete en sodanige gevangenisstraf.

5. AFDWINGING VAN 'N BELASTINGBELEID

Die belastingbeleid van die Munisipaliteit moet deur middel van die Verordening insake Kredietbeheer en Skuldinvordering van die Munisipaliteit, en enige verdere meganismes vir toepassing voorsien in die Belastingbeleid van die Munisipaliteit, afgedwing word.

6. HERROEPING VAN VERORDENINGE

- (1) Die bepalings van enige ander verordeninge voorheen uitgevaardig deur die Munisipaliteit of deur enige van die afgeskafte munisipaliteite wat nou in die Munisipaliteit geïnkorporeer is, word hierby herroep in soverre dit betrekking het op aangeleenthede, waarvoor in hierdie verordening voorsiening gemaak word.
- (2) Die volgende verordening van die Munisipaliteit van Theewaterskloof word spesifiek hiermee herroep -

Datum gepubliseer	Naam van verordening	In die geheel of gedeeltelik
PK 6639 gedateer 3 Julie 2009	Verordening op Eiendomsbelasting	In die geheel

7. KORT TITEL

Hierdie verordening heet die Verordening insake Eiendomsbelasting van die Munisipaliteit van Theewaterskloof.

8. INWERKINGTREDING

Hierdie verordening tree op datum van publikasie daarvan in werking.

