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THEEWATERSKLOOF MUNICIPALITY

AIR QUALITY MANAGEMENT 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

WHEREAS section 24 of the Constitution of the Republic of South Africa, 1996 states that everyone has the right:

(a) to an environment that is not harmful to their health or well-being; or

(b) to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that prevent pollution and ecological degradation, promote conservation, secure ecological sustainable development and the judicious use of natural resources for purpose of justifiable economic and social development.

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CHAPTER I:
DEFINITIONS AND FUNDAMENTAL PRINCIPLES

1. INTERPRETATION

In this by-law, the English text prevail in the event of any conflict with the Afrikaans text, and unless the context indicates otherwise -
''adverse effect'', means any actual or potential impact on the environment that impairs or would impair the environment or any aspect of it to an extent, that is more than trivial or insignificant;

''air pollutant'', includes, but is not limited to, dust, smoke, fumes and gas that causes or may cause air pollution;

''air pollution'', means any change in the environment caused by substance emissions into the atmosphere from activities, where such changes can have an adverse effect on human health and well-being, or on the composition and resilience of natural or managed ecosystems or their ability to regenerate, or on resources required by people and ecosystems to survive, or shall have such detrimental effect in the future;

"Air Quality Act", means the National Environment Management: Air Quality Act, 2004 (Act No 39 of 2004), as amended;

"air quality management plan", means a air quality management plan referred to in section 15 of the National Environment Management: Air Quality Act, 2004 (Act No 39 of 2004), as amended;

"Air Quality Officer", means the Air Quality Officer designated as such in terms of section 14(3) of the National Environment Management: Air Quality Act, 2004 (Act No 39 of 2004), as amended;

"ambient air", means **"ambient air"** as defined in section 1 of the National Environment Management: Air Quality Act, 2004 (Act No 39 of 2004), as amended;

''atmosphere'', means air that is not enclosed by a building, machine, chimney or other similar structure;

"atmospheric emissions", means any emissions or entrainment processes of energy or substances or a combination of substances into the atmosphere, emanating from an obvious point source or not so obvious point source or mobile source that creates air pollution;

"authorized official", means any employee of the Theewaterskloof Municipality or designated person, who is authorized by the Theewaterskloof Municipality to enforce the provisions of this by-law;

"best practical environmental option", means the option that provides the best benefit and causes the least damage to the environment as a whole, at a cost acceptable to society in the long term, as well as in the short term;

"**controlled activities",** means dust emissions, emissions caused by open burning, emissions caused by burning of waste, emissions caused by tyre burning and burning of rubber products and cables, pesticide spraying emissions, spray painting emissions and sand blasting emissions;

"controlled emitter", means any appliance or equipment or activity associated with fuel burning appliances or equipment, declared as a controlled emitter in terms of section 23 of the National Environment Management: Air Quality Act, 2004 (Act No 39 of 2004), as amended;

"designated fire officer", means a qualified fire officer, employed by the Overberg District Municipality or the Theewaterskloof Municipality, and designated by the Theewaterskloof Municipality as a fire officer;

"Director Technical Services", means the Director Technical Services of the Theewaterskloof Municipality, who is the appointed senior manager responsible for air quality matters;

"District Municipality", means the Overberg District Municipality established in terms of section 12 of the Local Government: Municipal Structures Act, 1998 (Act No 117 of 1998), as amended, by Provincial Notice 486 of 2000, dated 22 September 2000, and as amended by Provincial Notice 162 dated 20 August 2004, and includes any reference to any duly delegated and / or appointed officials and / or service providers in terms of service level agreements of the Overberg District Municipality;

"**dust",** means any solid matter in a fine or disintegrated form, which can easily be dispersed or be suspended in the atmosphere, and includes dust from mining activities;

"emitter", means fuel burning appliances and equipment such as furnaces, boilers, incinerators or other appliances and equipment, including a chimney of a closed system designed to burn liquid, gas or solid fuels for purpose of generating heat, steam or used for the burning of any material;

''environment'', means the surroundings within which humans exist and that are made up of –
(a) the land, water and atmosphere of the earth;
(b) micro-organisms, plant and animal life;
(c) any part or combination of (a) and (b) and the inter relationships among and between them; and
(d) the physical, chemical, aesthetic and cultural properties and conditions of the afore stated that influence human health and well-being;

"listed activity", means a list of activities contemplated in Section 21(1)(a) of the National Environment Management: Air Quality Act, 2004 (Act No 39 of 2004), as amended;

"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;

"NEMA", means the National Environmental Management Act, 1998 (Act No.107 of 1998), as amended;

''nuisance'', means any unreasonable, unbearable or unacceptable situation caused by air pollution, which impact on -
(a) the health or well-being of any person or living organism; or
(b) the use and enjoyment by an owner or occupant of a premises of his or her property or the environment;

"offensive odour", means any smell which is considered to be malodorous or a nuisance to a reasonable person;

"open burning", means the burning of material without a closed system, which has a chimney to vent the emitted products of combustion directly into the atmosphere;

''operator'', means a person who owns or manages a listed activity and / or controlled emitters, or who controls an operation or process, which emits air pollutants;

"organ of state", means -

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

(b) any other functionary or institution –

(i) exercising a power or performing a function in terms of the Constitution of the Republic of South Africa, 1996 or a provincial constitution; or

(ii) exercising a public power or performing a public function in terms of any legislation, but does not include a court or judicial officer;

"paving", means to apply and maintain concrete or any other similar material to a road surface or any other surface;

''person'', means and includes for purpose of this by-law, a natural person or a juristic person or any industrial or commercial undertaking or/ and an organ of state;

"premises", means any portion of land situated within the area of jurisdiction of the Theewaterskloof Municipality, of which the outer boundaries are demarcated on a general plan or diagram or sectional title plan registered in accordance with applicable legislation, and includes any building or other structures on a portion of land, used in connection with any activities carried out on that portion of land, and also includes for purpose of this by-law any locomotive or other vessel or vehicle, which operates or is present within the area of jurisdiction of the Theewaterskloof Municipality;

"Province", means the Province of the Western Cape;

"small boiler", means a small combustion installation with a design capacity of less than fifty (50) MW heat input, capable of burning solid, liquid and gas fuels, used primarily for steam and / or electricity generation;

''smoke'', means the gases, particulate matter and products of combustion emitted into the atmosphere, when material is burned or subjected to extreme heat and includes the soot and the gritty particles emitted with smoke;

"specialist study", means any scientifically based study relating to air quality, conducted by an expert or recognized specialist of appropriate qualifications and competency in the discipline of air quality management;

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

2. APPLICATION OF THE BY-LAW

(1) This by-law applies to all premises within the area of jurisdiction of the Municipality.

(2) The provisions of this by-law do not remove the need for any other permit, consent, or authorisation required in terms of any other statutory acts, regulations, by-laws and / or regulatory documents for environmental or any other operational matters related to air quality management.

3. OBJECTIVES OF THE BY-LAW

(1) The objectives of this by-law are to -

(a) give effect to section 24 of the Constitution of the Republic of South Africa, 1996, by regulating air pollution within the area of jurisdiction of the Municipality, in conjunction with the District Municipality, taking cognizance of the respective air quality management plans of the respective institutions;

(b) provide in conjunction with any other applicable law, an effective legal and administrative framework, within which the Municipality can manage and regulate activities that have the potential to adversely impact on the environment, public health and well being of persons; and

(c) ensure that air pollution is prevented, or where it cannot be prevented, restricted, mitigated and / or minimized.

(2) Any person exercising powers under this by-law, shall exercise the powers in such a way, as to give effect to the objectives as set out in subsection 3(1) of this by-law.

4. ADMINISTRATION AND ENFORCEMENT

The Director Technical Services of the Municipality, shall be responsible for the administration and management of this by-law, and may delegate any power in relation to the application of this by-law to any official under his or her supervision.

5. RIGHT OF ACCESS TO PREMISES

(1) The Municipality shall have the right of access to any premises for the purpose of -

(a) the enforcement of the provisions of this by-law or the provisions of the Air Quality Act, or any other legislation regulating air quality matters, assigned or delegated to the Municipality;

(b) inspecting and examining atmospheric emissions or anything connected therewith;

(c) enquiring into and investigating any possible sources of atmospheric emissions, or the suitability of any equipment or structures that cause, and operational activities, schemes or undertakings that results in atmospheric emissions;

(d) ascertaining whether there is or has been contraventions of the provisions of this by-law or the Air Quality Act; and

(e) enforcing compliance with the provisions of this by-law or the Air Quality Act.

(2) The Municipality may by notice in writing, e-mail, telephonically or verbally, provided to the owner or occupant of any premises, inform and require such owner or occupant to provide, on the day and at the hour specified in such notice, access to an authorized official to such premises and for the purposes referred to in sub-section 5(1) of this by-law.

(3) The Municipality may gain access to, or over any property, without notice and may take whatever steps or action as may, in the opinion of the Director Technical Services or the Air Quality Officer or an authorized official, be necessary or desirable in consequence of the existence of, or the occurrence of any emergency or disaster, or for the purpose of sub-section 5(1)(d) of this by-law.

6. LEVYING OF FEES AND TARIFFS

The Municipality may levy and recover fees, charges or tariffs for any permission granted in terms of this by-law, or implement tariffs as prescribed by the Air Quality Act and may require deposits as security for damages, repairs, losses and other costs.

7. CONFLICT BETWEEN LEGISLATION

In the event of any conflict between any stipulation of this by-law and any other national and provincial legislation or regulations, which regulates air pollution in the area of jurisdiction of the Municipality, the provisions of national and provincial legislation or regulations shall prevail.

CHAPTER 2:
DUTY OF CARE

8. MEASURES REQUIRED TO PREVENT AIR POLUTION

(1) Any owner or occupant of a premises who is wholly or partially responsible for causing air pollution or creating a risk of air pollution occurring, shall take all measures required, including the most practical environmental option -

(a) to prevent any potential air pollution from occurring; and

(b) as far as reasonably possible, to mitigate and remedy any air pollution that has occurred.

(2) The Municipality may instruct any owner or occupant of a premise who fails to take the measures required under subsection 8(1) of this by-law to -

(a) commence taking specific mitigating and / or preventive measures before a given date;

(b) continue implementing the required measures; and

(c) complete all measures required before a specified date, provided that prior to such instruction –

(i) the Municipality shall give adequate notice to the transgressor concerned and direct him or her to inform the Air Quality Officer of the relevant facts of the situation; and

(ii) the Air Quality Officer may consult with any other organ of state on the matter at hand and / or measures to be implemented.

(3) The Municipality may, when an owner or occupant of a premise fails to comply or inadequately complies with any stipulation contemplated in subsection 8(2) of this by-law, take measures to remedy the situation.

(4) The Municipality may, when an owner or occupant of a premise fails to carry out the measures referred to in subsection 8(1) of this by-law, recover collectively or individually, all costs incurred for correcting the situation as a result of the Municipality acting under subsection 8(3) of this by-law, from any or all of the following persons -

(a) any person who is or was responsible for, or who directly or indirectly contributed to the air pollution or the potential air pollution;

(b) the owner of the premises at the time when the air pollution or the potential for air pollution occurred;

(c) the person in control of the premises or any person who has or had a right to use the premises and at the time when the -

(i) activity or the process in question is or was performed or undertaken; or

(ii) situation came about; and / or

(d) any person who negligently failed to prevent that -

(i) the air be polluted; or

(ii) a situation occur that leads to air pollution.

(5) No owner or occupant of a premise may -

(a) unlawfully and intentionally or negligently commit any act or omission which causes or is likely to cause air pollution; or

(b) refuse to comply with an instruction issued in terms of section 8 of this by-law.

(6) When more than one person is responsible for any transgression under subsection 8(4) of this by-law, the liability may be apportioned by the Municipality among the persons involved, and the persons liable shall be collectively and separately responsible for the pollution of the environment, as a result of their respective failures to take the measures required under subsections 8(1) and 8(2) of this by-law.

CHAPTER 3:
DESIGNATION OF AN AIR QUALITY OFFICER

9. DESIGNATION OF AN AIR QUALITY OFFICER

The Municipality shall designate an official as an air quality officer, who shall be responsible for co-ordinating matters pertaining to air quality management in the area of jurisdiction of the Municipality.

10. DUTIES AND FUNCTIONS OF THE AIR QUALITY OFFICER

(1) The Air Quality Officer shall –

(a) co-ordinate the development of an air quality management plan for inclusion in the Integrated Development Plan of the Municipality;

(b) prepare an annual report for the Municipality on air quality;

(c) exercise the duties and power, under the supervision of the Director Technical Services, assigned to him or her in terms of the provisions of this by-law; and

(d) submit the annual report on air quality for the Municipality, to the Provincial Air Quality Officer.

(2) The annual report referred to in subsection 10(1)(b) of this by-law shall include, but is not limited to, the progress of the Municipality towards the implementation of an air quality management plan for the municipal area.

(3) The Air Quality Officer may require the holder of a provisional atmospheric emission licence, or the holder of an atmospheric emission licence, to designate an emission control officer, as contemplated in section 48 of the Air Quality Act.

CHAPTER 4:
LOCAL EMISSIONS NORMS AND STANDARDS

Part 1: Local Emission Norms and Standards

11. DETERMINATION OF LOCAL EMMISSION NORMS AND STANDARDS

(1) The Municipality may by notice, after a comprehensive public participation process has been followed –

(a) identify substances or mixtures of substances in ambient air which, through ambient concentrations, bio-accumulation, deposition or in any other way, present a threat to public health, public well-being or the environment in the area of jurisdiction of the Municipality; and

(b) in respect of each of those substances or mixtures of substances, publish local norms and standards for emissions from point or non-point or mobile sources in the area of jurisdiction of the Municipality.

(2) The Municipality shall take the following factors into consideration when setting local emission norms and standards -

(a) health, safety and environmental protection objectives;

(b) analytical methodology;

(c) technical feasibility;

(d) monitoring capability;

(e) socio-economic consequences;

(f) the ecological role of fire in vegetation remnants; and

(g) the best practicable environmental options.

(3) Any owner or occupant of premises who are emitting substances or mixtures of substances into the atmosphere as referred to in subsection 11(1) of this by-law, shall comply with the local emission norms and standards published in terms of this by-law, or any other provincial or national norms and standards.

12. PUBLICATION OF LOCAL EMISSION NORMS AND STANDARDS

The Municipality may publish the local emission norms and standards, as required in terms of the Systems Act.

Part 2: Norms and Standards

13. SUBSTANCES IDENTIFICATION PROCESS

(1) The Air Quality Officer shall apply the following criteria when identifying and prioritising the substances in ambient air that present a threat to public health, public well-being and the environment -

(a) the increasing possibility, severity and frequency of the negative effects of a substance in the atmosphere on human health and the environment as a whole;

(b) the ubiquitous and high concentrations of a substance in the atmosphere;

(c) the potential environmental transformations and metabolic alterations which can be caused by a substance, and the risk that such a substance may result in further production of chemicals in ambient air, with an increased toxicity risk;

(d) the persistence presence in the environment of a substance, particularly when a substance is not bio-degradable and able to accumulate in the human body, eco-systems and food sources;

(e) the impact of a substance, taking into consideration -
(i) the size of the exposed population, living resources or ecosystems;
(ii) the existence of particularly sensitive receptors in the affected area concerned; and

(f) substances that are recognized by international conventions as pollutants.

(2) The Air Quality Officer may, using the criteria set out in subsection 12(1), compile a list of substances in ambient air that present a threat to public health, public well-being or the environment.

CHAPTER 5:
CONTROLLED EMITTERS

14. INSTALLATION OF CONTROLLED EMITTERS

(1) No owner or occupant of a premises shall install, alter, extend or replace any controlled emitter on any premises, without the prior written authorization of the Municipality, which may only be given after consideration of the relevant installation plans and specifications of the premises and the emitter, in terms of any applicable emission norms and standards developed for controlled emitters in terms of section 24 of the Air Quality Act.

(2) After considering the application submitted in terms of subsection 14(1) of this by-law the Municipality shall either –

(a) grant an application and issue an authorization, subject to any conditions that may be imposed; or

(b) refuse an application, with written reasons provided.

(3) The authorization applied for and issued in terms of subsections 14(1) and 14(2) of this by-law shall specify -

(a) the product name or model of the controlled emitter;

(b) the premises in respect of which the authorization is issued;

(c) the person and / or entity to whom the authorization is issued;

(d) the period for which the authorization is issued;

(e) the name of the municipal authority;

(f) the intervals at which the authorization may be reviewed;

(g) the fuel type and quality used;

(h) the maximum allowable amount, volume, emission rate or concentration of pollutants that may be discharged in the atmosphere;

(i) any other operating requirements relating to atmospheric discharges, including non-point source emission measurement and reporting requirements; and

(j) any other matters which are necessary for air quality management.

(4) The Municipality shall review the authorization issued in terms of section 14(2) of this by-law, at intervals specified in the authorization, or when circumstances demand that a review is necessary.

(5) Any controlled emitter installed, altered, extended or replaced on premises, in accordance with plans and specifications submitted to and approved by the Municipality, shall be presumed compliant to all conditions, until the contrary is proved.

(6) Where a controlled emitter has been installed, altered, extended or replaced on a premises contrary to subsection 14(1) of this by-law, the Municipality may on written notice to the owner and / or occupant of the premises, order the removal of the controlled emitter concerned from the premises, at the expense of the owner and / or occupant of the premises concerned, and within the period stated in the notice issued.

(7) The Municipality may take whatever steps necessary in order to remedy the pollution caused by the installation, alteration, extension or replacement on premises of emitters, to prevent any further air pollution occurrence or incidents, and may recover the costs incurred from the person responsible for the transgression.

15. OPERATION OF CONTROLLED EMITTERS

(1) No person may use or operate any controlled emitter on any premises contrary to the authorisation referred to in section 14 of this by-law.

(2) Where any controlled emitter has been used or operated on the premises in contravention of an authorization, the Municipality may on written notice to the owner and / or occupant of the premises concerned -

(a) revoke the authorisation issued in terms of section 14 of the by-law; and

(b) order the removal of the controlled emitter concerned from the premises, at the expense of the owner and / or occupant of a premises, within the period stated in the notice.

(3) The Municipality may, when the owner or occupant of a premise fails to comply with the notice referred to in subsection 15(2) of this by-law, remove the controlled emitter from the premises and may recover the costs incurred from such owner or occupant of such premises.

16. MONITORING AND SAMPLING

An owner or occupant of a premises where listed activities take place, and / or the operator of controlled emitters, shall install emission measuring equipment and / or shall do emissions monitoring from the emitters concerned, if and when required by the Air Quality Officer, and shall -

(a) record all monitoring and sampling results and maintain a copy of this record for at least five (5) years after obtaining the results;

(b) when requested to do so by an air quality officer, produce the record of the monitoring and sampling results for inspection; and

(c) when requested to do so by an air quality officer, provide a written report of the information on monitoring and sampling results, in a format and by a date specified by an air quality officer.

17. DUST EMISSIONS FROM LISTED ACTIVITIES AND CONTROLLED EMITTERS

(1) Any owner or occupant of a premises undertaking or conducting any listed activity or who operate a controlled emitter, that produces emissions of dust that may be harmful to public health, public well-being and / or may cause a nuisance, shall implement mitigating measures to prevent or minimize dust emissions into the atmosphere.

(2) Any owner or occupant of a premises undertaking or conducting any listed activity or who operate a controlled emitter that causes dust emissions, shall implement one or more of the following mitigating measures to control dust emissions -

(a) paving of surfaces;

(b) use of dust palliatives or suppressants;

(c) uniform application and maintenance of any surface graveling;

(d) erection of physical barriers;

(e) erection of signs to prohibit access to the affected areas;

(f) use of any type of ground covers;

(g) re-vegetation of area with similar plant material of adjacent undisturbed areas; or

(h) any alternative mitigating measures for control, approved in writing by the Air Quality Officer.

(3) The mitigation measures used for control shall be consistent with the provisions of any other applicable legislation.

(4) The provisions of this section are not applicable to –

(a) landscaping activities by a person at his or her place of residence;

(b) emergency maintenance activities on public roads;

(c) unpaved roads having vehicular traffic of less than five hundred (500) vehicles per day;

(d) non-commercial and non-institutional private driveways;

(e) horse trails, hiking paths, bicycle paths or other similar paths; and

(f) any other path that has been designated for use other than by a motor vehicle.

CHAPTER 6:
EMISSIONS THAT CAUSE AN OFFENSIVE ODOUR

18. PROHIBITION OF EMISSIONS THAT CAUSE OFFENSIVE ODOURS

(1) No owner or occupant of a premises shall within the area of jurisdiction of the Municipality, conduct any listed activity or any part of a listed activity or use a controlled emitter, which causes an offensive odour that is a contravention of the atmospheric emission permit conditions for the premises concerned or the applicable minimum emission norms and standards for emissions for the municipal area, as contemplated in section 21 of the Air Quality Act.

(2) Any owner or occupant of a premises conducting listed and / or controlled emitter activities, that produce emissions of offensive odours that may be harmful to public health and / or public well-being or may cause a nuisance, that is in contravention of atmospheric emission permit conditions for the premises concerned or the applicable minimum emission norms and standards for emissions for the municipal area, as contemplated in Section 21 of the Air Quality Act, shall implement mitigating measures for control to prevent odoriferous emissions into the atmosphere.

(3) Any owner or occupant of a premises undertaking or managing an activity referred to in subsection 18(2) of this by-law, shall implement the necessary measures to identify the substance or substances causing the offensive odour.

(4) Any owner or occupant of a premises undertaking or managing an activity referred to in subsection 18(2) of this by-law, shall implement the necessary offensive odour control measures and any alternative control measure approved by the Air Quality Officer.

(5) When an owner and / or occupant of any premises, from where an offensive odour emanates or where an offensive odour exists, refuses to control the offensive odour or refuses to implement the control measures referred to in subsection 18(3) of this by-law, such an owner or occupant of a premises shall be guilty of an offence.

19. ABATEMENT NOTICES

An Air Quality Officer may serve an abatement notice on any owner or occupant of a premises whom he or she reasonably believes, is likely to transgress or has transgressed section 18 of this by-law, instructing such person -

(a) to attend to an offensive odour within a period specified in the notice;

(b) to take all necessary steps to prevent a recurrence of the offensive odour; and

(c) to comply with any other conditions contained in the notice.

CHAPTER 7:
CONTROLLED ACTIVITIES

20. INSTALLATION OF SMALL BOILERS

(1) No owner or occupant of a premises shall install, alter, extend or replace any small boiler on any premises, without the prior written authorization of the Municipality, and such authorization may only be given after consideration of the relevant installation plans and specifications of the premises and the emitter concerned in terms of any applicable emission norms and standards for such controlled emitters by the Municipality, developed for such controlled emitters in terms of section 24 of the Air Quality Act.

(2) The application for an authorization to operate a small boiler on a premises, shall be made on an application form prescribed by the Municipality.

(3) When a small boiler has been installed, altered, extended or replaced on a premise in contravention of subsection 20(1) of this by-law, the owner or occupant of such premises commits an offence and the Municipality may on written notice to the owner and / or occupant of the premises concerned, order the removal of the boiler concerned from the premises, at the expense of the owner and / or occupant of the premises, and within the period stated in the notice issued.

(4) When considering an application submitted in terms of subsection 20(1) of this by-law, the Air Quality Officer may require the applicant to furnish any such information as the Air Quality Officer may require.

(5) After considering the application submitted in terms of subsection 14(1) of this by-law the Municipality shall either –

(a) grant an application and issue an authorization, subject to any conditions that may be imposed; or

(b) refuse an application, with written reasons for the refusal provided.

(6) The authorization applied for and issued in terms of subsections 14(2) of this by-law shall specify -

(a) the product name or model of the small boiler;

(b) the premises in respect of which the authorization is issued;

(c) the person and / or entity to whom the authorization is issued;

(d) the period for which the authorization is issued;

(e) the name of the municipality issuing the authorization;

(f) the intervals at which the authorization shall be reviewed;

(g) the fuel type and quality used;

(h) the maximum allowable amount, volume, emission rate or concentration of pollutants that may be discharged in the atmosphere;

(i) any other operating requirements relating to atmospheric discharges, including non-point source emission measurement and reporting requirements; and

(j) any other matters which are necessary for air quality management.

(7) The Municipality shall review the authorizations issued in terms of this section at intervals specified in the authorizations concerned, or when circumstances demand that a review is necessary.

21. EMISSIONS CAUSED BY OPEN BURNING

(1) Any owner or occupant of a premises, who carries out or permits open burning of any material on any property or premises, commits an offence, unless -

(a) written authorization has been obtained from the Municipality and the District Municipality beforehand, which authorization may be granted by the Municipality and the District Municipality subject to certain conditions, and

(b) the owner and / or occupant of a premises, in writing has notified the owners and /or occupants of all adjacent and affected properties, and the owners of the overhead electrical power lines and telephone lines, traversing the property concerned, where the open burning shall take place, of -
(i) all the known details of the proposed open burning activities; and
(ii) the right of owners and / or occupants of properties, and the owners of overhead electrical power lines and telephone lines, to lodge written objections to the proposed open burning activities, to the Municipality and the District Municipality, within fourteen (14) days after date of notification.

(2) The Municipality and the District Municipality may not authorize any open burning of material on any property or premises –

(a) unless the Municipality and the District Municipality has been satisfied that the requirements as set out in subsection 21(1) of this by-law have been complied with;

(b) unless the Municipality and the District Municipality has been satisfied that all the provisions as set out in the Community Fire Safety By-law of the Theewaterskloof Municipality and the conditions stipulated by the District Municipality, have been complied with; or

(c) when a warning for fire hazard conditions, has been issued for the region, in terms of section 10(1)(b) of the National Veld and Forest Fire Act, 1998 (Act No 101 of 1998), as amended.

(3) The provisions of subsections 21(1) and 21(2) of this by-law shall not apply to -
(a) controlled fires made for purpose of barbequing in designated places in or on or at public places, municipal sport facilities, nature reserves or similar public amenities;

(b) controlled fires made for recreational outdoor activities and barbequing on private premises; and

(c) controlled fires in dwellings for the purposes of heating, warm water, cooking and other domestic purposes.

22. EMISSIONS CAUSED BY THE BURNING OF WASTE

No person may carry out or allow the burning of any industrial, domestic, garden or any other waste on any property or premises, for the purpose of disposing of such waste by means of burning, unless the disposal of such waste by burning has been legally authorized in terms of the National Environment Management: Waste Act, 2008 (Act No 59 of 2008), as amended.

23. EMISSIONS CAUSED BY THE BURNING OF TIRES, RUBBER PRODUCTS AND CABLES

No person may carry out or permit the burning of any tires, rubber products, cables or any other similar products, on any property or premises for any purpose.

24. EMISSIONS FROM THE SPRAYING OF INSECTICIDES AND / OR HERBICIDES

(1) The owner or occupant of a premises may not carry out or permit the spraying of insecticides and / or herbicides, except as permitted by legislation and / or regulations.

(2) Any owner or occupant of a premises who carries out the spraying of insecticides and / or herbicides, either by hand or tractor or any other type of vehicle or an airplane or helicopter, within the area of jurisdiction of the Municipality, shall comply with the following conditions -

(a) a written authorization shall be obtained from the Municipality before any spraying can commence, which authorization may be granted for a period of twelve (12) months from the date of issue;

(b) all the owners and / or occupants of adjacent properties or the properties in the area to be sprayed, in the case of spraying per airplane or helicopter, shall be notified in writing of -
- (i) the details of the proposed area to be sprayed;
- (ii) the reason for the specific insecticide and / or herbicide to be used;
- (iii) the active ingredients of the insecticide and / or herbicide to be used;
- (iv) the planned dates for the spraying of insecticides and / or herbicides;
- (v) the preferred weather conditions for the spraying of the specific insecticide and / or herbicide;
- (vi) the time required after spray application, before the area sprayed can safely be re-entered, as specified for every insecticide and / or herbicide to be used; and
- (vii) the right of owners and occupants of properties to lodge written objections to the proposed spraying of pesticides and / or herbicide, with the Municipality within fourteen (14) days after date of notification.

(3) The Municipality shall within thirty (30) days after an application has been received, notify the applicant for an authorization, as contemplated in subsection 24(2) of this by-law, as well as all registered affected and interested parties, in writing whether -

(a) an authorization has been granted and what conditions have been imposed for the authorization; or

(b) an authorization has been refused, and provide the reasons for the refusal of the authorization.

(4) The authorization issued in terms of subsection 24(2) shall specify -

(a) the person to whom it has been issued;

(b) the areas where the insecticides and / or herbicides may be sprayed;

(c) the planned dates for the spraying of insecticides and / or herbicides;

(d) the period for which the authorization is valid; and

(e) other measures which are necessary for the protection of public health and / or public well-being or the environment.

(5) Any person may apply to the Municipality for an exemption of the provisions, when the spraying of the insecticides and / or herbicides is for -

(a) the management and control of pests, that transmit human diseases or adversely impact on agriculture and / or forestry production; or

(b) the management and control of pests that threaten the integrity of sensitive ecosystems.

(6) The provisions of section 24 of this by-law are not applicable for -

(a) the use of insecticides and / or herbicide in residential areas for house gardens;

(b) the domestic use of insecticides and / or herbicide, or the use thereof in buildings; or

(c) any other defined area or defined activity, which the Municipality has declared as an exclusion.

25. SPRAY PAINTING EMISSIONS

(1) No owner or occupant of a premises shall within the area of jurisdiction of the Municipality spray, coat, plate or epoxy-coat any vehicle or any other movable object in the open, or allow it to be done, with any substance emitting fumes, and such spraying, coating, plating or epoxy-coating of any vehicle or any other movable object shall only be done in an approved spray painting room or booth or area, which shall be approved by the designated fire officer, in consultation with the Air Quality Officer and other authorized officials, as applicable, on a premises registered for that purpose

(2) No owner or occupant of a premises may spray, coat, plate, or epoxy-coat any building or part thereof or allow any article to be sprayed, coated, plated or epoxy-coated with any substance emitting fumes, unless in possession of an operational authorization for outdoor spray painting, issued by the Municipality.

(3) Any owner or occupant of a premises who wishes to obtain an operational authorization for outdoor spray painting, as contemplated in subsection 25(2) of this by-law, shall complete and submit to the Municipality, an application for such authorization in the format and manner as prescribed by the Municipality.

(4) The designated fire officer, in consultation with the Air Quality Officer, may grant or refuse an operational authorization for outdoor spray painting contemplated in subsection 25(2) of this by-law, based on the information submitted with an application.

(5) A spray room or booth or area designated for spray painting, as contemplated in subsection 25(1) of this by-law, shall be constructed and equipped according to requirements as determined by the Municipality and stipulated in the applicable national legislation, regulations and standards.

(6) The Municipality may cancel an operational authorization for outdoor spray painting, as contemplated in subsection 25(2) and approved in terms of subsection 25(4) of this by-law, when there is reason to believe that the holder of the operational authorization contravenes or fails to comply with any provision of this by-law and / or the conditions of the authorization.

(7) The Municipality shall before the cancellation of an operational authorization for outdoor spray painting by the Municipality, and subject to subsection 25(8) of this by-law -

(a) give the holder of the operational authorization written notice of the intention to cancel the operational authorization concerned, and the reasons for such cancellation; and

(b) give the holder of the operational authorization a period of at least fourteen (14) days, to make written representations to the Municipality on the intended cancellation of the operational authorization concerned.

(8) When the designated fire officer has reason to believe that the immediate cancellation of the operational authorization for outdoor spray painting, is essential for public safety, health and / or well-being, or the environment, the Municipality may cancel the spraying authorization without prior notice to the holder as contemplated in subsection 25(7) of this by-law.

26. DUST EMISSIONS FROM SAND BLASTING

(1) Any owner or occupant of a premise conducting sand blasting activities, which may produce emissions of dust, that may be harmful to public health, public well-being and / or the environment, and / or may cause a nuisance, shall implement mitigating measures for control and / or to prevent dust emissions into the atmosphere.

(2) Any owner or occupant of a premises who undertakes any sand blasting activity, that may causes dust emissions, shall implement the following mitigating measures –

(a) dust extraction control measures; or

(b) any alternative dust control measures, approved in writing by the Air Quality Officer.

CHAPTER 8:
OFFENCES AND PENALITIES

27. 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 expenses, deemed by the Court, to have been incurred by the Municipality as a result of such contraventions.

CHAPTER 9:
GENERAL MATTERS

28. MONITORING OF COMPLIANCE

The Municipality may request any person or entity, whose actions significantly contributes or is likely to contribute to poor air quality, to implement or undertake at their own costs, ambient and point or non-point or mobile source monitoring, or any other air quality studies, programs or reports, to be performed by recognised and competent third parties, for purpose of the monitoring of atmospheric emissions and to determine whether compliance to local norms and standards for emissions exists.

29. ENFORCEMENT OF THE BY-LAW

(1) The Air Quality Officer may take any lawful, necessary and practical steps and may implement measures, to enforce the provisions of this by-law.

(2) The Municipality may develop enforcement procedures for the control of air quality, which shall not be in conflict with any other enforcement procedures for the control of air quality implemented for air quality management on a national, provincial or district municipal level.

(3) The Municipality may in any instance, where it is evident that actions or neglect by any occupant or owner of a premises, may lead to a contravention of the provisions of this by-law and atmospheric pollution, give notice in writing to such occupant or owner of the premises concerned to comply with any such requirements as the Municipality may deem necessary, to prevent the occurrence or repetition of such contravention or the pollution.

30. 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 30(2)(a), 30(2)(b) or 30(2)(c) of this by-law;

(d) 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 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.

31. CO-OPERATION BETWEEN MUNICIPALITIES

(1) To achieve optimal service delivery in terms of this by-law, the Municipality may enter into any written service level agreement with any other organ of state with whom legislative and executive powers for air quality management are shared, with regard to the following matters –

(a) the practical arrangements with regard to the implementation of the provisions of this by-law;

(b) the recovery of costs and expenses related to any action in terms of this by-law; and

(c) any other matter regarded necessary by the parties to achieve optimal service delivery and effective air quality management.

(2) The Municipality shall monitor the effectiveness of any agreement entered into in terms of sub-section 31(1) of this by-law, in achieving the purposes for which it was intended.

32. 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.

33. EXEMPTIONS

(1) Any owner or occupant of a premises may, in writing apply for exemption from the application of a provision of this by-law to the Municipality.

(2) An application submitted in terms of subsection 33(1) of this by-law, shall be accompanied by substantive reasons for the application for exemption.

(3) The Municipality may require from an applicant applying for exemption, to take any appropriate steps to bring the application for exemption, to the attention of relevant interested and affected persons, and the public.

(4) The steps contemplated in subsection 33(3) this by-law, may include the publication of a notice in a local newspaper -

(a) giving reasons for the application; and

(b) providing such other particulars concerning the application, as the Air Quality Officer may require.

(5) The Municipality may from time to time review any exemption granted, and may impose such additional conditions as it may deem necessary, and / or on good grounds withdraw any exemption.

(6) The Municipality may not grant an exemption as contemplated in subsection 33(1) of this by-law -

(a) until the Municipality has taken all reasonable measures to ensure that all persons whose rights may be significantly and / or detrimentally affected by the granting of the exemption, are aware of the application for exemption;

(b) until all affected and interested parties and persons, were granted a reasonable opportunity to object to the application for exemption; and

(c) until the Municipality has duly considered and taken into account all objections raised, and the impact of the exemption when granted, on public health, public well-being and the environment.

34. ADOPTION OF A POLICY

The Municipality may adopt and implement in a policy document measures and procedures for the regulation and management of air quality and associated activities, and to provide for matters incidental thereto.

35. 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.

36. SHORT TITLE

This By-law shall be called the Air Quality Management By-law of the Theewaterskloof Municipality.

37. OPERATIVE DATE

This by-law shall take effect on the date of publication, with the exception of sections 14 and 15 of this by-law, which shall come into operation on a future date to be determined.

MUNISIPALITEIT VAN THEEWATERSKLOOF

VERORDENING INSAKE DIE BESTUUR VAN LUGKWALITEIT

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

NADEMAAL artikel 24 van die Grondwet van die Republiek van Suid-Afrika, 1996, bepaal dat elkeen die reg het:

(a) op 'n omgewing wat nie vir hul gesondheid en welvaart skadelik is nie; en

(b) tot die beskerming van die omgewing tot voordeel van huidige en toekomstige geslagte en terwille van regverdigbare ekonomiese en sosiale ontwikkeling, by wyse van redelike wetgewende en ander maatreëls wat besoedeling en ekologiese degradasie voorkom, bewaring bevorder, ekologiese volhoubare ontwikkeling verseker en die oordeelkundige benutting van natuurlike hulpbronne aanmoedig.

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HOOFSTUK I:
DEFINISIES EN GRONDBEGINSELS

1. INTERPRETASIE

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

"aangewysde brandweerbeampte", 'n gekwalifiseerde brandweerbeampte wat in diens van die Overberg Distrikmunisipaliteit of die Munisipaliteit van Theewaterskloof is, en wat as aangewysde brandweerbeampte deur die Munisipaliteit van Theewaterskloof aangestel is;

"aanstootlike reuk", enige reuk wat as slegruikend of 'n oorlas vir 'n redelike persoon beskou word;

"atmosfeer", lug wat nie deur 'n gebou, masjien, skoorsteen of soortgelyke struktuur omsluit word nie;

"atmosferiese uitlatings", enige uitlatings of meesleuring van energie of substansies of 'n kombinasie van substansies in die atmosfeer in, vanaf 'n aangewese punt of nie-aangewese punt of mobiele bron wat lugbesoedeling veroorsaak;

"beheerde brandstofverbrandinginstallasies", enige toestel of toerusting of aktiwiteite verbandhoudend tot die bedryf van brandstofverbrandende toestelle of toerusting, wat in terme van artikel 23 van die Wet op Nasionale Omgewingsbestuur, Lugkwaliteit, 2004 (Wet No 39 van 2004), soos gewysig, as 'n beheerde brandstofverbrandinginstallasie verklaar is;

"beste praktiese omgewingsopsie", die opsie wat die meeste voordeel inhou, deurdat dit as 'n geheel die minste skade aan die omgewing sal meebring en teen 'n koste uitgevoer kan word, wat op 'n korttermyn en 'n langtermyn basis vir die gemeenskap aanvaarbaar sal wees;

"brandstofverbrandinginstallasie", enige brandstofverbrandende toestel of toerusting, soos smeltoonde, stoomketels, verbrandingsoonde of ander toestelle en toerusting, insluitend 'n skoorsteen van 'n geslote sisteem wat ontwerp is om brandstof as vloeistof, gas of vaste stof te verbrand, met die oogmerk om hitte of stoom te verwek, of vir gebruik vir die verbranding van enige materiaal;

"gekontroleerde aktiwiteite", enige stofuitlatings, uitlatings veroorsaak deur oop verbranding, uitlatings veroorsaak deur die verbranding van afval, uitlatings veroorsaak deur die verbranding van buitebande, rubberprodukte en kabels, uitlatings weens bepuiting met pesbeheermiddels en onkruiddoders, uitlatings weens spuitverfwerksaamhede en stofuitlatings weens verwante sandblaaswerksaamhede;

"Direkteur Tegniese Dienste", die Direkteur Tegniese Dienste van die Munisipaliteit van Theewaterskloof, wie die aangestelde senior bestuurder is wat vir lugkwaliteit aangeleenthede verantwoordelik is;

"Distriksmunisipaliteit", die Overberg Distriksmunisipaliteit gestig in terme van artikel 12 van die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet No 117 van1998), soos gewysig, ingevolge Provinsiale Kennisgewing 486 van 2000, gedateer 22 September 2000, en soos gewysig per Provinsiale Kennisgewing 162

van 2004, gedateer 20 Augustus 2004, wat insluit enige verwysing na behoorlike gemagtigde en / of aangestelde beamptes en / of diensverskaffers, in terme van diensleweringsooreenkomste met die Overberg Distrikmunisipaliteit;

"gekontroleerde aktiwiteite", enige stofuitlatings, uitlatings veroorsaak deur oop verbranding, uitlatings veroorsaak deur die verbranding van afval, uitlatings veroorsaak deur die verbranding van buitebande, rubberprodukte en kabels, uitlatings weens bepuiting met pesbeheermiddels en onkruiddoders, uitlatings weens spuitverfwerksaamhede en stofuitlatings weens verwante sandblaasaktiwiteite;

"gelyste aktiwiteit", 'n lys van aktiwiteite soos voorsien in artikel 21(1)(a) van die Wet op Nasionale Omgewingsbestuur, Lugkwaliteit, 2004 (Wet No 39 van 2004), soos gewysig;

"**gemagtigde beampte",** enige beampte van die Munisipaliteit van Theewaterskloof, of 'n aangewese persoon, wat deur die Munisipaliteit van Theewaterskloof gemagtig is om die bepalings van hierdie verordening af te dwing;

"klein stoomketel", 'n klein verbrandinginstallasie met 'n ontwerpkapasiteit van minder as vyftig (50) MW hitte-inset, wat met soliede, vloeibare en gas brandstof werk, en primêr gebruik word vir die generering van stoom en / of elektrisiteit;

"lugbesoedelaar", enige stof, wat insluit, maar nie beperk is tot, stof, rook, walms of gas wat lugbesoedeling veroorsaak;

"lugbesoedeling", enige verandering in die omgewing, wat veroorsaak word deur die uitlating van substansies in die atmosfeer deur aktiwiteite, waar sodanige veranderinge 'n nadelige uitwerking op menslike gesondheid en welsyn kan hê of kan impakteer op natuurlike of bestuurde ekosisteme se samestelling, veerkragtigheid en vermoë om te regenereer, of op bronne wat nodig is vir mense en ekosisteme om te oorleef, of as sodanige 'n nadelige uitwerking in die toekoms sal hê;

"lugkwaliteitbestuursplan", 'n lugkwaliteitbestuursplan, soos verwys na in artikel 15 van die Wet op Nasionale Omgewingsbestuur, Lugkwaliteit, 2004 (Wet No 39 van 2004), soos gewysig;

"Lugkwaliteit beampte", die Lugkwaliteit Beampte, wat in terme van artikel 14(3) van die Wet op Nasionale Omgewingsbestuur, Lugkwaliteit, 2004 (Wet No 39 van 2004), soos gewysig, as sulks aangestel is;

"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;

"nadelige uitwerking", enige werklike of potensiële impak op die omgewing, wat die omgewing of enige aspek daarvan tot so 'n mate benadeel of sal benadeel, dat dit nie as onbeduidend of onbelangrik geag kan word nie;
"NEMA", die Wet op Nasionale Ongewingsbestuur, 1998 (Wet NO 107 van 1998), soos gewysig;

"omgewing", die omgewing waarin mense bestaan en wat saamgestel is uit -
(a) grond, water en atmosfeer van die aarde;
(b) mikro-organismes, plante en die diereryk;
(c) enige deel of kombinasie van (a) en (b) en die onderlinge verhouding daar tussen; en

(d) die fisiese, chemiese, estetiese en kulturele eienskappe en toestande van die voorgenoemde wat menslike gesondheid en welsyn beïnvloed;

"omringende lug", is "ambient air" soos gedefineer in artikel 1 van die Wet op Nasionale Omgewingsbestuur, Lugkwaliteit, 2004 (Wet No 39 van 2004), soos gewysig;

"oop verbranding", die verbranding van materiaal buite 'n geslote sisteem met 'n skoorsteen, wat die produkte van verbranding direk in die atmosfeer uitlaat;

"oorlas", 'n onredelike, aanstootlike of onaanvaarbare situasie wat veroorsaak word deur lugbesoedeling en wat 'n impak het op -
(a) die gesondheid of welstand van enige persoon of lewende organisme; of
(b) die gebruik en genieting van 'n eienaar of 'n okkupeerder van 'n perseel van hy of sy eiendom of die omgewing

"operateur", 'n persoon wat 'n gelyste aktiwiteit of 'n beheerde brandstofverbrandinginstallasie, besit of bestuur en / of beheer of wat 'n bedryf of proses beheer wat lugbesoedelaars uitlaat;

"perseel", enige gedeelte grond, geleë binne die regsgebied van die Munisipaliteit van Theewaterskloof, waarvan die buitegrense afgebaken is op 'n algemene plan of diagram of deeltitelplan, en wat ingevolge die toepaslike wetgewing geregistreer is, wat insluit 'n gebou of struktuur wat op 'n gedeelte grond gebou of opgerig is, en sluit vir doeleindes van hierdie verordening, enige lokomotief of ander vaartuig of voertuig in, wat opereer of teenwoordig is in die gebied van jurisdiksie van die Munisipaliteit van Theewaterskloof;

"persoon", sluit vir doeleindes van hierdie verordening, 'n natuurlike persoon, 'n regspersoon, enige onderneming, 'n vereniging of organisasie of 'n instelling van die staat in;

"plavei", om 'n betonblad of ander soortgelyke harde materiaal op 'n padoppervlak of ander oppervlak aan te bring en in stand te hou;

"Provinsie", die Provinsie van die Wes-Kaap;

"rook", die gasse, partikulêre materie en ander produkte van ontbranding, wat in die atmosfeer uitgelaat word, wanneer materiaal verbrand word of onderwerp word aan ekstreme hitte, en sluit roet en gruisagtige partikels wat saam met rook uitgelaat word in;

"spesialis studie", enige wetenskaplik gebaseerde studie verbandhoudend tot lugkwaliteit, wat deur 'n ekspert of erkende spesialis, met toepaslike kwalifikasies en vaardighede in lugkwaliteitbestuur uitgevoer word;

"staatsinstelling", is -
(a) enige staatsdepartement of administrasie in die nasionale, provinsiale of plaaslike sfeer van regering; of
(b) enige funksionaris of instelling –
    (i) wat 'n mag uitoefen of 'n funksie vervul in terme van die Grondwet van die Republiek van Suid-Afrika, 1996 of 'n provinsiale grondwet; of
    (ii) wat 'n mag uitoefen of 'n publieke funksie vervul in terme van wetgewing, maar sluit 'n hof of 'n regterlike beampte uit;

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

"stof", enige soliede materie, in 'n fyn of gedisintegreerde vorm, wat maklik in die atmosfeer kan versprei of kan dryf, en sluit stof van mynbou aktiwiteite in; en

"Wet op Lugkwaliteit", die Wet op Nasionale Omgewingsbestuur: Lugkwaliteit, 2004 (Wet No 39 van 2004), soos gewysig;

2. TOEPASSING VAN DIE VERORDENING

(1) Hierdie verordening is van toepassing op alle persele in die gebied van jurisdiksie van die Munisipaliteit.

(2) Die bepalings van hierdie verordening negeer nie die nodigheid vir enige ander permit, goedkeuring of magtiging wat vereis word in terme van ander statutêre wette, regulasies, verordeninge en / of regulatoriese dokumente vir omgewings en ander operasionele sake, verbandhoudend tot lugkwaliteitbestuur nie.

3. DOELWITTE VAN DIE VERORDENING

(1) Die doelwitte van hierdie verordeninge is om -

(a) uitvoering te gee aan artikel 24 van die Grondwet van die Republiek van Suid-Afrika, 1996, om in samewerking met die Distrikmunisipaliteit, lugbesoedeling te beheer binne die gebied van jurisdiksie van die Munisipaliteit, met inagneming van die onderskeidelike lugkwaliteitbestuursplanne van die instellings betrokke;

(b) voorsiening te maak in samehang met ander toepaslike wetgewing vir 'n effektiewe regs- en administratiewe raamwerk, waarvolgens die Munisipaliteit aktiwiteite kan bestuur en reguleer, wat die potensiaal het om 'n ongunstige impak op die omgewing, publieke gesondheid en die welstand van mense te hê; en

(c) te verseker dat lugbesoedeling beperk word, en waar dit nie beperk kan word nie dit te verlig of te minimaliseer.

(2) Enige persoon wat magte ingevolge hierdie verordening uitoefen, moet die bevoegdhede sodanig uitoefen dat die doelwitte soos vervat in subartikel 3(1) van hierdie verordening verwesenlik word.

4. ADMINISTRASIE EN TOEPASSING

Die Direkteur Tegniese Dienste van die Munisipaliteit, sal verantwoordelik vir die administrasie en bestuur van hierdie verordening wees, en mag enige magte met betrekking tot die toepassing van hierdie verordening delegeer aan enige van sy of haar ondergeskiktes.

5. REG VAN TOEGANG TOT PERSELE

(1) Die Munisipaliteit sal die reg van toegang tot alle persele hê, vir doeleindes van -

(a) die toepassing van die bepalings van hierdie verordening en daardie bepalings van die Wet op Lugkwaliteit of enige ander wetgewing wat aan die Munisipaliteit toegewys of gedelegeer is, wat lugkwaliteit reguleer;

(b) inspeksies en ondersoeke van atmosferiese uitlatings en sake verbandhoudend daarmee;

(c) navrae en ondersoeke met betrekking tot enige moontlike atmosferiese uitlatings en die geskiktheid van toerusting en strukture, en die bedryfsaktiwiteit, skema of onderneming wat uitlatings genereer;

(d) bepaling of enige oortreding van die bepalings van hierdie verordening of die Wet op Lugkwaliteit voorgekom het; en

(e) afdwinging van voldoening aan die bepalings van hierdie verordening of die Wet op Lugkwaliteit.

(2) Die Munisipaliteit mag by wyse van skriftelike kennisgewing of per e-pos of telefonies of mondeling, 'n kennisgewing aan die eienaar of okkupeerder van 'n perseel verskaf, waarin sodanig eienaar of okkupeerder, op die dag en uur in die kennisgewing vermeld, toegang moet verleen aan gemagtigde beamptes tot 'n perseel, vir die doeleindes soos vermeld in in subartikel 5(1) van hierdie verordening.

(3) Die Munisipaliteit mag toegang na of oor enige eiendom verkry, sonder kennisgewing en mag enige stappe neem of enige aksies implementeer, wat deur die Direkteur Tegniese Dienste of die Lugkwaliteit Beampte nodig geag word, wanneer 'n noodtoestand of ramp ontstaan, of vir doeleindes van subartikel 5(1)(d) van hierdie verordening.

6. HEFFING VAN FOOIE EN TARIEWE

Die Munisipaliteit mag fooie, heffings en tariewe, vir enige goedkeurings verleen in terme van hierdie verordening hef en verhaal, en tariewe soos voorgeskryf in die Wet op Lugkwalitiet implementeer of deposito's as sekuriteit vir skade, herstelwerke, verliese of ander kostes vereis.

7. TEENSTRYDIGHEDE MET ANDER WETGEWING

In die geval van teenstrydigheid tussen enige bepaling van hierdie verordening en nasionale en provinsiale wetgewing of regulasies, wat lugbesoedeling in die gebied van jurisdiksie van die Munisipaliteit reguleer, sal sodanige nasionale en provinsiale wetgewing of regulasies voorrang geniet.

HOOFSTUK 2:
VERPLIGTING OM SORGSAAM TE WEES

8. MAATREëLS BENODIG OM LUGBESOEDELING TE VOORKOM

(1) Enige eienaar of okkupeerder van 'n perseel, wie gedeeltelik of ten volle verantwoordelik is vir die ontstaan van lugbesoedeling, of 'n risiko veroorsaak wat tot lugbesoedeling aanleiding kan gee, moet al die nodige maatreëls implementeer, insluitende die beste praktiese omgewingsopsie –

(a) om die ontstaan van enige potensiële lugbesoedeling te voorkom; en

(b) om sovêr moontlik in alle redelikheid, enige lugbesoedeling wat voorgekom het, te verminder en te verhoed.

(2) Die Munisipaliteit mag enige eienaar of okkupeerder van 'n perseel, wat versuim om die maatreëls soos vereis ingevolge subartikel 8(1) van hierdie verordening te implementeer, opdrag gee om -

(a) voor 'n spesifieke datum spesifieke verligtende en / of voorkomende maatreëls te implementeer;

(b) deurlopend the vereiste maatreëls te implementeer; en

(c) alle maatreëls soos vereis, voor 'n spesifieke datum af te handel,

met dien verstande dat alvorens so 'n instruksie uitgereik word –

(i) die Munisipaliteit voldoende kennis moet gee aan die betrokke oortreder, en hom of haar te versoek om die Lugkwaliteit Beampte in kennis te stel van die relevante feite van die situasie; en

(ii) die Lugkwaliteit Beampte met enige ander staatsinstelling mag konsulteer oor die betrokke situasie en / of die maatreëls wat implementeer moet word.

(3) Die Munisipaliteit mag wanneer die eienaar of okkupeerder van 'n perseel, versuim om te voldoen, of slegs gedeeltelik voldoen aan enige bepalings van subartikel 8(2) van hierdie verordening, maatreëls implementeer om die situasie reg te stel.

(4) Die Munisipaliteit mag indien 'n eienaar of okkupeerder van 'n perseel, versuim om aan die maatreëls te voldoen waarna verwys word in subartikel 8(1) van hierdie verordening, alle kostes deur die Munisipalitet aangegaan vir regstelling van die situasie soos voorsien in subartikel 8(3) van hierdie verordening, gesamentlik en afsonderlik van enige van die volgende persone verhaal -

(a) enige persoon wat verantwoordelik is of was, of direk of indirek bygedra het tot die lugbesoedeling of die potensiële lugbesoedeling;

(b) die eienaar van 'n perseel op die staduim toe die lugbesoedeling of die potensiaal vir lugbesoedeling ontstaan het;

(c) die persoon in beheer van 'n perseel, of enige persoon wat 'n reg gehad het of nog steeds het om 'n perseel te gebruik, op die tydstip wat -

(i) die aktiwiteit of proses ter sprake plaasgevind het of onderneem was; of

(ii) die situasie ontstaan het; en / of

(d) enige persoon wie versuim om te voorkom dat -
(i) die lug besoedel word; of
(ii) 'n situasie ontstaan wat tot lugbesoedeling aanleiding gee.

(5) Geen eienaar of okkupeerder van 'n perseel mag -

(a) onwettig en doelbewus, of nalatig enige handeling verrig of versuim om 'n handeling te verrig, wat aanleiding tot lugbesoedeling gee of kan gee; of

(b) weier om te voldoen aan 'n instruksie uitgereik in terme van artikel 8 van hierdie verordening nie.

(6) Wanneer meer as een persoon aanspreeklik is vir enige oortreding ingevolge subartikel 8(4) van hierdie verordening, mag die aanspreeklikheid deur die Munisipalitet onder die betrokke persone verdeel word, en die betrokkenes bly gesamentlik en afsonderlik aanspreeklik vir kostes, as gevolg van hulle onderskeidelike versuime om die vereiste maatreëls soos in subartikels 8(1) en 8(2) van hierdie verordening voorsien, te implementeer om lugbesoedeling te voorkom.

HOOFSTUK 3:
AANWYSING VAN 'n LUGKWALITEIT BEAMPTE

9. AANWYSING VAN 'n LUGKWALITEIT BEAMPTE

Die Munisipaliteit moet 'n beampte aanwys as 'n lugkwaliteit beampte, wat verantwoordelik sal wees vir die koördinering van aangeleenthede verbandhoudend tot lugkwaliteitbestuur in die gebied van jurisdiksie van die Munisipaliteit.

10. PLIGTE EN FUNKSIES VAN 'n LUGKWALITEIT BEAMPTE

(1) Die Lugkwaliteit Beampte moet –

(a) die ontwikkeling van 'n lugkwaliteitbestuursplan, vir insluiting in die Geïntegreerde Ontwikkelingsplan van die Munisipaliteit koördineer;

(b) 'n jaarverslag oor lugkwaliteit vir die Munisipaliteit voorberei;

(c) die pligte en bevoegdhede uitvoer wat ingevolge die bepalings van hierdie verordening aan hom of haar onder toesig van die Direkteur Tegniese Dienste opgedra is; en

(c) 'n jaarverslag oor lugkwaliteit vir die Munisipaliteit, aan die Provinsiale Lugkwaliteit Beampte verskaf.

(2) Die jaarverslag waarna verwys word in subartikel 10(1)(b) van hierdie verordening, moet insluit, maar is nie beperk tot, die vordering wat die Munisipaliteit gemaak het met die implementering van 'n lugkwaliteitsbestuursplan vir die munisipale area

(3) Die Lugkwaliteit Beampte mag van die houer van 'n voorlopige atmosferiese uitlatingspermit of die houer van 'n atmosferiese uitlatingspermit vereis, om 'n uitlatingsbeheerbeampte, soos voorsien in artikel 48 van die Wet op Lugkwaliteit, aan te stel.

HOOFSTUK 4:
PLAASLIKE NORME EN STANDAARDE VIR UITLATINGS

Deel 1: Plaaslike norme en standaarde vir uitlatings

11. BEPALING VAN PLAASLIKE NORME EN STANDAARDE VIR UITLATINGS

(1) Die Munisipaliteit mag nadat 'n omvattende publieke proses gevolg is, per kennisgewing -

(a) substansies of mengsels van substansies in die omringende lug identifiseer, wat weens konsentrasies in omringende lug, bio-opstappeling, neerslag of op enige ander manier, vir publieke gesondheid, menslike welsyn en die omgewing, in die gebied van jurisdiksie van die Munisipaliteit, 'n gevaar inhou; en

(b) vir elke substansie of mengsel van substansies, plaaslike norme en standaarde vir uitlatings per aangewese punt of nie-aangewese punt of mobiele bron in die gebied van jurisdiksie van die Munisipaliteit, publiseer;

(2) Die Munisipaliteit moet die volgende faktore in ag neem, wanneer die plaaslike norme en standaarde vir uitlatings bepaal word -

(a) gesondheid, veiligheid en omgewings beskermingdoelwitte;

(b) analitiese metodologie;

(c) tegniese lewensvatbaarheid;

(d) moniterings kapasiteit;

(e) die sosio-ekonomiese gevolge;

(f) die ekologiese rol van vuur in plantreste; en

(g) die beste praktiese omgewingsopsies.

(3) Enige eienaar of okkupeerder van 'n perseel wat substansies of mengsels van substansies in die atmosfeer uitlaat, soos verwys na in subartikel 11(1) van hierdie verordening, moet aan die plaaslike norme en standaarde vir uitlatings, of enige provinsiale of nasionale norme en standaarde, voldoen.

12. PUBLIKASIE VAN PLAASLIKE NORME EN STANDAARDE VIR UITLATINGS

Die Munisipaliteit mag die plaaslike norme en standaarde vir uitlatings publiseer, soos voorsien ingevolge die Stelselswet.

Deel 2: Norme en Standaarde

13. PROSES VIR DIE IDENTIFIKASIE VAN SUBSTANSIES

(1) Die Lugkwaliteit Beheerbeampte moet die volgende kriteria toepas vir die identifikasie en prioritisering van substansies wat in omringende lug voorkom, en wat 'n gevaar inhou vir publieke gesondheid, publieke welstand en die omgewing -

(a) die toenemende potensiële impak wat 'n substansie op menslike gesondheid en die omgewing kan hê, weens die toenemende voorkoms en frekwensie van die negatiewe effekte van sodanige substansie in die atmosfeer;

(b) die alomteenwoordigheid en hoë konsentrasies van 'n substansie in die atmosfeer;

(c) die potensiële omgewingsveranderings en metaboliese wysigings wat deur 'n substansie veroorsaak kan word, en die risiko dat sodanige substansie weens chemiese reaksies in die omringende lug, tot meer toksiditeit aanleiding kan gee;

(d) die voortgesette teenwoordigheid van 'n substansie in die omgewing, weens die situasie dat 'n substansie nie bio-afbreekbaar is nie, en derhalwe in die menslike liggaam, ekosisteme en voedselbronne kan akkumuleer;

(e) die impak van 'n substansie, in verhouding tot -
(i) die grootte van die populasie, die lewende bronne en die ekosisteme wat blootgestel word; en
(ii) die voorkoms van buitegewoon sensitiewe ontvangers in die betrokke affekteerde area; en

(f) substansies wat deur internasionale konvensies as besoedelaars beskou word.

(2) Die Lugkwaliteit Beampte mag 'n lys van substansies saamstel, wat in omringende lug voorkom en wat as 'n gevaar vir publieke gesondheid, publieke welsyn of die omgewing beskou word, deur van die kriteria soos uiteengesit in subartikel 12(1) van hierdie verordening, gebruik te maak.

HOOFSTUK 5:
BEHEERDE BRANDSTOFVERBRANDINGINSTALLASIES

14. INSTALLASIE VAN BEHEERDE BRANDSTOFVERBRANDINGINSTALLASIES

(1) Geen eienaar of okkupeerder van 'n perseel sal op enige perseel enige brandstofverbrandinginstallasie installeer, verander, uitbrei of vervang, sonder vooraf geskrewe toestemming van die Munisipaliteit nie, en sodanige magtiging sal slegs verleen word nadat die toepaslike installasieplanne en –spesifikasies van die perseel en die brandstofverbrandinginstallasie aan die Munisipaliteit voorgelê is vir oorweging in terme van die norme en standaarde vir beheerde brandstofverbrandinginstallasies, soos voorsien in artikel 24 van die Wet op Lugkwaliteit.

(2) Na oorweging van 'n aansoek soos ingedien in terme van subartikel 14(1) van hierdie verordening, moet die Munisipaliteit –

(a) of 'n aansoek goedkeur en 'n magtiging uitreik, onderhewig aan enige voorwaardes wat bepaal mag word; of

(b) 'n aansoek weier, en skriftelike redes daarvoor verskaf.

(3) Die magtiging waarvoor in terme van subartikels 14(1) en 14(2) van hierdie verordening aansoek gedoen word en wat toegestaan word, moet die volgende inligting bevat –

(a) die produknaam of model van die beheerde brandstofverbrandinginstallasie;

(b) die perseel waarvoor die magtiging uitgereik word;

(c) die persoon en / of entiteit aan wie die magtiging uitgereik word;

(d) die periode waarvoor die magtiging uitgereik word;

(e) die naam van die munisipale owerheid;

(f) die intervalle waarvolgens die magtiging hersien mag word;

(g) die tipe en kwaliteit brandstof gebruik vir verbranding;

(h) die maksimum toelaatbare getal, volume, uitlaatfrekwensie of konsentrasie van besoedeling wat in die atmosfeer uitgelaat mag word;

(i) enige ander bedryfsvereistes wat verband hou met die atmosferiese uitlatings, nie-aangewese punt bronuitlatingmetings en rapportering vereistes; en

(j) enige ander sake wat belangrik is vir lugkwalitetbestuur.

(4) Die Munisipaliteit mag die magtiging uitgereik in terme van subartikel 14(2) van hierdie verordening hersien met die intervalle gespesifiseer op die magting, of wanneer omstandighede hersiening noodsaak.

(5) Enige beheerde brandstofontbrandinginstallasie op 'n perseel, wat op perseel geïnstalleer, gewysig, uitgebrei of vervang is, ingevolge ingediende planne en spesifikasies en goedgekeur deur die Munisipaliteit, word geag te voldoen aan alle vereistes, totdat die teendeel bewys word.

(6) Waar 'n beheerde brandstofverbrandinginstallasie op 'n perseel geïnstalleer, gewysig, uitgebrei of vervang word strydig met subartikel 14(1) van hierdie verordening, mag die Munisipaliteit met skriftelike kennisgewing aan die eienaar en / of okkupeerder van 'n perseel, gelas dat die betrokke brandstofverbrandinginstallasie op koste van die eienaar en / of okkupeerder van die betrokke perseel verwyder word, binne die tydperk soos op die uitgereikte kennisgewing aangedui.

(7) Die Munisipaliteit mag die nodige stappe implementeer om besoedeling te herstel wat veroorsaak word deur die installering, wysiging, uitbreiding of vervanging op persele van brandstofverbrandinginstallasies, om sodoende verdere lugbesoedelinginsidente te voorkom, en mag die kostes daarvan van die persoon verantwoordelik vir die oortreding verhaal.

15. BEDRYF VAN BEHEERDE BRANDSTOFONTBRANDINGINSTALLASIES

(1) Geen persoon mag gebruik maak van enige brandstofontbrandinginstallasie op enige perseel, of dit strydig met 'n magtiging soos uitgereik in terme van artikel 14 van hierdie verordening, bedryf nie.

(2) Waar enige beheerde brandstofontbrandinginstallasie op 'n perseel strydig met 'n magtiging gebruik of bedryf word, mag die Munisipaliteit by skriftelike kennisgewing aan die eienaar of okkupeerder van die betrokke perseel -

(a) die magtiging uitgereik in terme van artikel 14 van hierdie verordening herroep; en

(b) die verwydering van die betrokke brandstofontbrandinginstallasie van die perseel gelas, binne 'n bepaalde tyd soos in 'n kennisgewing vervat, en op koste van die eienaar en / of okkupeerder van 'n perseel.

(3) Die Munisipaliteit mag wanneer die eienaar of okkupeerder van 'n perseel waar 'n brandstofontbrandinginstallasie is, versuim om gehoor te gee aan 'n kennisgewing soos uitgereik in terme van subartikel 15(2) van hierdie verordening, die brandstofontbrandinginstallasie laat verwyder op die koste van die eienaar of okkupeerder van 'n perseel.

16. MONITERING EN MONSTERNEMING

Die eienaar of okkupeerder van 'n perseel waar gelyste aktiwiteite plaasvind en / of die operateurs van beheerde brandstofontbrandinginstallasies, moet instrumente vir die meting van uitlatings installeer en / of die uitlatings vanaf die betrokke brandstofontbrandinginstallasies moniteer, op sodanige tye soos deur die Lugkwaliteit Beampte bepaal, en moet -

(a) alle monitering- en monsternemingresultate aanteken en 'n kopie van sodanige rekord vir minstens vyf (5) jaar hou, nadat die resultate ontvang word;

(b) wanneer so versoek deur 'n lugkwaliteit beampte, die rekord van monitering- en monsternemingresultate verskaf vir inspeksie; en

(c) wanneer so versoek deur 'n lugkwaliteit beampte, 'n skriftelike verslag oor die inligting van monitering- en monsternemingresultate voorsien in 'n formaat en voor 'n datum soos bepaal deur 'n lugkwaliteit beampte.

17. STOFUITLATINGS BY GELYSTE AKTIWITEITE EN BEHEERDE INSTALLASIES

(1) Enige eienaar of okkupeerder van 'n perseel wat 'n gelyste aktiwiteit onderneem of beheer daaroor het of wat 'n beheerde installasie bedryf wat stofuitlatings tot gevolg het wat skadelik vir publieke gesondheid, publieke welstand en die omgewing kan wees en / of 'n oorlas kan veroorsaak, moet verligtingmaatreëls implementeer om sodanige stofuitlatings te voorkom of die stofuitlatings in die atmosfeer te minimaliseer.

(2) Enige eienaar of okkupeerder van 'n perseel wat enige gelyste aktiwiteit onderneem of beheer of wat 'n beheerde installasie bedryf wat stofuitlatings tot gevolg het, moet een of meer van die volgende maatreëls vir verligting implementeer om stofuitlatings te beheer -

(a) die plavei van oppervlaktes;

(b) die gebruik van stofonderdrukkingmiddels;

(c) die eweredige aanwending en instandhouding van oppervlakgruis;

(d) die oprigting van fisies versperrings;

(e) die aanbring van tekens om 'n verbod op toegang na die affekteerde area te implementeer;

(f) die gebruik van enige tipe grondbedekking;

(g) die hervestiging met plantegroei, soortgelyk aan aanliggende onversteurde areas; en

(h) enige alternatiewe maatreël vir beheer, soos skriftelik goedgekeur deur die Lugkwaliteit Beampte.

(3) Die verligtingmaatreëls geïmplementeer vir beheer, moet bestaanbaar wees met die bepalings van enige toepaslike wetgewing.

(4) Die bepalings van die hierdie artikel is nie van toepassing op -

(a) landskaperingaktiwiteite deur 'n persoon by sy of haar plek van bewoning;

(b) nood instandhoudingaktiwiteite op publieke paaie;

(c) onverharde paaie, wat voertuigverkeer van minder as vyfhonderd (500) voertuie per dag dra;

(d) nie-kommersiële en nie-institusionele privaat rylane;

(e) perde roetes, voetslaanpaaie, fietspaaie of soortgelyke paaie; en

(f) enige ander pad wat aangewys is vir gebruik, anders as deur 'n motorvoertuig.

HOOFSTUK 6:
UITLATINGS WAT AANSTOOTLIKE REUKE VEROORSAAK

18. VERBOD OP UITLATINGS WAT AANSTOOTLIKE REUKE VEROORSAAK

(1) Geen eienaar of okkupeerder van 'n perseel in die area van jurisdiksie van die Munisipaliteit, sal enige gelyste aktiwiteit of enige deel daarvan onderneem of beheer, of 'n beheerde brandstofverbrandinginstallasie bedryf, wat 'n aanstootlike reuk veroorsaak strydig met die voorskrifte van die betrokke atmosferies uitlatingpermit vir die betrokke perseel of die toepaslike norme en standaarde vir uitlatings vir die munisipale area, soos voorsien in artikel 21 van die Wet op Lugkwaliteit.

(2) Enige eienaar of okkupeerder van 'n perseel, wat gelyste aktiwiteite onderneem of beheer en / of 'n beheerde brandstofverbrandinginstallasie bedryf, wat 'n aanstootlike reuk veroorsaak wat skadelik mag wees vir publieke gesondheid, publieke welstand of 'n oorlas mag veroorsaak, wat strydig met die voorskrifte van die betrokke atmosferies uitlatingpermit vir die betrokke perseel of die toepaslike norme en standaarde vir uitlatings vir die munisipale area is, soos voorsien in artikel 21 van die Wet op Lugkwaliteit, moet verligtingmaatreëls vir beheer oor en voorkoming van welriekende uitlatings in die atmosfeer implementeer.

(3) Enige eienaar of okkupeerder van 'n perseel wat 'n aktiwiteit onderneem of beheer, soos voorsien in subartikel 18(2) van hierdie verordening, moet die nodige maatreëls instel om die substansie of substansies wat die aanstootlike reuk veroorsaak, te identifiseer.

(4) Enige eienaar of okkupeerder van 'n perseel wat 'n aktiwiteit onderneem of beheer, soos voorsien in subartikel 18(2) van hierdie verordening, moet die nodige maatreëls om aanstootlike reuke te beheer of enige alternatiewelike maatreëls soos goedgekeur deur die Lugkwaliteit Beampte, instel.

(5) Wanneer die eienaar of okkupeerder van enige perseel, vanwaar 'n aanstootlike reuk oorsprong het of waar dit voorkom, weier om 'n aanstootlike reuk te beheer of om die beheermaatreëls soos voorsien in in subartikel 18(3) van hierdie verordening in te stel, sal sodanige eienaar of okkupeerder van 'n perseel 'n oortreding begaan.

19. VOLDOENINGKENNISGEWINGS

'n Lugkwaliteit Beampte mag 'n voldoeningkennisgewing op die eienaar of okkupeerder van 'n perseel bedien, indien 'n redelike vermoede bestaan dat sodanige eienaar of okkupeerder van 'n perseel, artikel 18 van hierdie verordeninge, gaan oortree of oortree het, en sodanige kennisgewing moet sodanige persoon opdrag gee -

(a) om aandag te skenk aan die aanstootlike reuk binne die gespesifiseerde periode in die kennisgewing;

(b) om al die nodige stappe te implementeer, om 'n herhaling van die aanstootlike reuk te voorkom; en

(c) om aan enige ander voorwaarde soos vervat in die kennisgewing te voldoen.

HOOFSTUK 7:
BEHEERDE AKTIWITEITE

20. INSTALLERING VAN KLEIN STOOMKETELS

(1) Geen eienaar of okkupeerder van 'n perseel sal op enige perseel enige klein stoomketel installeer, verander, uitbrei of vervang, sonder vooraf geskrewe toestemming van die Munisipaliteit nie, en sodanige magtiging sal slegs verleen word nadat die toepaslike installasieplanne en –spesifikasies van die perseel en die betrokke brandstofverbrandinginstallasie aan die Munisipaliteit voorgelê is vir oorweging in terme van die norme en standaarde vir sodanige beheerde brandstofverbrandinginstallasies, soos voorsien in artikel 24 van die Wet op Lugkwaliteit.

(2) Die aansoek om 'n klein stoomketel te bedryf op 'n perseel, geskied op die aansoekvorm soos voorgeskryf deur die Munisipaliteit.

(3) Wanneer 'n klein stoomketel op 'n perseel, strydig met die bepalinge van subartikel 20(1) van hierdie verordening, geïnstalleer of gewysig of uitbrei of vervang word, begaan die eienaar of okkupeerder van sodanige perseel 'n oortreding en mag die Munisipaliteit met skriftelike kennisgewing aan die eienaar en / of okkupeerder van die betrokke perseel gelas dat die betrokke stoomketel op koste van die eienaar en / of okkupeerder van die perseel, binne die tydperk soos op die betrokke kennisgewing aangedui, verwyder word.

(4) Wanneer 'n aansoek, soos ingedien in terme van subartikel 20(1) van hierdie verordening oorweeg word, mag die Lugkwaliteit Beampte die applikant versoek om enige addisionele inligting te verskaf, soos deur die Lugkwaliteit Beampte nodig geag word.

(5) Na oorweging van 'n aansoek soos ingedien in terme van subartikel 20(1) van hierdie verordening, moet die Munisipaliteit –

(a) of 'n aansoek goedkeur en 'n magtiging uitreik, onderhewig aan enige voorwaardes wat bepaal mag word; of

(b) 'n aansoek weier, en skriftelike redes vir die weiering verskaf.

(6) Die magtiging waarvoor in terme van subartikels 20(1) van hierdie verordening aansoek gedoen word en wat uitgereik word, moet die volgende inligting bevat –

(a) die produknaam of model van die klein stoomketel;

(b) die perseel waarvoor die magtiging uitgereik word;

(c) die persoon en / of entiteit aan wie die magtiging uitgereik word;

(d) die periode waarvoor die magtiging uitgereik word;

(e) die naam van die munisipale owerheid;

(f) die intervalle waarvolgens die magtiging hersien moet word;

(g) die tipe en kwaliteit brandstof gebruik vir verbranding;

(h) die maksimum toelaatbare getal, volume, uitlaatfrekwensie of konsentrasie van besoedeling wat in die atmosfeer uitgelaat mag word;

(i) enige ander bedryfsvereistes wat verband hou met die atmosferiese uitlatings, nie-aangewese punt bronuitlatingmetings en rapporteringvereistes; en

(j) enige ander sake wat belangrik is vir lugkwaliteitbestuur.

(7) Die Munisipaliteit moet die magtigings uitgereik in terme van hierdie artikel, hersien ingevolge die intervalle gespesifiseer in sodanige magtigings, of wanneer omstandighede hersiening noodsaaklik maak.

21. UITLATINGS VEROORSAAK DEUR OOP VERBRANDING

(1) Enige eienaar of okkupeerder van 'n perseel, wat oop verbranding van enige materiaal doen of toelaat dat dit gedoen word op enige eiendom of perseel, begaan 'n oortreding, behalwe as -

(a) skriftelike toestemming vooraf van die Munisipaliteit en die Distrikmunisipaliteit verkry was, welke magtiging deur die Munisipaliteit en die Distrikmunisipaliteit toegestaan mag word, onderworpe aan bepaalde voorwaardes; en

(b) die eienaar en / of okkupeerder van 'n perseel, alle inwoners van aanliggende en affekteerde eiendomme, en die eienaars van oorhoofse elektriese kraglyne en telefoonlyne wat die betrokke eiendom waar verbranding gaan plaasvind kruis, skriftelik ingelig het van -
(i) alle beskikbare inligting oor die beoogde oop verbrandingaktiwiteite; en
(ii) die regte van inwoners en / of okkupeerders van eiendomme, en die

eienaars van oorhoofse elektriese kraglyne en telefoonlyne, om binne veertien (14) dae vanaf datum van kennisgewing, skriftelike besware of kommentare oor die voorgestelde oop verbrandingaktiwiteite by die Munisipaliteit en / of Distrikmunisipaliteit in te dien.

(2) Die Munisipaliteit en die Distrikmunisipaliteit mag nie die oop verbranding van materiaal op enige grond of perseel magtig nie –

(a) tensy die Munisipaliteit en die Distrikmunisipaliteit tevrede is dat daar ten volle aan die vereistes soos uiteengesit in subartikel 21(1) van hierdie verordening voldoen is;

(b) tensy die Munisipaliteit en die Distrikmunisipaliteit tevrede is dat daar ten volle aan die bepalings van die Verordening insake Gemeenskapsbrandveiligheid van die Munisipaliteit van Theewaterskloof en die vereistes van die Distrikmunisipaliteit, voldoen is;

(c) in die geval waar 'n brandwaarskuwing vir die streek uitgereik is in terme van artikel 10(1)(b) van die Nasionale Wet op Veld- en Bosbrande, 1998 (Wet No 101 van 1998), soos gewysig.

(3) Die bepalings van subartikels 21(1) en 21(2) van hierdie verordening sal nie van toepassing wees op –

(a) beheerde vure gemaak vir die doel van vleisbraai in aangewese plekke in of op publieke plekke, munisipale sportfasiliteite, natuurreservate en ander publieke geriewe nie;

(b) beheerde vure gemaak vir buitelug aktiwiteite vir ontspanning en vleisbraaie op privaat persele nie; en

(c) beheerde vure gemaak in huise vir doeleindes van verhitting, warm water, voedselvoorbereiding en ander huishoudelike gebruike nie.

22. UITLATINGS VEROORSAAK DEUR DIE VERBRANDING VAN AFVAL

Geen persoon mag industriële, huishoudelike, tuin of enige ander afval op enige eiendom of perseel verbrand nie, met die oogmerk om daarmee weg te doen deur verbranding, behalwe indien wettig daartoe gemagtig in terme van die "National Environmental Management: Waste Act", 2008 (Wet No 59 van 2008), soos gewysig.

23. UITLATINGS VEROORSAAK DEUR DIE VERBRANDING VAN BUITEBANDE, RUBBERPRODUKTE EN KABELS

Geen persoon mag of mag toelaat dat buitebande, rubberprodukte, kabels of enige ander soortgelyke produkte vir enige rede ook al, op enige eiendom of perseel verbrand word nie.

24. UITLATINGS VEROORSAAK DEUR DIE BESPUITING VAN INSEKTEDODERS EN / OF ONKRUIDODERS

(1) Geen eienaar of okkupeerder van 'n perseel mag die bespuiting van insektedoders en / of onkruiddoders uitvoer, behalwe soos daartoe gemagtig deur wetgewing en / of regulasies

(2) Enige eienaar of okkupeerder van 'n perseel wat die bespuiting van insektedoders en / of onkruiddoders onderneem, hetsy per hand of met 'n trekker of 'n ander tipe voertuig of 'n vliegtuig of helikopter, in die area van jurisdiksie van die Munisipaliteit, moet aan die volgende voorwaardes voldoen -

(a) 'n skriftelike magtiging moet verkry word by die Munisipaliteit, voordat enige bespuiting in aanvang kan neem, welke magting toegestaan kan word vir 'n periode van twaalf (12) maande vanaf die datum van uitreiking;

(b) al die eienaars of okkupeerders van aanliggende eiendomme, of in die geval van bespuiting per vliegtuig of helikopter, eiendomme in die area wat bespuit gaan word, moet skriftelik in kennis gestel word van -

(i) die gegewens van die area wat bespuit gaan word;
(ii) die redes vir die spesifieke insektedoder en / of onkruiddoder wat gebruik gaan word;
(iii) die aktiewe bestandele van die insektedoder en / of onkruiddoder wat gebruik gaan word;
(iv) die beplande datum waarop die bespuiting met insektedoders en / of onkruiddoders gaan plaasvind;
(v) die voorkeur weertoestande vir die bespuiting van 'n spesifieke insektedoder en / of onkruiddoder;
(vi) die tydsverloop wat benodig word, voor die area wat bespuit is met veiligheid binnegegaan kan word, soos vir elke spesifieke insektedoder en / of onkruiddoder wat gebruik gaan word gespesifiseer; en
(vii) die regte van eienaars en okkupeerders van eiendomme om binne veertien (14) dae vanaf datum van kennisgewing, skriftelike besware by die Munisipaliteit teen die beoogde bespuiting met insektedoders en / of onkruiddoders in te dien.

(3) Die Munisipaliteit moet binne dertig (30) dae na ontvangs van 'n aansoek om magtiging, soos voorsien in subartikel 24(2) van hierdie verordening, die applikant in kennis stel –

(a) dat 'n magtiging toegestaan is en wat die voorwaardes vir die magtiging wat verleen is; of

(b) dat die magtiging nie toegestaan is nie en wat die redes vir die weiering van die aansoek vir magtiging is.

(4) Die magtiging uitgereik in terme van subartikel 24(2) van hierdie verordening, moet -

(a) die persoon aan wie die magtiging uitgereik is;

(b) die area waar die insektedoders en / onkruiddoders gespuit mag word;

(c) die beplande datums van bespuiting van die insektedoders en / onkruiddoders;

(d) die periode waarvoor die magtiging geldig is; en

(e) enige ander maatreëls wat nodig is vir die beskerming van publieke gesondheid en / of publieke welstand of die omgewing,

spesifiseer.

(5) Enige persoon mag by die Munisipaliteit aansoek doen vir vrystelling van die bepalings van hierdie verordening, indien die bespuiting van insektedoders en / onkruiddoders is vir -

(a) die bestuur en beheer van peste wat menslike siektes kan oordra, of vir peste wat 'n wesenlike invloed op landbou en / of bosbou produksie het; of

(b) die bestuur en beheer van peste wat die integriteit van sensitiewe ekosisteme bedreig.

(6) Die bepalinge van artikel 24 van hierdie verordening is nie van toepassing vir -

(a) die gebruik van insektedoders en / of onkruiddoders in huistuine in residensiële areas nie;

(b) die huishoudelike gebruik van insektedoders en / onkruiddoders of die gebruik daarvan in geboue vir die bespuiting van peste nie; of

(c) enige ander gedefinieerde area of gedefinieerde aktiwiteit, wat deur die Munisipaliteit as uitsluiting verklaar word nie.

25. SPUITVERF UITLATINGS

(1) Geen eienaar of okkupeerder van 'n perseel in die area van jurisdiksie van die Munisipaliteit, sal in die ope lug enige voertuig, of enige ander beweegbare voorwerp spuitverf, bedek, platteer of bestryk, of toelaat dat dit gedoen word, met enige substansie wat dampe afgee, en enige voertuig, of enige ander beweegbare voorwerp sal slegs gespuitverf, bedek, geplatteer of bestryk word in 'n goedgekeurde spuitverfkamer of –tent of area, wat deur die aangewysde brandweerbeampte, in oorleg met die Lugkwaliteit Beampte en ander gemagtigde beamptes soos toepaslik, goedgekeur sal word op persele geregistreer vir sodanige doeleindes.

(2) Geen eienaar of okkupeerder van 'n perseel mag enige gebou of gedeelte daarvan of enige voorwerp in die ope spuitverf, bedek, platteer of bestryk, of toelaat dat dit gedoen word met enige substansie wat dampe afgee, sonder dat 'n bedryfsmagtiging vir buitelug spuitverfwerk, deur die Munisipalitet uitgereik is nie.

(3) Enige eienaar of okkupeerder van 'n perseel, wat 'n bedryfsmagtiging vir buitelug spuitverfwerk wil verkry, soos voorsien in subartikel 25(2) van hierdie verordening, moet 'n aansoekvorm vir sodanige magtiging invul en by die Munisipaliteit indien.

(4) Die aangewysde brandweerbeampte, in oorleg met die Lugkwaliteit Beampte, mag die bedryfsmagtiging vir buitelug spuitverfwerk soos voorsien in subartikel 25(2) van hierdie verordening, weier of goedkeur, gebaseer op die inligting saam met 'n aansoek voorsien.

(5) 'n Spuitverfkamer of – tent of area bedoel vir spuitverfwerk soos voorsien in subartikel 25(1) van hierdie verordening, moet gekonstrueer en toegerus wees, ingevolge vereistes

soos deur die Munisipaliteit bepaal en soos gestipuleer in die toepaslike nasionale wetgewing, regulasies en standaarde.

(6) Die Munisipaliteit mag 'n bedryfsmagtiging vir buitelug spuitverfwerk, soos voorsien in subartikel 25(2) en goedgekeur in terme van subartikel 25(4) van hierdie verordening, kanselleer indien daar 'n vermoede bestaan dat die houer van die bedryfsmagtiging, bepalings van die verordening en / of voorwaardes van die bedryfsmagtiging oortree of versuim om daaraan te voldoen.

(7) Die Munisipaliteit moet onderworpe aan subartikel 25(8) van hierdie verordening, voordat 'n bedryfsmagtiging vir buitelug spuitverfwerk deur die Munisipaliteit gekanselleer word -

(a) skriftelik kennis gee aan die houer van die bedryfsmagtiging, aangaande die voorneme wat bestaan om die betrokke bedryfsmagtiging te kanselleer, asook die redes daarvoor, en

(d) die houer van die bedryfsmagtiging minstens veertien (14) dae kennis gee om skriftelike vertoë aan die Munisipaliteit te rig, aangaande die voorgenome kansellasie van die betrokke bedryfsmagtiging.

(8) Wanneer die aangewysde brandweerbeampte van mening is dat die onmiddelike kansellasie van 'n bedryfsmagtiging vir buitelug spuitverfwerk, in die belang van publieke veiligheid, gesondheid en / of welstand, of die omgewing noodsaaklik is, kan die Munisipaliteit 'n bedryfsmagtiging vir buitelug spuitverfwerk kanselleer, sonder enige vooraf kennisgewing soos voorsien in subartikel 25(7) van hierdie verordening.

26. STOFUITLATINGS VAN SANDBLAASAKTIWITEITE

(1) Enige eienaar of okkupeerder van 'n perseel, wat sandblaasaktiwiteite onderneem, wat stofuitlatings tot gevolg het wat skadelik vir publieke gesondheid, publieke welstand en / of die omgewing is, en / of 'n oorlas kan veroorsaak, sal verligtingmaatreëls implementeer vir die beheer en / of voorkoming van stofuitlatings in die atmosfeer

(2) Enige eienaar of okkupeerder van 'n perseel, wat sandblaasaktiwiteite onderneem wat stofuitlatings tot gevolg sal hê, moet die volgende maatreëls ter verligting implementeer -

(a) kontrolemaatreëls vir stofekstraksie; of

(b) enige alternatiewe stofbeheermaatreëls wat skriftelik deur die Lugkwaliteit Beampte goedgekeur is.

HOOFSTUK 8:
STRAFBEPALINGS

27. STRAFBEPALINGS

Enige 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 wat 'n gemagtigde beampte verhinder in die uitvoering van sy of haar pligte, begaan 'n misdryf 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 sodanige bykomende boete of 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.

HOOFSTUK 9:
ALGEMENE SAKE

28. MONITERING VAN VOLDOENING

Die Munisipaliteit mag enige persoon of entiteit wie se aksies wesentlik bydra tot swak lugkwaliteit, of waar sodanige aksies moontlik gaan bydra tot swak lugkwaliteit, versoek om op hulle eie koste die monitering van omringende lug, en aangewese punt of nie-aangewese punt of mobiele bron uitlatings, of enige ander lugkwaliteit studies, programme of verslae, te implementeer of te onderneem, met dien verstande dat sodanige studies of moniterings deur erkende en bevoegde derde partye uitgevoer word, met die doel om atmosferiese uitlatings te moniteer en voldoening aan plaaslike norme en standaarde vir uitlatings te bepaal.

29. TOEPASSING VAN DIE VERORDENING

(1) Die Lugkwaliteit Beampte mag enige wettige, noodsaaklike en praktiese stappe onderneem en maatreëls implementeer, met die doel om die bepalings van hierdie verordening af te dwing.

(2) Die Munisipaliteit mag toepassingprosedures vir die beheer van lugkwaliteit ontwikkeling, wat nie in konflik met enige toepassingprosedures vir die beheer van lugkwaliteit mag wees wat vir lugkwaliteitbestuur op nasionale, provinsiale of distrikmunisipale vlak toegepas word nie.

(3) Die Munisipaliteit mag in enige geval, waar dit duidelik is dat die optredes of versuime van enige eienaar of okkupeerder van 'n perseel, 'n oortreding van die bepalinge van hierdie verordening en atmosferiese besoedeling tot gevolg sal hê, 'n skriftelike kennisgewing aan die eienaar of okkupeerder van sodanige perseel uitreik, waarin die eienaar of okkupeerder van sodanige perseel versoek word om aan bepaalde vereistes deur die Munisipaliteit gestel te voldoen, ten einde die voorkoms of herhalende voorkoms van die betrokke oortreding en / of die lugbesoedeling, aan te spreek.

30. 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 30(1)(a), 30(1)(b) of 30(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.

31. SAMEWERKING TUSSEN MUNISIPALITEITE

(1) Die Munisipaliteit mag vir doeleindes van die bereiking van optimale dienslewering in terme van hierdie verordening, 'n geskrewe diensleweringooreenkoms met enige ander staatsinstelling aangaan, met wie die Munisipaliteit wetgewende en uitvoerende bevoegdhede vir lugkwaliteitbestuur deel, en sodanige ooreenkoms mag die volgende aangeleenthede reël –

(a) die praktiese reëlings met betrekking tot die implementering van die bepalings van hierdie verordening;

(b) die verhaling van kostes aangegaan en uitgawes verbandhoudend tot die toepassing van aksies ingevolge hierdie verordening; en

(c) enige ander sake wat as relevant deur die partye tot die ooreenkoms beskou word, in die bereiking van die doelwitte van optimale dienslewering en effektiewe lugkwaliteitbestuur.

(2) Die Munisipaliteit moet die effektiwiteit van enige ooreenkoms aangegaan in terme van subartikel 31(1) van hierdie verordening, vir doeleindes van die bereiking van die doelwitte van die ooreenkoms moniteer.

32. 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.

33. VRYSTELINGS

(1) Enige eienaar of okkupeerder van 'n perseel mag skriftelik aansoek doen by die Munisipaliteit vir vrystelling van 'n bepaling van hierdie verordening.

(2) 'n Aansoek ingedien in terme van subartikel 33(1) van hierdie verordening, sal vergesel wees van omvattende motiverings vir die aansoek om vrystelling.

(3) Die Munisipaliteit mag van 'n applikant verwag om toepaslike stappe te neem, om die aansoek gebring vir vrystelling onder die aandag van die relevante belangstellendes en affekteerde persone en die publiek te bring.

(4) Die stappe voorsien in subartikel 33(3) van hierdie verordening, mag insluit die publikasie van 'n kennisgewing in 'n plaaslike nuusblad, wat -

(a) die redes vir die aansoek verstrek; en

(b) sodanige ander besonderhede met betrekking tot die aansoek verskaf, soos deur die Lugkwaliteit Beampte vereis.

(5) Die Munisipaliteit mag van tyd tot tyd enige vrystelling wat toegestaan is hersien, indien dit nodig is enige addisionele voorwaardes vir vrystelling oplê, en / of mag indien goeie gronde daarvoor bestaan, 'n vrystelling onttrek.

(6) Die Munisipaliteit mag nie 'n vrystelling, soos voorsien in terme van subartikel 33(1) van hierdie verordening toestaan -

(a) alvorens alle redelike maatreëls geïmplementeer is om te verseker dat alle persone wie se regte wesenlik en / of nadelig geraak word deur die toestaan van 'n vrystelling, van die aansoek om vrystelling bewus is;

(b) alvorens alle affekteerde en belanghebbende partye en persone, van 'n redelike tydperk van kennisgewing om besware teen die aansoek om vrystelling in te dien, voorsien was; en

(c) alvorens die aansoek om vrystelling en alle besware ontvang na behore deur die Munisipaliteit oorweeg was, en die impak van die vrysteling op publieke gesondheid, publieke welsyn en die omgewing, in ag geneem was.

34. AANVAARDING VAN 'n BELEID

Die Munisipaliteit mag vir die regulering en bestuur van lugkwaliteit en verwante aktiwiteite 'n beleid aanvaar en implementeer, en vir aangeleenthede wat daarmee verband hou voorsiening maak.

35. 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.

36. KORT TITEL

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

37. INWERKINGTREDING

Hierdie verordening tree op datum van publikasie daarvan in werking, met die uitsluiting van artikels 14 en 15 wat op 'n toekomstige datum wat nog vasgestel moet word, in werking sal tree.

THEEWATERSKLOOF MUNICIPALITY

CEMETRIES AND CREMETORIUMS 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 regulate the management of cemeteries and crematoriums in the area of jurisdiction of the Theewaterskloof Municipality, and to provide for matters related thereto.

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CHAPTER 1:
INTERPRETATION

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 –

"administrator of cemeteries and crematoriums", means the head of the section or department of the Theewaterskloof Municipality, which has the responsibility for the administration and management of the cemeteries and crematoriums of the Theewaterskloof Municipality, and any person acting on behalf of such administrator or any person duly authorized by the Theewaterskloof Municipality to act on behalf of such administrator;

"adult grave", means the grave of a deceased person over the age of twelve (12) years, or any deceased person, whose coffin can be accommodated in a grave excavation of two point four (2.4) meters in length and nine hundred (900) millimeter in width;

"after-hours fee", means a fee over and above the prescribed fees, for burials or cremations outside normal cemetery and crematorium operating hours;

"anatomy subject", means a body referred by an authorized institution or a court of law for burial, in terms of the Anatomy Act, 1959 (Act No 20 of 1959), as amended and / or the Human Tissue Act, 1983 (No 65 of 1983), as amended;

"ashes", means the cremated remains of a body;

"berm", means a concrete base on which a headstone or a memorial stone for a grave is erected;

"berm section", means a section set aside by the Theewaterskloof Municipality in a cemetery, where all the memorial work are restricted to only a headstone, erected on a pre-constructed berm, and **"lawn section"** has the same meaning;

"Births and Deaths Registration Act", means the Births and Registration Act, 1992 (Act No 51 of 1992), as amended;

"body", means the corpse of any deceased human, including the corpse of a stillborn child;

"burial", means the interment into the earth of a body, or any other form of burial or disposal of a body;

"burial order", means an order for the burial of a deceased person, issued by a competent person in terms of the Births and Registration Act, 1992 (Act No 51 of 1992), as amended;

"burial register", means the register of a cemetery or a crematorium, as contemplated in section 2 of the Births and Deaths Registration Act, 1992 (Act No 51 of 1992), as amended, wherein the entitlement to a grave or a niche and the

particulars of the deceased person or persons interred in a grave in a cemetery or a specific section of a cemetery, or the particulars of a deceased person whose ashes is kept at a cemetery or a columbarium, are recorded;

"cemetery", means any property or part thereof within the municipal area of the Theewaterskloof Municipality, designated or approved by the Theewaterskloof Municipality as a cemetery;

"child", means a person under the age of twelve (12) years;

"child grave", means the grave of a deceased person under the age of twelve (12) years, whose coffin can be accommodated in a grave excavation of one point five (1.5) meter in length and seven hundred (700) millimeter in width;

"columbarium", means the place set aside in the basement of a crematorium or a chapel, with niches or receptacles for the placement of the ashes of deceased persons;

"commonwealth war grave", means any grave, gravestone, monument or memorial stone connected with a commonwealth war burial in terms of the Commonwealth War Graves Act, 1992 (Act No 8 of 1992), as amended;

"cremation", means the process of disposing of a human body by fire;
"crematorium", means a crematorium as contemplated in section 1 of the Regulations relating to the Management of Human Remains, as published per Government Notice R363 dated 22 May 2013, in terms of the National Health Act, 2003 (Act No 61 of 2003), as amended, and includes the buildings in which memorial ceremonies are conducted and the cremations are carried out;

"cremated remains", means all the recoverable ashes of a cremated body after a cremation process;

"exhumation", means the removal of human remains from a grave;

"garden of remembrance", means a section of a cemetery or a crematorium set aside for the provision of niches where the ashes of a cremated body can be placed, the erection of memorial work for a deceased person can be accommodated, or the scattering of the ashes of a cremated body can take place, but does not include a columbarium;

"grave", means any parcel of land or grave site, excavated and prepared for the interment of a body or the remains of a body of a deceased person within a cemetery, and can be a vacant reserved parcel of land or a grave site, and can include the body or the remains of a body of a deceased person interred in such a grave and any gravestone, memorial stone, headstone, grave tablet or any other marker or any other structure on such parcel of land or grave site:

"gravestone", means an ornamental piece of stone or other material, with certain dimensions, used as a memorial work with inscriptions on a grave site, to designate who is buried in a specific grave;

"grave tablet", means a flat ornamental grave piece of stone or other material with

specific dimensions, placed in the ground and used as a memorial work in certain sections of a cemetery, with inscriptions to designate who is buried in a specific grave;

"grave of conflict", means the grave of a deceased person who died while he or she defended the country;

"hero's acre", means an area set aside in a cemetery, for the burial of public hero' hero's;

"indigent person", means a destitute person who has died in indigent circumstances, and is interred as a pauper when no relative or other person, a welfare organization or a non-governmental organization are willing to bear the burial or cremation costs of such a deceased person;

"interment", means the burial or inhumation into the earth, or any other acceptable form of burial or disposal of the body of a deceased person;
"kerb stone", means the portion of a memorial work used as edge or boundary for a grave site;

"landscape section", means a section set aside by the Theewaterskloof Municipality in a cemetery, where all the memorial work is restricted to a grave tablet or a metal plaque or a memorial slab placed in the ground, level with or under ground level;

"lawn section", means a section set aside by the Theewaterskloof Municipality in a cemetery, where all the memorial work are restricted to a headstone only, erected on a pre-constructed berm, and has the same meaning as **"berm section";**

"medical officer of health", means a person appointed in terms of the applicable legislation as medical officer of health, or any other person acting in the capacity of the medical officer of health;

"memorial work", means any headstone, gravestone, grave tablet, memorial stone memorial slab, monument , metal plaque, or other work or object, erected or intended to be erected in any cemetery or crematorium to commemorate a deceased person, and includes a kerb stone demarcating a grave and a slab covering a grave;

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

"National Health Act", means the National Health Act, 2003 (Act No 61 of 2003), as amended;

"niche", means a compartment in a columbarium or a wall of remembrance or any other similar structure, used for the placing of the ashes of a deceased person;

"office hours", means the official office hours of the Municipality, as determined from time to time by the Theewaterskloof Municipality;

"official in charge", means the registrar of a crematorium appointed in terms of the statutory provisions, or a person authorized by the Theewaterskloof Municipality to be in control of any cemetery;

"operational hours", means the hours of a day, except for public holidays, in which an interment in a cemetery or a cremation in a crematorium may take place, as determined from time to time by the Theewaterskloof Municipality;

"prescribed fee", means the fees and tariffs determined annually per resolution by the Theewaterskloof Municipality in terms of the Tariff By-law of the Theewaterskloof Municipality, and include any reference to **"prescribed fees and tariffs"**;

"prescribed form", means the forms used in the administration of cemeteries and crematoriums, and the administration of interments at cemeteries and cremations at crematoriums, as determined from time to time by the Theewaterskloof Municipality;

"public nuisance", means any action, omission or condition, on or at any premises or public place or public road, including any reference to any building, structure or growth on such premises, public place, or public road, which can put the safety of persons or property in jeopardy or which is unsightly, annoying, offensive or a disturbance for other persons, en includes **"nuisance"**;

"Regulations relating to the Management of Human Remains", means the Regulations relating to the Management of Human Remains, as published per Government Notice R363 dated 22 May 2013, in terms of the National Health Act, 2003 (Act No 61 of 2003), as amended;

"relevant health authority", means the Overberg District Municipality;

"SANS approved", means material tested and approved as a South African National Standard, as contemplated in the Standards Act, 2008 (Act No 8 of 2008), as amended;

"South African Heritage Resources Agency", means the South African Heritage Resources Agency, established in terms of section 11 of the National Heritage Resources Act, 1999 (Act No 25 of 1999), as amended;

"tomb", means a burial crypt above ground level;

"victim of conflict", means a person defined as such a victim, as contemplated in section 1 of the National Heritage Resources Act, 1999 (Act No 25 of 1999), as amended;

"wall of remembrance", means a wall in a cemetery or a crematorium, constructed for the placement or affixing of inscribed memorial tablets commemorating deceased persons and niches for the placement of the ashes of deceased persons; and

"working days", means Mondays to Fridays, excluding public holidays.

CHAPTER 2:
ESTABLISHMENT OF CEMETERIES

2. ESTABLISHMENT OF PUBLIC CEMETERIES

(1) The Municipality shall from time to time set aside, acquire and / or develop land within the area of jurisdiction of the Municipality, for the purpose of establishing cemeteries.

(2) The Municipality shall at all times ensure that sufficient burial space is available for the burial of the bodies of deceased persons, within the area of jurisdiction of the Municipality.

(3) The Municipality shall be responsible for the on-going maintenance of all public cemeteries, excluding the maintenance of any memorial work erected on graves.

(4) The Municipality may temporarily close a cemetery and suspend the use thereof for burials, for purpose of ordinary, extraordinary or urgent maintenance work, on condition that adequate prior notice of the intended closure and / or suspension of operations is given and that members of the public still shall have access to the similar burial facilities at an alternative cemetery within the area of jurisdiction of the Municipality.

(5) The Municipality shall appoint an official in charge as caretaker for each and every cemetery, and the same person may be appointed as official in charge for different cemeteries in the area of jurisdiction of the Municipality.

3. PASSIVE CEMETERIES OR SECTIONS OF CEMETERIES

(1) The Municipality may once a cemetery or a section of a cemetery is full and has no space left for further burials, declare by resolution and public notice, such cemetery or section of a cemetery as a passive cemetery.

(2) The Municipality shall be responsible for the maintenance of all passive cemeteries or sections of cemeteries.

4. CLASSIFICATION OF CEMETERIES OR SECTIONS OF CEMETERIES

(1) The Municipality may classify cemeteries or sections of cemeteries for purpose of establishing –

(a) different service levels for cemeteries;

(b) different sections for the interment of the bodies of deceased persons and the keeping of the ashes of deceased persons;

(c) different sections based on religious believes;

(d) different sections for the interment of the bodies of deceased persons who died defending their country and / or commonwealth war graves; and

(e) different sections in a cemetery, for the purpose of differentiating between the type of memorial work allowed in a section.

(2) The Municipality shall not discriminate in any way against any person, with regard to the classification of cemeteries or sections of cemeteries, and the classification of cemeteries or sections of cemeteries for purpose of different service levels, shall only be done based on the principles of price differentiation in order to ensure affordability.

5. REGISTRATION OF GRAVES ON PRIVATE PROPERTY

Every owner of private property within the area of jurisdiction of the Municipality, shall inform the Municipality of the existence of identifiable graves on such property, in a format as prescribed by the Municipality, and the Municipality shall record the known particulars of such graves and the deceased buried in such graves, in a burial register as contemplated in section 21 of the Births and Deaths Registration Act.

6. ESTABLISHMENT AND CONTINUED USE OF PRIVATE CEMETERIES

(1) No person shall within the area of jurisdiction of the Municipality establish a private cemetery, and no owner of any private cemetery already in existence shall when the use of such a cemetery has not previously been authorized by a municipal authority, continue to use such existing cemetery for burial purposes, without the approval of the Municipality being obtained, as contemplated in subsection 6(2) of this by-law.

(2) Applications for the approval of a private cemetery shall be made to the Municipality, on a prescribed form and in the required format of the Municipality, and shall include –

(a) a locality plan of the private cemetery on a scale of not less than the stipulated format, showing the position of the cemetery in relation to boundaries of the property, access roads, public roads, public places and other premises or properties;

(b) a plan of the private cemetery on a scale of not less than the stipulated format, showing the particulars of existing and / or proposed grave sites, internal roads and path ways, drainage, water reticulation, sewage and buildings;

(c) particulars of records or registers kept or proposed to be kept for the identification of graves, internments of the bodies of deceased and entitlement to graves;

(d) particulars of the owner and the caretaker of the private cemetery concerned;

(e) particulars and nature of the title and the registration of the land on which the private cemetery is located or to be located;

(f) proof, to the satisfaction of the Municipality, that the owner of the private cemetery has adequate security and insurance to be able to discharge the obligations and requirements of operating and maintaining a private cemetery for the present and future; and

(g) a schedule of current or proposed burial fees to be charged or currently charged.

(3) A notice with regard to the application received, as contemplated in subsection 6(2) of this by-law, shall be published in a newspaper that is circulated in the area of jurisdiction of the Municipality for public comment on the application, at the cost of the applicant, and the application shall be considered for approval by the Municipality, subject to the objections and / or comments received, within sixty (60) days of the date of closure of the period for public comment.

(4) The authorization of the private cemetery or the disapproval of the application shall be provide to the applicant in writing, stating the conditions of approval and / or the conditions for operating a private cemetery, or the reasons for non-approval of an application.

(5) The owner of a private cemetery shall be responsible for the maintenance thereof.

CHAPTER 3:
DISPOSAL OF BODIES

7. REQUIREMENTS FOR THE DISPOSAL OF A BODY

(1) No person may dispose of or attempt to dispose of a body, without permission being obtained from the Municipality, and then only –

(a) by interment of such a body in a private cemetery or a public cemetery established by the Municipality; or

(b) by cremation of such a body in a registered crematorium.

(2) A person may not dispose of or inter or cremate a body in a crematorium without –

(a) the permission of an official in charge of such a facility;

(b) an original burial order issued in terms of the Births and Deaths Registration Act; and

(c) before arranging a date and a time for such an interment or a cremation with the responsible official in charge.

(3) No body intended for interment or cremation may be presented at a cemetery or crematorium for that purpose, unless being first enclosed in a sealed body bag and / or a coffin, and where there is religious objection to the burial of a body in a body bag or a coffin, a body may be covered in a burial shroud or other suitable perishable material.

8. FUNERAL UNDERTAKERS

(1) No funeral undertaker shall inter a body in a cemetery or cremate a body in a crematorium, in the area of jurisdiction of the Municipality, unless –

(a) such funeral undertaker is in possession of a certificate of competence issued in terms of the National Health Act and the Regulations relating to the Management of Human Remains;

(b) the premises from which the funeral undertaker operates is zoned for such a business in accordance with the applicable zoning scheme; and

(c) all the requirements of a funeral undertaker and a funeral undertaker's premises and a mortuary have been complied with.

(2) Funeral undertakers shall keep record of all bodies received, and the burial orders for such bodies.

(3) An official in charge may refuse to inter or cremate a body presented by an undertaker for interment or cremation, which does not comply with the provisions of this by-law, and shall when such interment or cremation has been refused, shall report the reasons for such refusal, in writing to the Administrator of Cemeteries and Crematoriums of the Municipality and the funeral undertaker.

9. APPLICATIONS FOR AN INTERMENT OR A CREMATION

(1) Nobody shall be interred at a cemetery or cremated at a crematorium, without the permission of an official in charge.

(2) A body shall be interred in a coffin or a body bag or both, unless there is an objection thereto in terms of religious ground as contemplate in subsection 9(8) of this by-law.

(3) A person intending to inter or cremate a body shall complete and submit the prescribed application form, together with a burial order, to an official in charge, for approval of the interment or the cremation.

(4) The next of kin of the deceased person, or any other person who is as such authorized by the next of kin of the deceased person, shall by signature authorize the application, as contemplated in subsection 9(3) of this by-law, for interment or cremation.

(5) Despite the provisions of subsection 9(4) of this by-law, an official in charge, when he or she is satisfied that the signature of the next of kin cannot be obtained in time or when he or she is advised by a medical officer of health that the immediate interment of a body is desirable to safeguard public health, may authorize an application for an interment or a cremation, without the approval of the next of kin of a deceased.

(6) An application for an interment or a cremation, shall –

(a) be submitted at least three (3) working days before such interment or cremation has to take place, subject to the provisions of subsection 9(8) of this by-law;

(b) indicate whether the application is in respect of a first, a second or a third interment in a particular grave; and

(c) indicate the requested date and time for an interment or a cremation.

(7) An official in charge shall only approve an application for an interment or a cremation when –

(a) it is accompanied by an original burial order in terms of the Births and Deaths Registration Act;

(b) the prescribed fee has been paid; and

(c) an application in terms of subsection 9(3), compliant to subsection 9(6) of this by-law has been submitted.

(8) An official in charge shall where necessary and / or applicable, take into account the customs or religious beliefs of a deceased person and / or the next of kin of a deceased person, when approving an interment or a cremation.

10. BURIAL REGISTERS

(1) An official in charge shall maintain a burial register for every cemetery or crematorium, in accordance with section 21 of the Birth and Deaths Registration Act.

(2) The Municipality shall maintain a duplicate copy of the burial register contemplated in subsection 10(1) of this by-law, at any other place than the place where the burial register of a cemetery or a crematorium is kept.

11. THE ALLOCATION AND RESERVATION OF GRAVE SITES AND NICHES

(1) An application to reserve a grave site in a public cemetery or a niche in a public crematorium for future use shall be made to an official in charge.

(2) A surviving spouse or a partner in cohabitation of a deceased person, may apply for an adjoining grave site or a niche to be reserved, when available.

(3) A grave or a niche at a public cemetery or a niche in a public crematorium, shall only be reserved for future use upon payment of the prescribed fees or tariffs.

12. POSTPONEMENT OR CANCELLATION OF AN INTERMENT OR A CREMATION

(1) Any person or persons who wish to acquire the use of a grave site at a public cemetery or a niche at a public crematorium, shall apply to the Municipality for such use on the prescribed form, and such grave site or niche shall be allotted to an applicant for the interment or the ashes of a deceased person.

(2) The person or persons, who acquired the use of a grave site or niche, shall accept the responsibility for the maintenance of such a grave site or niche, and when a memorial work has been erected on such grave site shall accept responsibility for the maintenance and repair of such memorial work.

(3) An interment or a cremation may be postponed or cancelled when requested by the original applicant for an interment or a cremation, or when postponement is requested by the next of kin of the deceased or the Administrator of Cemeteries and Crematoriums or a medical officer of health for operational, medical and / or administrative reasons, or shall be postponed or cancelled when ordered as such by an order of a court.

(4) Prior notice of the postponement or a cancellation of an interment or cremation shall be given on the prescribed form, to an official in charge, who then shall approve the postponement or the cancellation, at least one (1) working day before such interment or cremation.

(5) In case of the cancellation of an interment –

(a) a refund will not be made for costs incurred for the opening or the digging or preparation of a grave or a reserved grave; and

(b) the Municipality shall only refund an original applicant for costs incurred for digging a new grave, when the grave can be used for another burial within a reasonable period of time.

13. RESTRICTION OF THE NUMBER OF BODIES IN A COFFIN

(1) Only one (1) body per coffin shall be allowed for an interment or a cremation.

(2) The interment of more than one (1) body in a coffin may be allowed in special circumstances on payment of the prescribed application fee, when an application for such consent is submitted to the Municipality and approved by the Municipality.

(3) The approval contemplated in subsection 13(2) of this by-law, may only be made in respect of –

(a) family members who either died together or a short while after each other, and on condition that the interment of the first deceased family member has not yet taken place;

(b) a mother and child who died during childbirth;

(c) two (2) married persons or two (2) persons who lived together as partners in cohabitation;

(d) unrelated deceased persons, whose families have no objection to them be interred together and / or who request such interment; or

(e) the remains of bodies from an anatomy project of an authorized organization and / or in terms of a court order.

14. THE INTERMENT OF A BODY IN A GRAVE AND THE USE OF A GRAVE FOR SUBSEQUENT INTERMENTS

(1) The interment of a body may only take place in a grave allocated therefore by an official in charge.

(2) Not more than three (3) coffins may be interred in the same grave;

(3) A second or a third interment in a grave may only be allowed, when –

(a) an application has been made to an official in charge and written permission has been granted;

(b) the grave concerned has been deepened and prepared for a second or a third interment;

(c) at least (12) twelve months from the previous interment have elapsed; and

(d) when the prescribed fee has been paid;

(4) A person who applied for either a second or third interment, shall –

(a) provide at least three (3) working days prior notice of such interment; and

(b) at his or her own costs remove, and subsequent to the interment, replace all memorial work on such a grave.

15. ENTITLEMENT TO A GRAVE SITE OR A NICHE

(1) The entitlement to a grave site or a niche is vested in the name of the person who purchased such entitlement or for which it was purchased, as recorded in a burial register of a cemetery.

(2) The holder of an entitlement to a grave site or a niche in a cemetery or a crematorium shall include –

(a) the person who purchased a grave or a niche or who received a grave or a niche as a gift from the purchaser, and whose particulars appears in the burial register of the cemetery concerned;
(b) the person in whose name the prescribed burial fees in respect of the first interment in a grave site has been paid;

(c) a person to whom the entitlement to a grave site or a niche has been transferred; or

(d) a person who inherited the entitlement to a grave site or a niche.

(3) The entitlement to a grave site or a niche is transferable, and such transfer only becomes effective when recorded by the Municipality in a burial register.

(4) When there is a dispute about the entitlement to a grave site or a niche, the enrolment information contained in the burial register shall be used by the Municipality to determine the entitlement to a grave site or a niche, until an arbitration order or a court order has been issued on the matter.

(5) The Municipality may purchase the entitlement to an unused grave site or a niche, when it is necessary for efficient administration of a cemetery or a crematorium, or for reasonable environmental considerations or when such grave or niche is required for use, provided that just compensation be paid for such purchase.

(6) The right of use of a niche shall accrue to the Municipality, when the ashes of a deceased person and the commemorative plate are removed from a niche, by the next of kin of such deceased person.

16. MEASUREMENTS OF GRAVES

The standard size of a grave shall be, subject to the requirements and provisions of section 7 and 9 of this by-law –

(a) an adult's grave shall measure two thousand three hundred (2 300) millimeter in length and nine hundred (900) millimeter in width and at least two thousand (2 000) millimeter in depth; and

(a) a child's grave shall measure one thousand five hundred (1500) millimeter in length and seven hundred (700) millimeter in width and at least one thousand five hundred (1 500) millimeter in depth.

17. THE ENLARGING AND DEEPENING OF A GRAVE

(1) Where the interment of a body requires a grave in excess of the standard dimensions of a grave, the burial notice shall specify the dimensions of the coffin to be used and its fittings.
(2) A request for the enlarging or deepening of a grave shall be submitted at least three (3) working days prior to a burial.

(3) When a coffin is too large for the size of a standard adult grave, such grave shall be enlarged to accommodate the coffin concerned.

(4) When the coffin of a deceased child is too large for a child's grave, such coffin shall be buried in an adult's grave, on payment of the prescribed fee.

18. REQUIREMENTS FOR COFFINS

(1) Coffins to be placed in graves shall be made of natural soft wood or other perishable material, provided that any attachments to a coffin may be manufactured from any other material.

(2) Coffins intended for cremation shall be constructed mainly of timber or wood derivatives.

(3) The provisions of subsection 18(1) of this by-law shall not apply to the interment of a coffin in a tomb.

19. REQUIREMENTS FOR THE FILLING OF GRAVES

(1) Every coffin shall be covered with at least three hundred (300) millimeter of soil immediately after interment.

(2) The coffin of an interred adult shall at least be covered by one thousand two hundred (1 200) millimeter of soil, measured between the top of the coffin and the surface of the ground, and in the case of the coffin of a child nine hundred (900) millimeter of soil.

(3) The provisions of subsections 19(1) and 19(2) of this by-law, shall not apply to the interment of a coffin in a tomb.

20. SPECIFIC USE OF BODY BAGS

(1) When more than one body is buried in a coffin, each body shall be contained in a separate body bag.

(2) A body intended for burial at a cemetery or a cremation in a crematorium, shall be sealed in a body bag or be sealed inside a coffin, unless this is in conflict with the tradition, customs or religious beliefs of the deceased person or the family of a deceased person.

CHAPTER 4:

FUNERALS AND FUNERAL PROCESSIONS

21. HOLDING OF RELIGIOUS SERVICES AND MEMORIAL SERVICES

(1) Religious services and memorial service of any religious denomination may on application to an official in charge and on payment of the prescribed fee, be held at a cemetery or a crematorium.

(2) No person shall conduct a religious service or a memorial service according to the religious rites of a specific denomination, in any such section of a cemetery reserved for the use by members of another religious denomination.

(3) No music or singing shall be allowed at a funeral or a memorial service, except -

(a) with the prior approval of an official in charge; and
(b) at military funerals.

22. CONTROL OVER HEARSES

No person may –

(a) drive a hearse or cause a hearse to be driven in a cemetery, except on a designated roadway; or

(b) park a hearse in a cemetery in such a manner that it interferes with other burials in progress or official vehicles.

23. TRANSPORT OF COFFINS AND BODIES

(1) A funeral undertaker and / or the next of kin of a deceased person, shall be responsible at their own costs for ensuring that a coffin is conveyed to a cemetery for burial or to a crematorium for cremation.

(2) No person may in a street, a cemetery, a crematorium or other public place convey a body in a disrespectful manner, or allow such body to be uncovered or exposed.

24. AUTHORITY OF AN OFFICIAL IN CHARGE

(1) An official in charge at a cemetery or a crematorium shall have the authority to issue instructions to any user of and / or visitor to a cemetery and / or a crematorium, relating to –

(a) the parking of vehicles;

(b) a funeral procession; or

(c) the duration of a funeral service, as contemplated in section 25 of this by-law.

(2) Every person taking part in a funeral service or a procession at a cemetery, or attending a cremation service, shall comply with all reasonable instructions of an official in charge.

25. DURATION OF FUNERAL, CREMATION, RELIGIOUS OR MEMORIAL SERVICES AT A CEMETERY OR A CREMATORIUM

No person may occupy a chapel or any part thereof or any other facility at a cemetery or a crematorium, for longer than the allocated time for a funeral or a cremation or a religious service or a memorial service.

26. HOURS FOR INTERMENTS AND CREMATIONS

(1) An interment or a cremation may take place, subject to subsection 26(2) of this by-law, between the hours and on the days as determined by the Municipality.

(2) An official in charge may, subject to such conditions as he or she may determine to be applicable, and on payment of the prescribed after-hours fees, give permission to inter or cremate a body outside the stipulated operational hours of a cemetery or a crematorium.

(3) When a burial takes place outside the stipulated operational hours of a cemetery, the applicant shall provide the tools and / or equipment required for the closing of a grave and assume the responsibility of closing the grave concerned.

(4) When requested, the service of closing of a grave outside the stipulated operational hours may be provided by the Municipality, on payment of the prescribed after-hours fee and subject to such conditions as an official in charge may determine.

27. MARKING OF GRAVES

Until such time as a memorial work or a similar memorial object has been erected on a grave, an official in charge shall designate such grave site by affixing an identification plate on it, bearing the number of the grave and any other information deemed applicable by the official in charge.

CHAPTER 5:
RE-OPENING OF GRAVES AND EXHUMATIONS

28. AUTHORIZATION FOR THE EXHUMATION OF HUMAN REMAINS

(1) The exhumation of human remains shall always be carried out subject to the provisions of the National Health Act, the Regulations relating to the Management of Human Remains and other applicable legislation.

(2) No person may exhume or cause human remains to be exhumed, without the written consent of –

(a) the Municipality;

(b) the Provincial Department of Health and / or the relevant authority at the Western Cape Provincial Government; and

(c) a medical officer of health.

(3) An authorization for an exhumation shall not be issued, without a re-burial or cremation order also being issued by the Municipality.

(4) Human remains shall only be exhumed with the approval of the next of kin of the deceased person to be exhumed, subject thereto that the exhumation of human remains shall take place when ordered by a court of law, irrespective whether the approval of the next of kin of the deceased has been obtained or not.

(5) Human remains shall only be exhumed for the following reasons –

(a) the removal of human remains from a grave for interment in another grave allocated in the same cemetery;

(b) removal for re-interment in another cemetery;

(c) removal for cremation;

(d) removal for forensic examination of the remains of the deceased person, as ordered by a court of law;

(e) to be transferred from an indigent grave to a normal grave, in the instant where a deceased person has been interred as an indigent person;

(f) removal for legal reasons, such as crime related investigations, the verification of identification or to ascertain the cause of death; or

(g) removal for archeological reasons.

(6) Additional consent for the exhumation of human remains shall be obtained from the South African Heritage Resources Agency in terms of subsection 36(3) of the National Heritage Resources Act, 1999 (Act No 25 of 1999), as amended, when a grave is older than sixty (60) years and situated outside a cemetery administered by the Municipality or is a grave of a victim of conflict.

(7) No person may disinter, remove, re-inter or cremate the human remains interred in a commonwealth war grave, or otherwise interfere with such grave or burial ground, other than in accordance with section 3 of the Commonwealth War Graves Act, 1992 (Act No 8 of 1992), as amended.

29. REQUIREMENTS FOR THE EXHUMATION OF HUMAN REMAINS

(1) The Municipality shall only grant consent for the exhumation of human remains, on condition that –

(a) an application for exhumation is received on the prescribed form;

(b) the required consents are provided with the application for exhumation;

(c) the prescribed fees for exhumation are paid on application; and

(d) the exhumation is to be done by a registered funeral undertaker.

(2) The approved application and required consents for exhumation shall be provided in writing to the official in charge of the cemetery concerned, at least five (5) working days prior to the date requested for exhumation of the grave concerned, where after the official in charge shall –

(a) inform the relevant Provincial Commissioner of the South African Police Service, of the intended exhumation and the proposed date of exhumation and request the presence of a member of the South African Police Service; and

(b) request the relevant health authority to provide a registered environmental health practitioner to supervise the intended exhumation on the proposed date of exhumation.

(3) On the date of exhumation of the human remains from the grave concerned –

(a) a member of the South African Police Service shall always be present while the exhumation is being conducted;

(b) only a registered funeral undertaker, under the supervision of the official in charge of the involved cemetery, shall excavate the grave for exhumation;

(c) the cemetery shall be open to the public and the exhumation shall take place under the supervision of the delegated environmental health officer;

(d) the disinterment and removal of the human remains from the grave concerned, shall be carried out under the supervision of a registered environmental health practitioner from the relevant health authority, who shall monitor the exhumation process to ensure that –
(i) no health nuisance or hazard is created;
(ii) the grave and the human remains are treated with disinfectant after exhumation and that other protective measures are implemented as he or she deem necessary;
(iii) an adequate supply of water, soap and disinfectants for cleansing purposes are available for persons handling the human remains; and
(iv) the correct grave is opened.

(e) only persons with direct involvement shall be present at the disinterment or removal of human remains; and
(f) no dogs or animals shall be present at a grave site.

30. THE EXHUMATION AND THE RE-INTERMENT OR THE CREMATION OF HUMAN REMAINS

(1) The Municipality may when the body of a deceased person has been interred in contravention with the provisions of this by-law, exhume such body in terms of the provisions of sections 28 and 29 of this by-law and re-inter it in another grave or cremate it, on condition that the relatives of the deceased person shall be –

(a) notified of the intended exhumation and the re-interment or the cremation; and

(b) allowed to attend the intended exhumation and re-interment or cremation.

(2) The South African Police Services shall –

(a) when there is proof of the illegal interment of a body, immediately obtain the required approval to exhume such body;

(b) remove such body with the assistance of the Municipality to a government mortuary for investigation; and

(c) dispose of such body after conclusion of the investigations, in terms of the provisions of this bylaw.

31. SCREENING OF A GRAVE DURING EXHUMATION

(1) A grave from which human remains is to be exhumed shall be screened from the view of the general public during the process of exhumation.

(2) The responsible person carrying out the exhumation shall provide a suitable receptacle for the exhumed human remains.

CHAPTER 6:
CARE AND MAINTENANCE OF GRAVES AND NICHES

32. RESPONSIBILITY FOR THE CARE AND THE MAINTENANCE OF GRAVES AND NICHES

(1) The Municipality shall be responsible for the general maintenance of cemeteries administered by the Municipality.

(2) The care and maintenance of grave sites and / or the memorial work erected on grave sites in a cemetery administered by the Municipality, and / or the niches provided at a cemetery and / or a crematorium administered by the Municipality, shall be the responsibility of the person who own the entitlement to such grave site or niche, or the next of kin of the deceased person interred in the grave concerned or the deceased person whose ashes has been placed in such a niche.

33. CONDITIONS FOR THE CARE AND THE MAINTENANCE OF GRAVES AND NICHES

(1) The person who own the entitlement to a grave site, or the next of kin of the deceased person interred in such a grave, shall keep such grave site in proper order and clear of weeds and grass, and may subject to subsections 33(2)(a) and 33(2)(b) of this by-law, prune, cut down, dig up or remove any plant, flower, scrub or tree on such grave site, and when such person or persons fail to do so, the Municipality may carry out the necessary work and recover the costs from such person or persons.

(2) No person may without the permission of an official in charge -

(a) plant, cut or remove plants, shrubs or flowers on any grave or in a cemetery; or

(b) place a decorative metal trellis or railing on any grave.

(3) Natural or artificial flowers in receptacles may be placed on a grave, except for a grave within a lawn section and at a niche in a garden of remembrance or a wall of remembrance, where such flowers may only be placed in the special receptacle mounted on the head stone or the niche for flowers.

(4) An official in charge may remove all withered natural flowers, faded or damage artificial flowers and any empty receptacle placed on a grave.

(5) The Municipality may at its own discretion, undertake to care and maintain any grave or niche for a period of time, on payment of the prescribed fees and tariffs.

(6) The Municipality is not liable for any loss or damage to any object on a grave, unless such loss or damage is a result of the negligence of any employee of the Municipality.

CHAPTER 7:
ERECTION OF MEMORIAL WORK

34. ERECTION OF MEMORIAL WORK

(1) A person intending to erect a headstone, a gravestone, a grave tablet, a memorial stone, a memorial slab, a monument, a metal plaque, or any other memorial work or object on a grave at a cemetery, shall submit an application on the prescribed application form to an official in charge, for the erection of such memorial work.

(2) The application contemplated in subsection 34(1) of this by-law, shall be submitted together with the prescribed fees, the essential dimensions of the proposed memorial work, designs sketches of the proposed memorial work and the foundations thereof, particulars of the material to be used for the proposed memorial work and foundations, and the proposed inscriptions on such memorial work, not to less than ten (10) working days before the date of the erection of such memorial work, to an official in charge.

(3) A memorial work may only be erected during normal working hours, but may by arrangement and with the approval of an official in charge, be erected outside normal working hours.

(4) No person may –

(a) erect a memorial work, or bring material into a cemetery for the purpose of erecting a memorial work, without the written consent of an official in charge;

(b) erect a memorial work on a grave site, within twelve (12) months after date of interment, without the written consent of an official in charge, and such consent shall only be provided on condition that the applicant provide proof that measures shall be implemented for the stabilization of the soil, that repairs shall be carried out on memorial work damaged by the subsidence of the soil and that the Municipality shall be indemnified against any claims arising as a result of damages to memorial work caused by subsidence of the soil;

(c) erect a memorial work on a grave site, except in such position as an official in charge may direct;

(d) remove any memorial work for additional inscriptions or other alterations without the consent of an official in charge; or

(e) erect any memorial work on a Saturday, a Sunday or a public holiday, without the written consent of an official in charge.

(5) The Municipality is not liable for damage to memorial work resulting from any subsiding soil or any other soil conditions.

(6) A person erecting a memorial work shall at the request of an official in charge produce the written consent for such erection, contemplated in subsection 34(4)(a) of this by-law.

(7) All memorial work shall be erected in accordance with the submitted and approved plans for such memorial work, in the designated position and on the designated grave site for the erection of such memorial work, to the satisfaction of an official in charge, and no memorial work shall be erected in inclement weather or while the soil in a cemetery is in an unsuitable condition.

(8) Any memorial work which has not been erected to the satisfaction of an official in charge in accordance with the submitted and approved plans for such memorial work, shall be rectified by the person erecting it within one (1) month after being notified of the required correction or be removed at the expense of the person who erected such memorial work.

(9) A memorial work or material to be used in the erection of a memorial work may not be conveyed in a cemetery or a crematorium, in such a manner that may cause damage to the buildings, roadways, pathways, lawns or other memorial work in such cemetery or crematorium.

(10) Any surplus material or rubble resulting from the erection of any memorial work, shall be removed by the person responsible for such erection work, immediately after the completion of any work on a memorial.

35. INFERIOR CRAFTSMANSHIP

(1) The Municipality may prohibit the erection of a memorial work, when the proposed materials to be used or the dimensions and design of such proposed memorial work do not comply to the specifications and provisions of this by-law or industry standards, or are of inferior quality and / or design, or the proposed inscriptions on a memorial work are unacceptable, indecent, offensive or objectionable.

(2) The Municipality may remove erected memorial work, without any compensation to the person responsible for the grave site -

(a) which have not be erected in accordance with submitted and approved plans;

(b) which have been erected without approved plans or any consent or payment of the prescribed fees;

(c) which are dilapidated and / or in disrepair;

(d) which have been damaged and have not been repaired for a period longer than twelve (12) months, in spite of notices for repair served on the responsible person or persons for the maintenance of such memorial work;

(e) which are of inferior craftsmanship or quality;

(f) with inscriptions which are unacceptable, indecent, offensive or objectionable; or

(g) which are in contravention with the provisions of this by-law.

36. INSCRIPTIONS ON MEMORIAL WORK

(1) The official grave number of the grave on which a headstone, a gravestone, a grave tablet, a memorial stone, a memorial slab, a monument, a metal plaque, or any other work or object is erected, shall be displayed on such memorial work in permanent and visible markings –

(a) on the side of the base of a headstone, a gravestone, a memorial stone, a memorial slab, a monument, a metal plaque, or any other work or object; or

(b) in the lower left hand corner, of the surface of a grave tablet or a memorial slab erected on a grave in a landscape section of a cemetery.

(2) Lettering on memorial work shall preferably be engraved thereon, or when lettering protrudes from the surface of a memorial work, it shall be of durable material and be permanently affixed.

(3) The name of the manufacturer, designer or erector of a memorial work may appear on a memorial work with the consent of the customer, on condition that no address or contact particulars shall be included in such address, and that such name shall be engraved or affixed at the base of the memorial work concerned.

37. REPAIR AND REMOVAL OF MEMORIAL WORK

(1) Only a person or persons responsible for the maintenance, repair and upkeep of a memorial work on a grave site or a niche, as contemplated in subsection 11(2) of this by-law, or a person authorized in writing by such person or persons, may with the written permission of an official in charge, dismantle, alter, repair, remove or disturb any memorial work on a grave site or a niche.

(2) A dismantled memorial work shall either be removed from a cemetery or when such memorial work has been dismantled for the repair thereof, such memorial work may be left temporarily on the grave site on which such memorial work was erected, for a period not exceeding thirty (30) days after the dismantling thereof.

(3) An official in charge may in the case of a second or subsequent interment in a grave, permit the memorial work concerned to be stored elsewhere in a cemetery, for a period not exceeding thirty (30) days after such interment.

(4) The person dismantling and / or repairing a memorial work or niche, as contemplated in subsection 37(1) of this by-law, shall immediately after the work are completed, remove any surplus material or rubble resulting from any work.

(5) When a person or persons responsible for the maintenance, repair and upkeep of a memorial work on a grave site or a niche, referred to in subsection 37(1) of this by-law –

(a) fails to re-erect a dismantled memorial work or niche within thirty (30) days after it was dismantled; or

(b) leaves such dismantled memorial work or niche within the cemetery in contravention with the provisions of subsections 37(2) and 37(3) of this by-law,

the Municipality may give thirty (30) days written notice to such person or persons, instructing him or her to remove such memorial work or niche and any rubble associated therewith, from the cemetery at his or her own expense or to re-erect such memorial work or niche immediately.

(6) When any memorial work or niche in a cemetery has –

(a) been damaged;

(b) fallen in a state of disrepair;

(c) become a danger to the public; or

(d) been erected in contravention with the provisions of this by-law,

the Municipality may give thirty (30) days written notice to a person or persons responsible for the maintenance, repair and upkeep of a memorial work on a grave site or a niche, referred to subsection 37(1) of this by-law, instructing him or her to –

(i) alter, repair, renovate or make such memorial work or niche safe, so that it complies with the provisions of this by-law; or

(ii) dismantle and remove such memorial work or niche from the cemetery together with all rubble associated therewith,

at his or her own expense and within a period specified in the notice.

(7) When a person or persons responsible for the maintenance, repair and upkeep of a memorial work on a grave site or a niche, referred to in subsection 37(1) of this by-law, fails to comply with a notice issued in terms of subsections 37(5) or 37(6) of this by-law, the Municipality may –

(a) repair and re-erect the memorial work or niche concerned;

(b) dismantle, remove and dispose of the memorial work or niche concerned and remove any rubble associated therewith; or

(c) make the memorial work or niche safe,

and such person or persons responsible for the maintenance, repair and upkeep of a memorial work on a grave site or a niche, shall be liable for any costs incurred by the Municipality for the repair, re-erection, dismantling, removal or disposal of a memorial work or a niche.

(8) The Municipality may without giving any notice, or incurring any liability to the person or persons responsible for the maintenance, repair and upkeep of a memorial work on a grave site or a niche, referred to in subsection 37(1) of this by-law –

(a) dismantle a memorial work or a niche and remove such memorial work or niche, and any rubble associated therewith, except memorial work that is protected by the provisions of the National Heritage Resources Act, 1999 (Act No 25 of 1999), as amended; or

(b) make a memorial work or a niche safe, when the memorial work or niche concerned has become so dangerous, that immediate steps to safeguard the safety of the public are required.

(9) When the Municipality has acted in terms of subsection 37(8) of this by-law, it shall immediately, in writing notify the person or persons responsible for the maintenance, repair and upkeep of a memorial work on a grave site or a niche, that unless he or she reclaims the memorial work or the niche from a cemetery within a specified period as stated in the notice, the Municipality shall dispose of such memorial work or niche.

(10) The person or persons referred to in subsection 37(1) of this by-law shall be liable for the costs incurred by the Municipality, for the actions taken by the Municipality in terms of subsection 37(8) of this by-law, and when such person or persons fails to pay the costs involved, or fails to reclaim the dismantled memorial work or niche, the Municipality may dispose of such memorial work or niche in any manner it deems fit, and when any proceeds are derived from the disposal, such proceeds shall be offset against the costs of the dismantling, removal, storing, and disposing, of the memorial work and the rubble associated therewith.

(11) The Municipality may, when the contact particulars of the person or persons responsible for the maintenance, repair and upkeep of a memorial work on a grave site or a niche are not known, place a notice in a newspaper circulating in the area of jurisdiction of the Municipality, notifying the responsible persons of the required actions for the repair, renovation or removal of damaged, dangerous and dilapidated memorial work or niche to be undertaken within a period of thirty (30) days of the date of publication of the notice, and give notice that the Municipality –

(a) shall carry out such repair work, as required to address the situation with the damaged, dangerous and dilapidated memorial work or niche in a cemetery, when it are not carried out to the satisfaction of the Municipality within the specified period;

(b) may remove the memorial work or niche concerned without compensation; and

(c) shall recover the costs for repair, renovation or removal from the person or persons concerned.

(12) The Municipality may after due notice to a person or persons responsible for the erection of a memorial work, at any time alter the positioning of such a memorial work and recover the costs of doing so from the person who erected the memorial work concerned, provided that in any instance where such a memorial was originally placed in a position with the consent of the Municipality, any alteration shall be done at the expense of the Municipality.

38. GENERAL REQUIREMENTS FOR MEMORIAL WORK

(1) All memorial work shall be constructed or made of marble or granite or any other SANS approved hard stone or durable material, with a life expectancy of at least twenty five (25) years.

(2) Memorial work may be erected on a single grave or over two (2) adjoining graves as a double memorial work.

(3) Any person erecting memorial work in a cemetery or a niche in a crematorium shall do so with the approval of an official in charge, after submission of the required plans.

(4) All memorial work erected in a cemetery or a crematorium, shall comply with the following general requirements –

(a) any part of a memorial work joined to any other part of a memorial work, shall be joined by means of the use of copper or galvanized iron pins in terms of the following specifications –
(i) for memorial work up to a height of five hundred (500) millimeter, two (2) or more pins of at least five (5) millimeter thick and one hundred (100) millimeter long;
(ii) for memorial work of five hundred and one (501) millimeter up to a height of one thousand (1 000) millimeter, two (2) or more pins of at least ten (10) millimeter thick and two hundred (200) millimeter long; or
(iii) for memorial work one thousand and one (1 001) millimeter and higher, at least two (2) or more pins of at least twenty (20) millimeter thick and three hundred (300) millimeter long;

(b) any part of a memorial work which rests on the ground, or any stone or foundation shall be properly squared, secured and bedded;

(c) no material of uneven thickness, or having a corner wanting may be used;

(d) the undersides of every flat memorial slab or grave tablet, and the base of every other memorial work shall be sunk at least fifty (50) millimeter below the natural level of the ground;

(e) no border or kerb stone, which is more than two hundred twenty five (225) millimeter above the surface of the ground or more than two hundred (200) millimeter below the surface, shall be used without the consent of the Municipality;

(f) all memorial work, including the headstones, kerb and border stones shall be securely affixed or clamped from the inside, with round copper or galvanized iron pins or clamps;

(g) all headstones and other memorial work up to one hundred and fifty (150) millimeter in thickness, shall be securely attached in an acceptable manner to the base of a memorial work;

(h) all the components of a memorial work or a niche shall be completed off-site, before being brought into a cemetery or a crematorium for erection;

(i) foot stones and kerb stones used at a single grave, shall consist of one solid piece of material;

(j) memorial work affixed on a base shall always be -
  (i) set on a concrete foundation approved by an official in charge;
  (ii) set in good quality cement mortar; and

  (iii) set on a base not less than one thousand (1 000) millimeter by three hundred and thirty (330) millimeter by three hundred and thirty (330) millimeter in size;

(k) the concrete foundation provided for headstones shall have the following dimensions –
  (i) the length at right angles to the longitudinal axis of the grave, shall be at least one thousand three hundred (1 300) millimeters;
  (ii) the width shall not be less than the width of the bottom of the headstone plus a protrusion of minimum one hundred and sixty (160) millimeters each side;
  (iii) the debt or thickness shall not be less than one hundred and sixty (160) millimeters; and
  (iv) the top level of the foundation shall be at least sixty (60) millimeters below ground level;

(l) the concrete foundations for kerb and border stones, shall extend across the foot and sides of a grave, and shall have the following dimensions;
  (i) the length shall be at least one thousand two hundred and twenty (1 220) millimeters;
  (ii) the width shall be at least three hundred and thirty (330) millimeters;
  (iii) the debt or thickness shall be at least one hundred and ten (110) millimeters; and
  (iv) the top level of the foundation shall be at least sixty (60) millimeters below ground level;

(m) the bottom base of a memorial work on a single grave may not be less than nine hundred (900) millimeter long, two hundred and twenty (220) millimeter wide and two hundred and fifty (250) millimeter thick, and that of a memorial work on a double grave, not less than two thousand two hundred eighty six (2 286) millimeter long by two hundred and twenty (220) mm wide by two hundred and fifty (250) millimeter thick;

(n) when loose stone chips are placed on a grave as a covering, the level of such stone chips shall not be more than ten (10) millimeter below the level of the surrounding kerb stones or border stones.

CHAPTER 8:
SPECIFICATIONS FOR DIFFERENT SECTIONS IN A CEMETERY

39. DIFFERENTIATION BETWEEN SECTIONS IN A CEMETERY

(1) The Municipality may establish different sections in a cemetery for –

  (a) the interment of the bodies of deceased persons in coffins and / or body bags;

(b) the keeping of the ashes of deceased persons in graves or niches;

(c) for persons of a specific religious believe and funeral requirements;

(d) the interment of the bodies of deceased who died defending their country and / or commonwealth war graves; and

(e) for the purpose of differentiating between the type of memorial work allowed in a specific section.

(2) The differentiation between sections shall not be used to discriminate against any person, and no person may be refused interment in a specific section, subject to compliance to the conditions and specifications applicable to such section and the provisions of the Commonwealth War Graves Act, 1992 (Act No 8 of 1992), as amended, and other applicable legislation.

40. ESTABLISHMENT OF RELIGIOUS SECTIONS

The Municipality may establish specific religious sections for the various religions on request, and may determine the conditions and specifications for the interment of bodies in such sections, in accordance with the religious belief of the religion concerned.

41. ESTABLISHMENT OF A WAR GRAVES SECTION

The Municipality may establish a specific section of a cemetery, as a hero's acre for war graves, commonwealth war graves or graves of conflict in accordance with the applicable legislation, and may determine the conditions and specifications for the interment of bodies in such sections, in accordance with the applicable legislation and military protocol.

42. SPECIFICATIONS FOR MEMORIAL WORK IN A GARDEN OF REMEMBRANCE

(1) A Municipality may set aside a section of a cemetery or a crematorium to be used as place where –

(a) structures such as a wall of remembrance or other memorial facilities, with niches and / or receptacles are provide wherein the ashes of cremated bodies can be placed;
(b) the ashes of cremated bodies can be interred in graves;

(c) memorial work in the form of commemorative plates, grave tablets, memorial plaques or memorial slabs may be placed or affixed; or

(d) the ashes of a cremated body may be scattered.

(2) The memorial work erected in a garden of remembrance, shall be restricted to a grave tablet or a memorial plaque or a flat memorial slab, which may be placed at designated places or affixed as covering plate on a niche or other receptacle wherein the ashes of a deceased person is stored.

(3) The memorial tablet, memorial plaque or flat memorial slab used in a garden of remembrance, shall not exceed the dimensions of five hundred (500) millimeter in length and five hundred (500) millimeter in width, or any other dimensions provided for a specific wall of remembrance or a columbarium.

43. SPECIFICATIONS FOR MEMORIAL WORK IN A LAWN SECTION OF A CEMETERY

(1) The Municipality may set aside and utilize a specific section of a cemetery as a lawn section, also referred to as a berm section, where special conditions for the erection of memorial work shall apply.

(2) Only a headstone shall be erected as a memorial work on a grave in the lawn section of a cemetery, and such headstone shall be restricted to a berm provided by the Municipality.

(3) The following specifications shall apply for memorial work on graves sites in a lawn section of a cemetery –

(a) the dimensions of the base or the pedestal of any headstone on the grave of an adult shall not exceed nine hundred (900) millimeter in length and two hundred and sixty (260) millimeter in width, but when the base or the pedestal of the headstone is erected over two adjoining graves, such base or pedestal shall not exceed two thousand two hundred (2 200) millimeter in length and two hundred and sixty (260) millimeter in width;

(b) the dimensions of the pedestal or the base of any headstone on the grave of a child shall not exceed six hundred and ten (610) millimeter in length and two hundred and sixty (260) millimeter in width, but when the base or the pedestal of the headstone is erected over two adjoining graves, such base or pedestal shall not exceed one thousand two hundred (1 200) millimeter in length and two hundred and sixty (260) millimeter in width;

(c) no portion of a headstone may extend beyond the horizontal dimensions of the base or the pedestal of a headstone;

(d) a headstone shall be erected on the concrete berms supplied by the Municipality, except in the case of a temporary erection, where the applicant shall provide a foundation suitable to support the headstone, until the Municipality has installed the required berm;

(e) no part of any memorial work may exceed one thousand five hundred (1 500) millimeter in height above a berm;

(f) all headstones shall be positioned in such a way that the front edge of the berm, shall be at least one hundred and twenty (120) millimeter away from the foot of the headstone;

(g) the Municipality retains the right to level the surface of a grave site not covered by a headstone, to facilitate mechanized maintenance;

(h) the planting of any plants on the leveled portion of the grave site, referred to in subsection 43(3)(g) of this by-law, shall be prohibited, except with the specific consent of an official in charge.

(i) no kerb stone demarcating any grave and a slab or similar covering for a grave shall be permitted;

(j) no other memorial work or object, other than a headstone may be placed on a berm or a grave site, and a headstone may not incorporate more than two receptacles for flowers; and

(k) a vase for natural flowers or artificial flowers or foliage, may be placed in a socket build in the headstone and such vase shall not exceed three hundred (300) millimeter in height.

(4) The Municipality shall remove any memorial work, object or plant erected, placed or planted on a grave in the lawn section, which have been erected, placed or planted in contravention with the provisions of section 43(2) and 43(3) of this by-law, and the person responsible for the transgression shall be liable for any costs incurred by the Municipality.

44. SPECIFICATIONS FOR MEMORIAL WORK IN A LANDSCAPE SECTION OF A CEMETERY

(1) The Municipality may set aside and utilize a specific section of a cemetery as a landscape section, where special conditions for the erection of memorial work shall apply.

(2) Only a grave tablet or a metal plaque or a memorial slab shall be erected as a memorial work on a grave in a landscape section of a cemetery, which shall –

(a) not exceed five hundred (500) millimeter in length, five hundred (500) millimeter in width, with a minimum thickness of thirty (30) millimeter; and

(b) not be made of a ferrous material.

(3) The grave tablet or a metal plaque or a flat memorial slab, as contemplated in subsection 44(2) of this by-law, shall be embedded horizontally in the ground on a suitable foundation.

(4) Where memorial work is restricted to a grave tablet or a metal plaque or a flat memorial slab, such memorial work shall be placed horizontally, level or no more than thirty (30) millimeter below grass level.

(5) The Municipality shall remove any memorial work, object or plant erected, placed or planted on a grave in the landscape section, which have been erected, placed or planted in contravention with the provisions of section 44(2),44(3) and 44(4) of this by-law, and the person responsible for the transgression shall be liable for any costs incurred by the Municipality.

45. SPECIFICATIONS FOR MEMORIAL WORK IN THE GENERAL MEMORIAL SECTION OF A CEMETERY

(1)The areas in a cemetery not specifically set aside as a religious section, or a war graves section, or a garden of remembrance section, or a lawn section, or a landscape section, as contemplated in sections 40 to 44 of this by-law, are deemed to be the general monumental section of a cemetery, except when otherwise designated.

(2) In the general monumental sections of a cemetery, provision are made for adult grave and child grave sections, and any type memorial work may be erected on such graves sites, subject to the requirements of section 34 and 36 and the specifications as contemplated in subsection 38(4) of this by-law.

(3) The maximum horizontal measurements of any memorial work erected on a grave site in the general monumental section of a cemetery shall be –

(a) in the case of an adult grave, two thousand five hundred (2 500) millimeter in length and one thousand and fifty (1 050) millimeter in width; and

(b) in the case of a child grave, one thousand five hundred (1 500) millimeter in length and nine hundred (900) millimeter in width.

(4) The maximum height of any memorial work shall be two thousand (2 000) millimeter, measured from ground level.

CHAPTER 9:
CREMATIONS

46. APPLICATIONS FOR CREMATIONS

(1) The Municipality may operate a crematorium, when such service is considered to be financial viable, or cremation services may be rendered by a private institution, certified and authorized to carry out the cremation of bodies.

(2) A body may only be cremated in an authorized cremation facility and in accordance with the statutory provisions regulating the cremation of bodies.

(3) A person who is of the intention to cremate the body of a deceased person, shall submit an application for such a cremation, on the prescribed application form for approval to the Municipality, not later than three (3) working days before the intended date of cremation and such application shall be accompanied by –

(a) the prescribed fee;

(b) a burial order as issued in terms of the Births and Deaths Registration Act;

(c) a death certificate; and

(d) the required cremation application forms.

(4) When all the requirements as contemplated in subsection 46(3) of this by-law have been met, an official in charge shall approve an application for cremation.

(5) When the application for cremation made in terms of subsection 46(1) of this by-law, is in respect of a body of a deceased person –

(a) who at the time of his or her death has been suffering from a communicable disease, as defined in section 1 of the National Health Act; or

(b) who at any time used a pacemaker or radioactive material was inserted in him or her as medical procedure,

the applicant for the cremation shall clearly indicate these facts and whether such pacemaker or radioactive material has been removed from the body of the deceased person.

(4) The ashes of a cremated body remaining after a cremation, may on application to an official in charge be interred at a cemetery or be placed in a niche at a cemetery or a columbarium, or be interred in a grave of a relative, in terms of the prescribed procedures and on payment of the prescribed fees.

(5) The ashes of a cremated body, when not claimed by the next of kin of the deceased person or when no arrangements have been made for the disposal thereof, may be disposed of by an official in charge by scattering it in a garden of remembrance.

47. HOURS FOR CREMATIONS

(1) Cremation may take place between the hours and on the days as determined by the Municipality.

(2) No cremation may take place on public holidays.

(3) A person may obtain a duplicate cremation certificate on application and on payment of the prescribed fee to an official in charge

CHAPTER 10:
INDIGENT PERSONS

48. BURIAL OF INDIGENT PERSONS

(1) A person submitting an application for the burial of an indigent person, shall submit a sworn affidavit with such application, stating the reasons and circumstances why the deceased should be considered an indigent person.

(2) An indigent person may be buried or cremated according to conditions as determined by the Municipality.

(3) When an indigent person is cremated, the ashes shall be retained by the Municipality for a period of not less than twelve (12) months.

(4) When the ashes of an indigent person are not claimed within the period of twelve (12) months, such ashes shall be interred in an available grave or be placed in an available niche at a cemetery.

CHAPTER 11:
GENERAL MATTERS

49. SERVICE PROVIDERS

(1) The Municipality may discharge some or all of its obligations under this by-law for the rendering of cemetery or crematorium services, by entering in terms of subsection 81(2) of the Municipal Systems Act, into a service delivery agreement with a service provider

(2) When any provision in this by-law bestows or imposes any power, function or duty of the Municipality in or on an employee of the Municipality, and such power, function or duty has in terms of subsection 81(2) of the Municipal Systems Act or any other statutory stipulation,

been assigned to a service provider, the reference to such employee shall be read as a reference to the service provider or where applicable, an authorized employee of the service provider.

50. PROHIBITED ACTS

(1) No person –

(a) under the age of sixteen (16) years, may enter any municipal cemetery or municipal crematorium, unless accompanied by an adult or with the consent of an official in charge;

(b) may enter or leave any municipal cemetery or municipal crematorium, except by the gateway provided for it; or

(c) may enter any office or secured place in a municipal cemetery or a municipal crematorium without the consent of an official in charge, where such entry is prohibited.

(2) No person may within any municipal cemetery or municipal crematorium –

(a) interfere with any fountain, statue, monument, equipment, fence, or any property of the Municipality;

(b) chop down, cut down, pick, damage, break, deface or destroy any tree, shrub, flower, plant or seedling;

(c) damage, deface or remove any gravestone, grave tablet or memorial stone, grave, building, boundary wall, gate, fence or other fixture, or any part thereof;

(d) dispose of waste in any other way, except in the waste containers provided for the purpose by the Municipality ;

(e) sit, stand, walk, climb, draw, paint or write on any grave, wall, fence or gravestone, grave tablet or memorial stone;

(f) swim, bath or wash in any pond, fountain, artificial or natural watercourse, dam or stream, or allow any animal to enter or use such pond, fountain, artificial or natural watercourse, dam or stream;

(g) reside and / or overnight in a cemetery, or without the written consent of the Municipality builds any structure or encroaches on any land or erect or attempt to erect any tent or similar construction, stall, booth, stand, screen or fence;

(h) capture, chase , shoot or interfere with any fish, bird or animal, except when permitted to do so by the Municipality, or remove, interfere, damage or destroy the eggs or nests of birds;

(i) light any fire or burn any materials or objects, unless special permission for such action has been provided by the Municipality;

(j) 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 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;

(k) drive a vehicle on lawns or over graves or grave sites, or exceeds the speed limit of fifteen (15) kilometers per hour, except an authorized official or members of the South African Police Services in the execution of their duties;

(l) solicit any business or sell, hawk, advertise, offer for sale or exhibit any article for sale, lease or hire, or distribute a pamphlet, book, handbill, advertisement or other printed material or perform any activity, without prior consent from the Municipality;

(m) cause a public nuisance or commit any offensive or indecent act or relieve him or her or urinate in public;

(n) use or enter a facility reserved for use by persons of the opposite sex, excluding children under the age of five (5) years;

(o) be under the influence or in the possession of liquor and / or drugs;

(p) play any musical instrument or music, without the written consent of an official in charge;

(q) deliver a public speech, except for a speech at an approved funeral service or a memorial service, or take any action or use any apparatus which may disrupt funeral proceedings or disturb public order or disturb burial ceremonies or funeral and memorial services;

(r) use profane or indecent language, or behave in such a manner that other persons are offended or a nuisance is created or does anything which may cause a disturbance to other persons;

(s) do anything which are specifically forbidden by signs and / or notices on the premises;

(t) bring any animal onto the premises of a cemetery or a crematorium, except for 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 Service in the execution of their duties;

(u) 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;

(v) access or remain in a cemetery or a crematorium without approval, at any other time except for the hours designated as the hours when such cemetery or crematorium is open for the public; and

(w) hinder, obstruct or resist an official in charge, or any official of the

Municipality in the performance of his or her duties or in the exercise of any authority assigned to him or her, by or in terms of this by-law.

(3) Any animal found trespassing in a cemetery or a crematorium may be impounded in terms of the Impoundment of Animals By-law of the Theewaterskloof Municipality and shall only be released on payment of the prescribed fees and tariffs.

51. 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 such a 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.

52. COMMUNITY LIAISON FORUMS

(1) The Municipality may establish liaison forums in a community for the purpose of –

(a) creating opportunities for a local community to participate in the affairs of the Municipality, with regard to matters referred to in this by-law;

(b) to advise the Municipality on matters, referred to a liaison forum by the Municipality, and

(c) promoting a safe and healthy environment .

(2) A liaison forum may consist of –

(a) a member or members of an interested group, or affected persons;

(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 or a consent 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 52(2) of this by-law, may on their own initiative provide input to the Municipality for consideration.

53. 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 53(2)(a), 53(2)(b) or 53(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.

54. OFFENCES AND PENALTIES

Any person who —

(a) fails to comply with 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 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 an 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.

55. 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.

56. 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 –

Name of by-law	Date of publication	As a whole or partially
Bylaw relating to the control of cemeteries	PG 6234 dated 8 March 2005	As a whole

57. SHORT TITLE

This by-law shall be called the Cemeteries and Crematoriums By-Law of the Theewaterskloof Municipality.

58. OPERATIVE DATE

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

MUNISIPALITEIT VAN THEEWATERSKLOOF

VERORDENING INSAKE BEGRAAFPLASE EN KREMATORIUMS

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 die bestuur van begraafplase en krematoriums in die gebied van jurisdiksie van die Munisipaliteit van Theewaterskloof te reguleer, en om voorsiening te maak vir aangeleenthede wat daarmee verband hou.

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HOOFSTUK 1:
INTERPRETASIE

1. INTERPRETASIE

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

"administrateur van begraafplase en krematoriums", die hoof van die afdeling of die department van die Munisipaliteit van Theewaterskloof, wat verantwoordelik is vir die administrasie en die bestuur van begraafplase en krematoriums van die Munisipaliteit van Theewaterskloof, of enige persoon wat namens sodanige administrateur optree of enige persoon wat deur die Munisipaliteit van Theewaterskloof gemagtig word om namens sodanige administrateur op te tree;

"anatomie kadawer", 'n liggaam wat deur 'n gemagtigde instelling of 'n geregshof in terme van die Wet op Anatomie, 1959 (Wet No 20 van 1959), soos gewysig, en / of die Wet op Menslike Weefsel, 1983 (Wet No 65 van 1983), soos gewysig, verwys word vir begrawing;

"as", die verbrande stoflike oorskot van 'n liggaam;

"basis", 'n beton basis waarop 'n kopsteen of 'n gedenksteen vir 'n graf opgerig word;

"basis afdeling", 'n afdeling wat deur die Munisipaliteit van Theewaterskloof in 'n begraafplaas gereserveer word, waar al die gedenktekens beperk word tot kopstene wat op 'n vooraf gekonstrueerde basis opgerig word, en 'n **"grasperk afdeling"** het dieselfde betekenis;

"beampte in beheer", die registrateur van 'n krematorium aangestel in terme van statutêre bepalings of die persoon wat deur die Munisipaliteit van Theewaterskloof gemagtig word om beheer van enige begraafplaas te neem;

"begraafplaas", enige eiendom of 'n gedeelte daarvan in die gebied van jurisdiksie van die Munisipaliteit van Theewaterskloof, wat deur die Munisipaliteit van Theewaterskloof as 'n begraafplaas aangewys word of goedgekeur is;

"begrafnisorder", 'n bevel vir die begrawing van 'n afgestorwe persoon, uitgereik deur 'n bevoegde persoon in terme van die Wet op die Registrasie van Geboortes en Sterftes, 1992 (Wet No 51 van 1992), soos gewysig;

"begrawing", die ter aarde bestelling of enige ander vorm van begrawing of beskikking van 'n liggaam;

"deernisgeval", 'n behoeftige persoon wat in deernistoestande gesterf het en ter aarde gestel word as 'n armlastige persoon, wanneer geen naasbestaande of ander persoon, 'n welsynsorganisasie of 'n nie-regeringsorganisasie bereid is om die begrawing- of verassingkostes van sodanige afgestorwe persoon te betaal nie;

"gedenkteken", enige kopsteen, grafsteen, grafplaat , gedenkteken, plat gedenkplaat, monument, metaalplaat, of ander werk of voorwerp, wat in enige begraafplaas of krematorium opgerig word of beoog om opgerig te word, om 'n afgestorwe persoon te gedenk, en sluit 'n randsteen wat 'n graf afbaken en 'n plat steen wat 'n graf bedek in;

"gemenebes oorlogsgraf", enige graf, grafsteen, monument of gedenksteen wat verbind word met 'n gemenebes oorlogsbegrawing in terme van die Wet op Gemenebes Grafte, 1992 (Wet No 8 van 1992), soos gewysig;

"graf", enige gedeelte grond of grafperseel, wat uitgegrawe en voorberei word vir die ter aarde bestelling van 'n liggaam of oorblyfsels van 'n liggaam van 'n afgestorwe persoon in 'n begraafplaas, en kan 'n vakante gereserveerde gedeelte grond of 'n grafperseel wees, of kan die liggaam of oorblyfsels van 'n liggaam van 'n afgestorwe persoon wat in sodanige graf begrawe is en enige grafsteen, gedenksteen, kopsteen, grafplaat of enige ander merker of ander struktuur op sodanige gedeelte grond of grafperseel insluit;

"grafkelder", 'n grafkelder bokant grondvlak;

"grafplaat", 'n plat ornamentele grafstuk met bepaalde afmetings, van klip of 'n ander materiaal wat as 'n gedenkteken met graverings in sekere afdelings van 'n begraafplaas in die grond geplaas word, en gebruik word om aan te dui wie in 'n spesifieke graf begrawe is;

"grafsteen", 'n ornamentele voorwerp met bepaalde afmetings, van klip of ander materiaal, wat as 'n gedenkteken met graverings gebruik word op 'n grafperseel, om aan te dui wie in 'n spesifieke graf begrawe is;

"grasperk afdeling", 'n afdeling wat deur die Munisipaliteit van Theewaterskloof in 'n begraafplaas gereserveer word, waar al die gedenktekens beperk word tot kopstene wat op 'n vooraf gekonstrueerde basis opgerig word, en 'n **"basis afdeling"** het dieselfde betekenis;

"heldeakker", 'n area wat in 'n begraafplaas geoormerk word om publieke helde ter aarde te stel;

"kantoorure", die amptelike kantoorure van die Munisipaliteit, soos van tyd tot tyd deur die Munisipaliteit van Theewaterskloof bepaal;

"kind", 'n persoon onder die ouderdom van twaalf (12) jaar;

"kindergraf", 'n graf van 'n afgestorwe persoon onder die ouderdom van twaalf (12) jaar, wie se kis in 'n grafuitgrawing van een punt vyf (1.5) meter in lengte en sewehonderd (700) millimeter in wydte geakkommodeer kan word;

"krematorium", 'n krematorium soos voorsien in artikel 1 van die Regulasies insake die Bestuur van Menslike Oorskot, soos gepubliseer per Regerings Kennisgewing R363 gedateer 22 Mei 2013, in terme van die Wet op Nasionale Gesondheid, 2003 (Wet No 61 van 2003), soos gewysig, en sluit die geboue waar verassing gedenkdienste gehou word en verassings plaasvind in;

"kolumbarium", die plek gereserveer in die kelder van 'n krematorium of 'n kapel, waar die as van afgestorwe persoon bewaar kan word in nisse of bewaarplekke;

"konflikgraf", die graf van 'n afgestorwe persoon, wie te sterwe gekom het terwyl hy of sy die land verdedig het;

"landskap afdeling", 'n afdeling wat deur die Munisipaliteit van Theewaterskloof in 'n begraafplaas gereserveer word, waar al die toegelate gedenktekens beperk word tot 'n grafplaat of 'n metaalplaat of 'n plat gedenksteen, wat in die grond gelyk met of onder die grondvlak bevestig kan word;

"liggaam", is die lyk van enige afgestorwene mens, ingesluit die lyk van 'n doodgebore kind;

"mediese gesondheidsbeampte", 'n persoon aangestel as mediese gesondheidsbeampte in terme van die toepaslike wetgewing, of 'n persoon wat waarneem in die kapasiteit van 'n mediese gesondheidsbeampte

"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;

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

"muur van herinnering", 'n muur wat in 'n begraafplaas of 'n krematorium gekonstrueer word, vir die plasing of aanbring van gegraveerde gedenkplate wat afgestorwe persone gedenk of van nisse vir die plasing van die as van afgestorwe persone;

"na-ure fooi", die fooi bykomend tot die voorgeskrewe fooie vir begrawings of verassings, wat buite normale begraafplaas en krematorium ure plaasvind;

"nis", 'n kompartement in 'n kolumbarium of 'n muur van herrinering of enige soortgelyke struktuur, wat gebruik word om die as van 'n afgestorwe persoon te plaas;

"operasionele ure", die ure van 'n dag, behalwe vir publieke vakansiedae, waarin 'n ter aarde stelling in 'n begraafplaas of 'n verassing by 'n krematorium mag plaasvind, soos van tyd tot tyd deur die Munisipaliteit van Theewaterskloof bepaal;

"opgrawing", die verwydering van menslike oorskot uit 'n graf**;**

"openbare oorlas", wat die begrip **"oorlas"** insluit, enige handeling, versuim of toestand op of by enige perseel of openbare plek of openbare pad, met inbegrip van enige verwysing na enige gebou, struktuur of gewas op sodanige perseel of openbare plek of openbare pad, wat die veiligheid van persone of eiendom in gevaar kan stel of wat onooglik, hinderlik, aanstootlik of rusversteurend vir ander mense kan wees;

"randsteen", die gedeelte van 'n gedenkteken wat gebruik word om die kant of grens van 'n grafperseel te vorm;
"register van grafte en begrafnisse", die register van 'n begraafplaas of 'n krematorium, soos voorsien in artikel 2 van die Wet op die Registrasie van Geboortes en Sterftes, 1992 (Wet No 51 van 1992), soos gewysig, waarin die gebruiksreg van 'n graf of 'n nis, en die besonderhede van 'n afgestorwe persoon of persone wie ter aarde gestel word in 'n begraafplaas of 'n spesifieke afdeling van 'n begraafplaas, of die besonderhede van 'n afgestorwe persoon wie se as by 'n begraafplaas of 'n kolumbarium gehou word, aangeteken word;

"Regulasies insake die Bestuur van Menslike Oorskot", die Regulasies insake die Bestuur van Menslike Oorskot, soos gepubliseer per Regerings Kennisgewing R363 gedateer 22 Mei 2013, in terme van die Wet op Nasionale Gesondheid, 2003 (Wet No 61 van 2003), soos gewysig;

"SANS goedgekeur", materiaal getoets en goedgekeur as 'n Suid-Afrikaanse Nasionale Standaard, soos voorsien in die Wet op Standaarde, 2008 (Wet No 8 van 2008), soos gewysig;

"slagoffer van konflik", 'n persoon wat as sodanige slagoffer gedefinieer word, soos voorsien in artikel 1 van die Wet op Nasionale Erfenishulpbronne, 1999 (Wet No 25 van 1999), soos gewysig;

"**Suid-Afrikaanse Erfenishulpbron Agentskap",** die Suid-Afrikaanse Erfenishulpbron Agentskap, soos ingestel in terme van artikel 11 van die Wet op Nasionale Erfenishulpbronne, 1999 (Wet No 25 van 1999), soos gewysig;

"ter aarde stelling", die ter aarde stelling of begrawing of enige ander aanvaarbare vorm van begrawing of wegdoening met die liggaam van 'n afgestorwende persoon;

"toepaslike gesondheidsowerheid", die Overberg Distrikmunisipaliteit;

"tuin van hereninneringe", 'n gedeelte van 'n begraafplaas of 'n krematorium wat opsy gesit word vir nisse vir die plasing van die as van 'n veraste liggaam, of die oprigting van 'n gedenksteen vir 'n afgestorwende, of die strooi van die as van 'n veraste liggaam, maar sluit nie 'n kolumbarium in nie;

"verassing", die proses van beskikking van 'n menslike liggaam deur verbranding;

"veraste stoflike oorskot", die as van 'n liggaam wat herwinbaar is na 'n proses van verassing;

"volwasse graf", 'n graf van 'n afgestorwe persoon oor die ouderdom van twaalf (12) jaar of enige afgestorwe persoon, wie se kis in 'n grafuitgrawing van twee punt vier (2.4) meter in lengte en negehonderd (900) millimeter in wydte akkommodeer kan word;

"voorgeskrewe fooi", die fooie en tariewe wat per besluit deur die Munisipaliteit van Theewaterskloof in terme van die Tariewe Verordening van die Theewaterskloof Munisipaliteit jaarliks bepaal word, en sluit enige verwysing na **"voorgeskrewe fooie en tariewe"** in;

"voorgeskrewe vorm", die vorms gebruik in die administrasie van begraafplase en krematoriums, en vir die administrasie van ter aarde stellings in begraafplase en verassings in krematoriums, soos van tyd tot tyd deur die Munisipaliteit van Theewaterskloof bepaal;

"werksdae", Maandae tot Vrydae, publieke vakansiedae uitgesluit.

"Wet op die Registrasie van Geboortes en Sterftes", die Wet op die Registrasie van Geboortes en Sterftes, 1992 (Wet No 51 van 1992), soos gewysig;

"Wet op Nasionale Gesondheid", die Wet op Nasionale Gesondheid, 2003 (Wet No 61 van 2003), soos gewysig;

HOOFSTUK 2:
VESTIGING VAN BEGRAAFPLASE

2. VESTIGING VAN PUBLIEKE BEGRAAFPLASE

(1) Die Munisipaliteit moet van tyd tot tyd grond in die gebied van jurisdiksie van die Munisipaliteit, reserveer of bekom en / of ontwikkel, met die oogmerk om begraafplase te ontwikkel.

(2) Die Munisipaliteit moet te alle tye verseker dat genoegsame spasie in die gebied van jurisdiksie van die Munisipaliteit, vir die begrawing van die liggame van afgestorwe persone beskikbaar is.

(3) Die Munisipaliteit sal verantwoordelik wees vir die deurlopende instandhouding van alle publieke begraafplase, uitgesluit die instandhouding van enige gedenktekens wat op grafte opgerig is.

(4) Die Munisipaliteit mag 'n begraafplaas tydelik sluit en die gebruik daarvan vir begrawing opskort, vir doeleindes van gewone, buitegewone of dringende instandhouding werksaamhede, op voorwaarde dat genoegsame vooraf kennisgewing van die voorgenome sluiting en / of opskorting van operasionele aktiwiteite gegee word, en dat die publiek binne die gebied van jurisdiksie van die Munisipaliteit, toegang tot soortgelyke begrawingfasiliteite by 'n alternatiewe begraafplaas sal hê.

(5) Die Munisipaliteit sal 'n beampte in beheer aanstel as opsigter van elke begraafplaas, en dieselfde persoon mag aangestel word as beampte in beheer vir verskillende begraafplase in die gebied van jurisdiksie van die Munisipaliteit.

3. ONGEBRUIKTE BEGRAAFPLASE OF GEDEELTES VAN BEGRAAFPLASE

(1) Die Munisipaliteit mag sodra 'n begraafplaas of 'n gedeelte van 'n begraafplaas vol is en geen spasie meer bestaan vir begrawings nie, by besluit en publieke kennisgewing, sodanige begraafplaas of gedeelte van 'n begraafplaas as 'n ongebruikte begraafplaas verklaar.

(2) Die Munisipaliteit sal verantwoordelik wees vir die instandhouding van alle ongebruikte begraafplase of gedeeltes van begraafplase.

4. KLASSIFIKASIE VAN BEGRAAFPLASE OF AFDELINGS VAN BEGRAAFPLASE

(1) Die Munisipaliteit mag begraafplase of gedeeltes van begraafplase klassifiseer, vir doeleindes van die vestiging van -

(a) verskillende vlakke van dienslewering vir begraafplase;

(b) verskillende afdelings vir die ter aarde stelling van die liggame van afgestorwe persone en die bewaring van die as van afgestorwe persone;

(c) verskillende afdelings gebaseer op godsdienstige oortuigings;

(d) verskillende afdelings vir die ter aarde stelling van die liggame van afgestorwe persone wat gesterf het, terwyl hulle hul land verdedig en / of gemenebes oorlogsgrafte; en

(e) verskillende afdelings in 'n begraafplaas, vir doeleindes van differensiasie tussen die tipes gedenkstene wat opgerig mag word in 'n afdeling.

(2) Die Munisipaliteit sal op geen wyse teen enige persoon diskrimineer, met betrekking tot die klassifikasie van begraafplase of gedeeltes van begraafplase nie, en die klassifikasie van begraafplase of gedeeltes van begraafplase vir die doel van verskillende diensvlakke, sal slegs gedoen word op die basis van prysdifferensiasie om bekostigbaarheid te verseker.

5. REGISTRASIE VAN GRAFTE OP PRIVATE EIENDOM

Elke eienaar van privaat eiendom in die gebied van jurisdiksie van die Munisipaliteit, moet die Munisipaliteit in kennis stel van die voorkoms van grafte op sodanige eiendom, in 'n formaat soos deur die Munisipaliteit voorgeskryf, en die Munisipaliteit sal die beskikbare inligting van die afgestorwe persone wat in sodanige grafte begrawe is in 'n register van grafte en begrafnisse op rekord stel, soos voorsien in artikel 21 van die Wet op die Registrasie van Geboortes en Sterftes.

6. VESTIGING EN VOORTGESETTE GEBRUIK VAN PRIVAAT BEGRAAFPLASE

(1) Geen persoon sal in die gebied van jurisdiksie van die Munisipaliteit 'n privaat begraafplaas vestig en geen eienaar van 'n privaat begraafplaas wat reeds bestaan, sal indien die gebruik van sodanige begraafplaas nie voorheen deur 'n munisipale owerheid gemagtig was nie, vootgaan om sodanige bestaande begraafplaas te gebruik vir doeleindes van begrawing,

sonder dat die goedkeuring van die Munisipaliteit, soos voorsien in subartikel 6(2) van hierdie verordening, verkry word.

(2) Aansoeke vir die goedkeuring van 'n privaat begraafplaas sal aan die Munisipaliteit gerig word, op 'n voorgeskrewe vorm en in die vereiste formaat van die Munisipaliteit, en sal insluit –

(a) 'n liggingsplan van die privaat begraafplaas op 'n skaal wat nie minder as die vereiste formaat is nie, wat die ligging van die begraafplaas in verhouding tot die grense van die eiendom, toegangspaaie, publieke paaie, publieke plekke en ander persele aantoon;

(b) 'n plan van die privaat begraafplaas op 'n skaal van nie minder as die voorgeskrewe formaat, wat die besonderhede van bestaande en / of voorgestelde grafpersele, interne paaie, voetpaaie, dreinering, waterretikulasie, riool en geboue, aantoon;

(c) besonderhede van rekords of registers wat bygehou was of voorgestel om bygehou te word, vir die identifikasie van grafte, die ter aarde stelling van liggame van afgestorwe persone en gebruiksregte vir grafte;

(d) besonderhede van die eienaar en die opsigter van die betrokke privaat begraafplaas;

(e) besonderhede van die aard van die akte en die registrasie van die grond waar die privaat begraafplaas geleë is of gevestig gaan word;

(f) bewyse tot die bevrediging van die Munisipaliteit, dat die eienaar van die privaat begraafplaas voldoende sekuriteit en versekering het om die verpligtinge en vereistes van bedryf en instandhouding van 'n privaat begraafplaas, vir die huidige en die toekoms na te kom; en

(g) 'n skedule van huidige of voorgestelde fooie vir begrawing, wat gehef gaan word of huidig gehef word.

(3) 'n Kennisgewing met betrekking tot die aansoek ontvang, soos voorsien in subartikel 6(2) van hierdie verordening, sal in 'n nuusblad wat in die gebied van jurisdiksie van die Munisipaliteit gesirkuleer word, gepubliseer word vir die inwin van publieke kommentaar oor die aansoek, op die koste van die applikant, en die aansoek sal binne sestig (60) dae na sluiting van die periode vir die inwin van kommentare, gebaseer op die besware en / of kommentare ontvang, deur die Munisipaliteit oorweeg word vir goedkeuring.

(4) Die magtiging of afkeuring van 'n aansoek om 'n privaat begraafplaas te bedryf, moet aan die aansoeker op skrif verskaf word, tesame met die voorwaardes van goedkeuring en / of bedryf van 'n privaat begraafplaas, of die redes vir nie- goedkeuring van 'n aansoek.

(5) Die eienaar van 'n privaat begraafplaas sal vir die instandhouding daarvan verantwoordelik wees.

HOOFSTUK 3:

BESKIKKING VAN LIGGAME

7. VEREISTES VIR DIE BESKIKKING VAN 'n LIGGAAM

(1) Geen persoon mag oor 'n liggaam beskik of poog om daaroor te beskik, totdat toestemming daarvoor van die Munisipaliteit verkry is nie, en dan slegs onderhewig daaraan –

(a) dat sodanige liggaam in 'n privaat begraafplaas of 'n publieke begraafplaas deur die Munisipaliteit gevestig, ter aarde gestel word; of

(b) dat sodanige liggaam in 'n geregistreerde krematorium veras word.

(2) Geen persoon mag met 'n liggaam wegdoen of dit ter aarde stel in 'n begraafplaas of veras in 'n krematorium nie, sonder –

(a) die toestemming van 'n beampte in beheer van sodanige fasiliteit;

(b) 'n oorspronklike begrafnisorder uitgereik in terme van die Wet op die Registrasie van Geboortes en Stertes; en

(c) om 'n datum en 'n tyd vir sodanige ter aarde stelling of verassing met die verantwoordelike beampte in beheer te reël nie.

(3) Geen liggaam wat bedoel is vir ter aarde bestelling of verassing, mag by 'n begraafplaas of 'n krematorium vir sodanige doel aangebied word, indien dit nie in 'n lyksak of 'n kis verseël is nie, en waar daar 'n godsdienstige beswaar teen die gebruik van 'n lyksak of 'n kis mag wees, mag 'n liggaam met 'n lykskleed van geskikte verganklike materiaal bedek wees.

8. BEGRAFNISONDERNEMERS

(1) Geen begrafnisondernemer sal in die gebied van jurisdiksie van die Munisipaliteit toegelaat word om 'n liggaam in 'n begraafplaas ter aarde te stel of om 'n liggaam in 'n krematorium te veras, behalwe -

(a) indien sodanige begrafnisondernemer in besit is van 'n bevoegdheidsertifikaat, uitgereik in terme van die Wet op Nasionale Gesondheid en die Regulasies insake die Bestuur van Menslike Oorskot;

(b) wanneer die perseel waarvan die begrafnisondernemer opereer, vir sodanige besigheid gesoneer is in terme van die toepaslike soneringskema; en

(c) indien daar aan al die vereistes van 'n begrafnisondernemer se perseel en 'n lykshuis voldoen word.

(2) Begrafnisondernemers moet rekord hou van alle liggame ontvang en die begrafnisorders vir sodanige liggame.

(3) 'n Beampte in beheer mag weier om 'n liggaam deur 'n begrafnisondernemer aangebied vir begrawing en / of verassing, wat nie aan die vereistes van die bepalings van hierdie verordening voldoen nie, te begrawe of te veras, en wanneer sodaning begrawing of

verassing geweier word, moet 'n gemagtigde beampte die redes vir sodanige weiering aan die Administrateur van Begraafplase en Krematoriums van die Munisipaliteit en die begrafnisondernemer verstrek.

9. AANSOEK VIR 'n BEGRAWING OF 'n VERASSING

(1) Niemand sal ter aarde gestel word in 'n begraafplaas of veras word in 'n krematorium, voordat die goedkeuring van 'n beampte in beheer verkry is nie.

(2) 'n Liggaam sal in 'n kis of 'n lyksak of beide ter aarde gestel word, behalwe indien daar gebaseer op godsdienstige oortuigings, soos voorsien in subartikel 9(8) van hierdie verordening, 'n beswaar teen sodanige gebruik van 'n kis of 'n lyksak is.

(3) 'n Persoon wat van voorneme is om 'n liggaam te aarde laat stel of te veras, moet die voorgeskrewe aansoekvorm voltooi en saam met 'n begrafnisorder, by 'n beampte in beheer vir goedkeuring van die betrokke ter aarde stelling of verassing indien.

(4) Die naasbestaandes van 'n afgestorwe persoon of enige ander persoon wat as sodanige deur die naasbestaandes van 'n afgestorwe pesoon gemagtig word, sal die aansoek, soos voorsien in subartikel 9(3) van hierdie verordening, deur ondertekening magtig.

(5) Ongeag die bepalings van subartikel 9(4) van hierdie verordening, mag 'n beampte in beheer, wanneer hy of sy tevrede is dat die handtekening van die naasbestaandes van 'n afgestorwe persoon nie betyds bekom kan word nie of wanneer hy of sy geadviseer word deur 'n mediese gesondheidsbeampte dat die onmiddelike ter aarde stelling van 'n liggaam wenslik is om publieke gesondheid te verseker, 'n aansoek vir ter aarde stelling of verassing sonder die handtekening van die naasbestaandes van 'n afgestorwe persoon magtig.

(6) 'n Aansoek vir 'n begrawing of 'n verassing, sal –

(a) minstens drie (3) werksdae voorgaande 'n ter aarde stelling of 'n verassing ingedien word, en sodanige ter aarde stelling of verassing sal slegs in terme van die bepalings van subartikel 9(8) van hierdie verordening plaasvind;

(b) aandui of die aansoek vir 'n eerste, 'n tweede of 'n derde begrawing in 'n spesifieke graf is; en

(c) die spesifieke datum en tyd vir 'n begrawing of 'n verassing aandui.

(7) 'n Beampte in beheer sal slegs 'n aansoek vir begrawing of verassing goedkeur, wanneer –

(a) dit vergesel word van 'n oorspronklike begrafnisorder in terme van die Wet op die Registrasie van Geboortes en Sterftes;

(b) die voorgeskrewe fooie betaal was; en

(c) 'n aansoek in terme van subartikel 9(3) van hierdie verordening, onderhewig aan voldoening aan subartikel 9(6) van hierdie verordening, gedoen word.

(d) 'n Beampte in beheer moet waar nodig en / of toepaslik, die gebruike of geloofsoortuigings van 'n afgestorwe persoon en / of die naasbestaandes van 'n afgestorwe persoon in ag neem, wanneer 'n begrawing of 'n verassing goedgekeur word.

10. REGISTER VAN GRAFTE EN BEGRAFNISSE

(1) 'n Beampte in beheer moet in ooreenstemming met artikel 21 van die Wet op die Registrasie van Geboortes en Sterftes, 'n register van grafte en begrafnisse vir elke begraafplaas of krematorium byhou.

(2) Die Munisipaliteit sal 'n duplikaat kopië van die register van grafte en begrafnisse, soos voorsien in subartikel 10(1) van hierdie verordening, by 'n alternatiewe plek as waar die register van grafte en begrafnisse vir 'n begraafplaas of 'n krematorium normaalweg gehou sal word, bewaar.

11. DIE TOEKENNING EN RESERVERING VAN GRAFPERSELE EN NISSE

(1) 'n Aansoek om 'n grafperseel in 'n publieke begraafplaas of 'n nis in 'n publieke begraafplaas te reserveer vir toekomstige gebruik, moet by 'n beampte in beheer gedoen word.

(2) 'n Oorlewende eggenoot of 'n eggenote of 'n lewensmaat van 'n afgestorwe persoon mag vir 'n aanliggende graf of 'n nis, indien beskikbaar, aansoek doen.

(3) 'n Graf of 'n nis in 'n publieke begraafplaas of 'n nis by 'n publieke krematorium, sal slegs gereserveer word vir toekomstige gebruik by betaling van die voorgeskrewe fooie en tariewe.

12. UITSTEL OF KANSELASIE VAN 'n BEGRAWING OF 'n VERASSINNG

(1) Enige persoon of persone wat die gebruik van 'n grafperseel in 'n publieke begraafplaas wil bekom of 'n nis by 'n publieke krematorium, sal 'n aansoek daarvoor aan die Munisipaliteit op die voorgeskrewe vorm rig, en sodanige grafperseel of nis sal aan sodanige applikant toegeken word vir begrawing of die bewaring van die as van 'n afgestorwe persoon.

(2) Die persoon of persone wat die gebruik van 'n grafperseel of 'n nis bekom het, sal verantwoordelikheid aanvaar vir die instandhouding van sodanige graf of nis, en sal wanneer 'n gedenkteken op sodanige grafperseel opgerig word, verantwoordelikheid aanvaar vir die instandhouding en herstel daarvan.

(3) 'n Ter aarde stelling of 'n verassing mag uitgestel of gekanseleer word, wanneer dit deur die oorspronklike applikant vir die begrawing of verassing versoek word, of uitgestel word wanneer dit versoek word deur die naasbestaandes van 'n gestorwe persoon of die Administrateur van Begraafplase en Krematoriums of 'n mediese gesondheidsbeampte vir operasionele, mediese en / of administratiewe redes, en moet uitgestel of gekanseleer word wanneer so beveel deur 'n hofbevel.

(4) Vooraf kennisgewing van die uitstel of die kanselasie van 'n begrawing of 'n verassing, sal minstens een (1) werksdag voor sodanige begrawing of verassing, op die voorgeskrewe vorm aan 'n beampte in beheer verskaf word, wat dit moet goedkeur of afkeur.

(5) Wanneer 'n begrawing gekanseleer word –

(a) sal 'n terugbetaling van kostes aangegaan vir die oopmaak of die grawe of die voorbereiding van 'n graf of 'n gereserveerde graf, nie gemaak word nie; en

(b) sal die Munisipaliteit slegs 'n terugbetaling maak aan 'n oorspronklike applikant, vir kostes aangegaan vir die grawe van 'n graf, wanneer die graf binne 'n redelike tyd vir 'n ander begrafnis gebruik kan word.

13. BEPERKING VAN DIE AANTAL LIGGAME IN 'n KIS

(1) Slegs een (1) liggaam per kis sal toegelaat word vir 'n begrawing of 'n verassing.

(2) Die ter aarde stelling van meer as een (1) liggaam in 'n kis mag in spesiale omstandighede toegelaat word, wanneer 'n aansoek vir sodanige goedkeuring aan die Munisipaliteit gerig word, by betaling van die voorgeskrewe fooi en nadat die Munisipaliteit se goedkeuring verkry is.

(3) Die goedkeuring soos voorsien in subartikel 13(2) van hierdie verordening, mag slegs toegestaan word in die geval waar –

(a) familielede wat gesamentlik of kort na mekaar te sterwe kom, met dien verstande dat die begrawing van die eerste oorledende van die familie nog nie plaasgevind het nie;

(b) 'n ma en 'n kind wat gesamentlik gedurende geboorte gesterf het;

(c) twee (2) getroude persone of twee (2) persone in 'n saamleef verhouding;

(d) onverwante afgestorwe persone, wie se families geen beswaar het teen die gesamentlike begrawing van die afgestorwe persone, en / of wie sodanige begrawing versoek het; of

(e) die oorskot van kadawers van 'n anatomie projek van 'n gemagtigde organisasie en / of in terme van 'n hofbevel.

14. DIE TER AARDE STELLING VAN 'n LIGGAAM IN 'n GRAF EN DIE DAAROPVOLGENDE BEGRAWINGS IN DIESELFDE GRAF

(1) Die ter aarde stelling van 'n liggaam mag slegs plaasvind in die graf wat 'n gemagtigde beampte daarvoor toegeken het.

(2) Nie meer as drie (3) kiste mag in dieselfde graf begrawe word nie.

(3) 'n Tweede of 'n derde begrawing in 'n graf mag slegs toegelaat word wanneer –

(a) 'n aansoek daarvoor gerig word aan 'n beampte in beheer en skriftelike goekeuring daarvoor verleen word;

(b) die betrokke graf verdiep was vir sodanige tweede of derde begrawing;

(c) minstens twaalf (12) maande van die vorige begrawing verloop het; en

(d) wanneer die voorgeskrewe fooi betaal word.

(4) 'n Persoon wat aansoek doen vir 'n tweede of derde begrawing, moet –

(a) minstens drie (3) dae voorafgaande kennis gee van sodanige begrawing; en

(b) op sy of haar eie koste voor sodanige begrawing, alle gedenkstene op die betrokke graf verwyder en na afloop van die begrawing dit weer terugplaas.

15. GEBRUIKSREG VAN 'n GRAFPERSEEL OF 'n NIS

(1) Die gebruiksreg van 'n grafperseel of 'n nis is gevestig in die naam van die persoon wat sodanige gebruiksreg gekoop het, of vir wie 'n gebruiksreg gekoop word, soos in 'n register van grafte en begrafnisse grafte aangeteken word.

(2) Die houer van 'n gebruiksreg van 'n grafperseel of 'n nis in 'n begraafplaas of krematorium, sal insluit –

(a) die persoon wat 'n grafperseel of 'n nis gekoop het, of wat 'n grafperseel of 'n nis as 'n geskenk ontvang het, en wie se besonderhede in die register vir grafte en begrawings van 'n begraafplaas aangeteken word;

(b) die persoon in wie se naam die voorgeskrewe begrawingfooie vir die eerste begrawing in 'n grafperseel betaal word;

(c) 'n persoon aan wie die gebruiksreg van 'n grafperseel of 'n nis oorgedra word; of

(d) 'n persoon wie die gebruiksreg van 'n grafperseel of 'n nis erf.

(3) Die gebruiksreg van 'n grafperseel of 'n nis is oordraagbaar, en oordrag raak effektief wanneer dit as sulks in 'n register vir grafte en begrawings deur die Munisipaliteit aangeteken word.

(4) Wanneer daar 'n dispuut oor die gebruiksreg van 'n graf of 'n nis ontstaan, sal die oorspronklike inligting vervat in die register vir grafte en begrawings deur die Munisipaliteit gebruik word om die gebruiksreg van 'n grafperseel of 'n nis te bepaal, totdat 'n arbitrasiebevel of 'n hofbevel oor die aangeleentheid uitgereik kan word.

(5) Die Munisipaliteit mag die gebruiksreg van 'n ongebruikte grafperseel of 'n nis, wanneer dit nodig is vir die effektiewe administrasie van 'n begraafplaas of 'n krematorium, of vir omgewingsoorwegings of wanneer sodanige grafperseel of nis benodig word vir gebruik, terugkoop, met dien verstande dat geregverdigbare kompensasie betaalbaar sal wees.

(6) Die gebruiksreg van 'n nis sal terugval na die Munisipaliteit, wanneer die as van 'n afgestorwe persoon en die betrokke gedenkplaat vanuit 'n nis verwyder word, deur die naasbestaandes van 'n afgestorwe persoon.

16. AFMETINGS VAN GRAFTE

Die standaard grootte van 'n graf, moet onderhewig aan die vereistes en bepalings van subartikels 7 en 9 hierdie verordening, as volg wees –

(a) die graf van 'n volwassene moet afmetings van tweeduisend driehonderd (2 300) millimeter in lengte en negehonderd (900) millimeter in breedte, en minstens tweeduisend (2 000) millimeter in diepte, hê; en

(b) die graf van 'n kind moet afmetings van eenduisend vyfhonderd (1 500) millimeter in lengte en sewehonderd (700) millimeter in breedte, en minstens eenduisend vyfhonderd (1 500) millimeter in diepte, hê.

17. DIE VERGROTING EN VERDIEPING VAN 'n GRAF

(1) Waar die ter aarde stelling van 'n liggaam, 'n graf wat groter is as die standaard afmetings vir 'n graf vereis, moet die begrafnisorder die afmetings van die kis wat gebruik gaan word en die aanhangsels daarvan spesifiseer.

(2) 'n Versoek vir die vergroting of verdieping van 'n graf, moet minstens drie (3) werksdae voor 'n begrawing ingedien word.

(3) Wanneer 'n kis te groot is vir die afmetings van 'n standaard volwasse graf, moet sodanige graf vergroot word om die betrokke kis te akkommodeer.

(4) Wanneer die kis van 'n afgestorwe kind te groot is vir 'n kindergraf, moet sodanige kis in 'n volwasse graf begrawe word, by betaling van die voorgeskrewe fooi.

18. VEREISTES VIR KISTE

(1) Kiste wat in grafte geplaas word, moet van 'n natuurlik sagte hout of ander verweerbare materiaal gemaak wees, met dien verstande dat enig aanhegsels aan 'n kis van enige ander materiaal gemaak mag wees.

(2) Kiste bedoel vir verassing, sal hoofsaaklik uit hout of houtprodukte vervaardig word.

(3) Die bepalings van subartikel 18(1) van hierdie verordening sal nie van toepassing wees op die ter aarde stelling van 'n kis in 'n grafkelder nie.

19. VEREISTES VIR DIE VUL VAN GRAFTE

(1) Elke kis moet met minstens driehonderd (300) millimeter grond bedek word, onmiddelik na ter aarde bestelling.

(2) Die kis van 'n volwassene wat begrawe word, moet minstens bedek word met 'n laag grond eenduisend tweehonderd (1 200) millimeter dik, gemeet tussen die top van die kis en die grondoppervlak, en in die geval van die kis van 'n kind, 'n laag grond van negehonderd (900) millimeter.

(3) Die bepalings van subartikels 19(1) en 19(2) van hierdie verordening sal nie van toepassing wees op die ter aarde stelling van 'n kis in 'n grafkelder nie.

20. SPESIFIEKE GEBRUIK VAN LYKSAKKE

(1) Wanneer meer as een liggaam in 'n kis begrawe word, moet elke liggaam in 'n aparte lyksak geplaas word.

(2) 'n Liggaam bedoel vir begrawing in 'n begraafplaas of 'n verassing in 'n krematorium, sal in 'n lyksak verseël wees in 'n kis, behalwe indien dit in konflik is met die tradisies, gebruike of geloofsoortuigings van die afgestorwe persoon of die familie van 'n afgestorwe persoon.

HOOFSTUK 4:
BEGRAFNISSE EN BEGRAFNISSTOETE

21. DIE HOU VAN GODSDIENSTIGE DIENSTE EN GEDENKDIENSTE

(1) Godsdienstige dienste en gedenkdienste van enige godsdienstige kerkgenootskap, mag op aansoek by 'n beampte in beheer en by betaling van die voorgeskrewe fooie, in 'n begraafplaas of 'n krematorium gehou word.

(2) Geen persoon sal 'n godsdienstige diens of 'n gedenkdiens in ooreenstemming met die godsdienstige gebruike van 'n spesifieke kerkgenootskap, in enige afdeling van 'n begraafplaas wat gereserveer word vir gebruik deur 'n ander godsdienstige kerkgenootskap, hou nie.

(3) Geen musiek of sang sal toegelaat word by 'n begrafnis of 'n gedenkdiens, behalwe –

(a) met die vooraf goedkeuring van 'n beampte in beheer; en

(b) by militêre begrafnisse.

22. BEHEER OOR LYKSWAENS

Geen persoon mag –

(a) 'n lykswa bestuur of toelaat dat dit bestuur word in 'n begraafplaas, behalwe op 'n aangeduide ryvlak; of

(b) 'n lykswa op so 'n wyse in 'n begraafplaas parkeer, dat dit ander begrafnisse of offisiële voertuie belemmer.

23. VERVOER VAN KISTE EN LIGGAME

(1) 'n Begrafnisondernemer en / of die naasbestaandes van 'n afgestorwe persoon, sal op hul eie verantwoordelikheid en koste vir die vervoer van 'n kis na 'n begraafplaas vir 'n ter aarde stelling of na 'n krematorium vir 'n verassing, verantwoordelik wees.

(2) Geen persoon mag in 'n straat, 'n begraafplaas, 'n krematorium of enige ander publieke plek, 'n liggaam op 'n oneerbiedwaardige wyse vervoer, of toelaat dat sodanige liggaam ontbloot of vertoon word nie.

24. BEVOEGDHEID VAN 'n BEAMPTE IN BEHEER

(1) 'n Beampte in beheer by 'n begraafplaas of 'n krematorium, het die bevoegdheid om 'n instruksie aan enige gebruiker en / of besoeker aan 'n begraafplaas en / of 'n krematorium uit te reik, met betrekking tot –

(a) die parkering van voertuie;
(b) 'n begrafnisstoet; of
(c) die tydsduur van 'n begrafnisdiens, soos voorsien in artikel 25 van hierdie verordening.

(2) Elke persoon wat deelneem aan 'n begrafnisdiens of –stoet by 'n begraafplaas of 'n verassingdiens, moet aan alle redelike instruksies van 'n beampte in beheer voldoen.

25. DUUR VAN BEGRAFNIS-, VERASSING-, GODSDIENSTIGE OF GEDENKDIENSTE BY 'n BEGRAAFPLAAS OF 'n KREMATORIUM

Geen persoon mag 'n kapel of enige deel daarvan of enige fasiliteit by 'n begraafplaas of 'n krematorium benut, vir enige periode langer as die geallokeerde tyd vir 'n begrafnis of 'n verassing of 'n godsdienstige diens of 'n gedenkdiens.

26. URE VIR TER AARDE STELLINGS EN VERASSINGS

(1) 'n Ter aarde stelling of 'n verassing mag, onderhewig aan subartikel 26(2) van hierdie verordening, plaasvind tussen die ure en op die dae soos deur die Munisipaliteit bepaal.

(2) 'n Beampte in beheer mag onderhewig aan sodanige voorwaardes as wat hy of sy mag bepaal, en by betaling van die voorgeskrewe na-ure fooie, goedkeuring verleen vir die ter aarde stelling of verassing van 'n liggaam buite die voorgeskrewe operasionele ure van 'n begraafplaas of 'n krematorium.

(3) Wanneer 'n begrafnis plaasvind buite die aangeduide operasionele ure van 'n begraafplaas, moet die applikant die gereedskap en / of toerusting benodig vir die toemaak van 'n graf voorsien en verantwoordelikheid aanvaar vir die toemaak van die betrokke graf.

(4) Die toemaak van 'n graf buite die aangeduide operasionele ure mag deur die Munisipaliteit onderneem word, op versoek en by betaling van die voorgeskrewe na-ure fooie, en verder onderhewig aan sodanige voorwaardes as wat 'n beampte in beheer mag bepaal.

27. MERK VAN GRAFTE

Totdat 'n gedenkteken of 'n soortgelyke gedenkvoorwerp op 'n graf opgerig word, moet 'n beampte in beheer sodanige grafperseel merk, deur 'n identifikasieteken met die nommer van die graf en enige ander informasie wat 'n beampte in beheer as wenslik ag, daarop aan te bring.

HOOFSTUK 5:
HEROPENING VAN GRAFTE EN OPGRAWINGS

28. MAGTIGING VIR DIE OPGRAWING VAN MENSLIKE OORSKOT

(1) Die opgrawing van menslike oorskot moet altyd, onderhewig aan die bepalings van die Wet op Nasionale Gesondheid, die Regulasies insake die Bestuur van Menslike Oorskot en ander toepaslike wetgewing, uitgevoer word.

(2) Geen persoon mag 'n opgrawing doen of laat doen, sonder die skriftelike toestemming van –

(a) die Munisipaliteit;

(b) die Provinsiale Departement van Gesondheid en / of die relevante gemagtigde outoriteit by die Wes-Kaapse Provinsiale Regering; en

(c) 'n mediese gesondheidsbeampte.

(3) 'n Magtiging vir 'n opgrawing sal nie uitgereik word, sonder dat 'n herbegrawing of verassingorder ook deur die Munisipaliteit uitgereik word nie.

(4) Menslike oorskot sal slegs opgegrawe word, met die toestemming van die naasbestaandes van die afgestorwe persoon wat opgegrawe moet word, onderhewig daaraan dat 'n opgrawing sal geskied wanneer so deur 'n hof beveel, ongeag of die goedkeuring van die naasbestaandes van die afgestorwe persoon verkry is of nie.

(5) Menslike oorskot sal slegs vir die volgende redes opgegrawe word –

(a) die verwydering van menslike oorskot uit 'n graf, om in 'n ander toegekende graf in dieselfde begraafplaas ter aarde gestel te word;

(b) verwydering vir herbegrawing in 'n ander begraafplaas;

(c) verwydering vir verassing;

(d) verwydering vir forensiese ondersoek van die oorskot van die afgestorwe persoon, gelas deur 'n hof;

(e) om oorgeplaas te word van 'n deernis graf na 'n gewone graf, in 'n geval waar 'n afgestorwe persoon ter aarde gestel was as 'n deernisgeval;

(f) verwydering vir regsoorwegings, soos kriminele ondersoeke, die verifikasie van identiteit of die bepaling van die oorsaak van dood; of

(g) verwydering vir argeologiese oorwegings.

(6) Bykomende goedkeuring moet van die Suid-Afrikaanse Erfenishulpbron Agentskap in terme van subartikel 36(3) van die Wet op Nasionale Erfenishulpbronne, 1999 (Wet No 25 van 1999), soos gewysig, verkry word vir die opgrawing van menslike oorskot, wanneer 'n graf ouer as sestig (60) jaar is en buite 'n begraafplaas wat deur die Munisipaliteit administreer word geleë is of 'n graf van 'n konflikslagoffer is.

(7) Geen persoon mag die menslike oorskot in 'n gemenebes oorlogsgraf opgrawe, verwyder, herbegrawe of veras, of enigsins daarmee inmeng nie, behalwe in terme van artikel 3 van die Wet op Gemenebes Oorlogsgrafte, 1992 (Wet No 8 van 1992), soos gewysig.

29. VEREISTES VIR DIE OPGRAWING VAN MENSLIKE OORSKOT

(1) Die Munisipaliteit sal slegs goedkeuring verleen vir die opgrawing van menslike oorskot, indien -

(a) 'n aansoek vir die opgrawing op die voorgeskrewe vorm ontvang word;

(b) die vereiste goedkeurings voorsien word saam met die aansoek vir opgrawing;

(c) die voorgeskrewe fooie vir opgrawing by aansoek betaal word; en

(d) die opgrawing gedoen word deur 'n geregistreerde begrafnisondernemer;

(2) Die goedgekeurde aansoek en vereiste goedkeurings vir opgrawing sal op skrif aan 'n beampte in beheer van die betrokke begraafplaas verskaf word, minstens vyf (5) werksdae voorgaande die datum versoek vir opgrawing van die betrokke graf, waarna die beampte in beheer –

(a) die betrokke Provinsiale Kommissaris van die Suid-Afrikaanse Polisiediens, van die voorgenome opgrawing en die datum van die opgrawing in kennis sal stel, en die teenwoordigheid van 'n lid van die Suid-Afrikaanse Polisiediens versoek; en

(b) die betrokke gesondheidsowerheid sal versoek om 'n geregistreerde omgewingsgesondheidbeampte beskikbaar te stel om op die voorgestelde datum van opgrawing, toesig oor die beoogde opgrawing te hou.

(3) Op die datum van opgrawing van die menslike oorskot in die graf betrokke –

(a) sal 'n lid van die Suid-Afrikaanse Polisiediens deurlopend teewoordig wees, terwyl die opgrawing plaasvind;

(b) sal slegs 'n geregisteerde begrafnisondernemer, onder toesig van die beampte in beheer van die betrokke begraafplaas, die opgrawing van die graf onderneem;

(c) sal die begraafplaas oop bly vir die publiek, en die opgrawing sal onder toesig van die afgevaardigde omgewingsgesondheidbeampte geskied;

(d) sal die opgrawing en verwydering van die menslike oorskot van die betrokke graf onder toesig van 'n geregisteerde omgewingsgesondheidbeampte van die relevant gesondheidowerheid geskied, wat die opgrawingproses sal moniteer om te verseker dat -
(i) geen gesondheid oorlas of risiko ontstaan nie;
(ii) die graf en menslike oorskot met ontsmettingsmiddels behandel word na opgrawing, en dat ander beskermende maatreëls implementeer word soos deur hom of haar nodig geag;
(iii) dat 'n voldoende voorraad water, seep en ontsmettingsmiddels beskikbaar is vir die persone wat die menslike oorskot hanteer; en
(iv) die korrekte graf geopen word.

(e) slegs persone wat direk betrokke is, mag teenwoordig wees by die opgrawing en die verwydering van die menslike oorskot; en

(f) geen hond of dier mag teenwoordig wees by 'n grafperseel nie.

30. DIE OPGRAWING EN DIE HERBEGRAWING OF DIE VERASSING VAN MENSLIKE OORSKOT

(1) Die Munisipaliteit moet wanneer die liggaam van 'n afgestorwe persoon, teenstrydig met die bepalings van hierdie verordening begrawe is, sodanige liggaam opgrawe in terme van die bepalings van artikels 28 en 29 van hierdie verordening, en sodanige liggaam herbegrawe in 'n ander graf of sodanige liggaam veras, op voorwaarde dat die naasbestaandes van die afgestorwe persoon -

(a) in kennis gestel word van die beoogde opgrawing en herbegrawing of verassing; en

(b) toegelaat word om die opgrawing en herbegrawing of verassing by te woon.

(2) Die Suid-Afrikaanse Polisiediens sal –

(a) wanneer daar bewyse is dat 'n onwettige begrawing van 'n liggaam plaasgevind het, die nodige goedkeuring verkry om 'n liggaam op te grawe;

(b) sodanige liggaam met die hulp van die Munisipaliteit verwyder, en na 'n regeringlykshuis vir ondersoek bring; en

(c) met sodanige liggaam na afhandeling van die ondersoek wegdoen, in terme van die bepalings van hierdie verordening.

31. AFSKERMING VAN 'n GRAF GEDURENDE OPGRAWING

(1) 'n Graf waaruit die opgrawing van menslike oorskot geskied, moet gedurende die proses van opgrawing van die menslike oorskot, van die algemene publiek afgeskerm word.

(2) Die verantwoordelike persoon wat die opgrawing behartig, sal 'n geskikte houer voorsien waarin die menslike oorskot wat verwyder word, geplaas moet word.

HOOFSTUK 6:
VERSORGING EN INSTANDHOUDING VAN GRAFTE EN NISSE

32. VERANTWOORDELIKHEID VIR DIE VERSORGING EN DIE INSTANDHOUDING VAN GRAFTE EN NISSE

(1) Die Munisipaliteit sal vir die algemene instandhouding van begraafplase geadministreer deur die Munisipaliteit, verantwoordelik wees.

(2) Die versorging en instandhouding van grafpersele en / of die gedenktekens opgerig op grafpersele in 'n begraafplaas geadministreer deur die Munisipaliteit, en / of die nisse voorsien by 'n begraafplaas en / of 'n krematorium geadministreer deur die Munisipaliteit, sal die verantwoordelikheid wees van die persoon wat die gebruiksreg tot sodanige grafperseel of nis besit, of die naasbestaandes van die afgestorwe persoon in sodanige graf begrawe of die afgestorwe persoon wie se as in sodanige nis bewaar word.

33. VOORWAARDES VIR DIE VERSORGING EN DIE INSTANDHOUDING VAN GRAFTE EN NISSE

(1) Die persoon wat die gebruiksreg van 'n grafperseel besit, of die naasbestaandes van 'n afgestorwe persoon wat ter aarde gestel is in die betrokke graf, sal die betrokke grafperseel, oor die algemeen netjies en skoon van onkruid en gras hou, en mag onderhewig aan subartikels 33(2)(a) en 33(2)(b) van hierdie verordening, enige plant, blom, struik of boom op sodanige grafperseel snoei, afkap, opgrawe of verwyder, en wanneer sodanige persoon versuim om in terme van die bepalings te handel, mag die Munisipaliteit die nodige werk uitvoer en die kostes van die betrokke persoon of persone verhaal.

(2) Geen persoon mag sonder die toestemming van 'n persoon in beheer –

(a) op enige graf plante, struike of blomme plant, sny of verwyder nie; of

(b) op enige graf dekoratiewe metaal tralies of reëlings plaas nie.

(3) Natuurlike of kunsmatige blomme in houers mag op 'n graf geplaas word, maar in die geval van 'n graf in 'n grasperk afdeling en 'n nis in 'n tuin van herinneringe, mag sodanige blomme slegs in spesiale houers geplaas word, wat op die kopsteen of die nis vir blomme gemonteer word.

(4) 'n Beampte in beheer mag alle verlepte natuurlike blomme, of verdofte of beskadigde kunsblomme en enige leë houer wat op 'n graf geplaas is, verwyder.

(5) Die Munisipaliteit mag volgens eie diskresie onderneem om enige graf of nis, by betaling van die voorgeskrewe fooie en tariewe vir 'n periode in stand te hou.

(6) Die Munisipaliteit sal nie aanspreeklik wees vir enige verlies of skade aan 'n voorwerp op 'n graf, behalwe wanneer sodanige verlies of skade die resultaat is van nalatigheid van enige beampte van die Munisipaliteit.

HOOFSTUK 7:
OPRIGTING VAN GEDENKTEKENS

34. OPRIGTING VAN GEDENKTEKENS

(1) 'n Persoon wat van voorneme is om 'n kopsteen, 'n grafsteen, 'n grafplaat, 'n gedenkteken, 'n plat gedenkplaat, 'n monument, 'n metaalplaat, of enige ander gedenkwerk of voorwerp op 'n graf in 'n begraafplaas op te rig, moet 'n aansoek op die voorgeskrewe vorm by 'n beampte in beheer indien, vir die oprigting van sodanige gedenkteken.

(2) Die aansoek soos voorsien in subartikel 34(1) van hierdie verordening, moet saam met die voorgeskrewe fooi, die belangrikste afmetings van die voorgestelde gedenkteken, die ontwerpsketse van die voorgestelde gedenkteken en die fondasie daarvan, besonderhede van die materiaal wat gebruik gaan word vir die voorgestelde gedenkteken en fondasies, en die voorgestelde gravering op die gedenkteken, nie minder as as tien (10) werksdae voor die oprigting van sodanige gedenkteken by 'n beampte in beheer ingedien word vir goedkeuring.

(3) 'n Gedenkteken mag slegs gedurende normale werksure opgerig word, maar mag by ooreenkoms en met die goedkeuring van 'n beampte in beheer buite normale werksure opgerig word.

(4) Geen persoon mag –

(a) 'n gedenkteken oprig of materiaal in 'n begraafplaas inbring om 'n gedenkteken op te rig, sonder die skriftelike goedkeuring van 'n beampte in beheer nie;

(b) 'n gedenkteken op 'n grafperseel oprig binne twaalf (12) maande na die datum van begrawing, sonder die skriftelike goedkeuring van 'n beampte in beheer, en sodanige goedkeuring sal slegs verleen word op voorwaarde dat die applikant bewys kan lewer van maatreëls wat getref word vir die stabilisering van die grond, dat gedenktekens wat

beskadig word weens grondversakkings herstel sal word, en dat die Munisipaliteiteit onthef word van enige aanspreeklikheid en eise wat mag ontstaan weens skade aan gedenktekens as gevolg van grondversakkings;

(c) 'n gedenkteken op enige ander plek op 'n grafperseel oprig, as wat deur 'n beampte in beheer uitgewys word nie;

(d) 'n gedenkteken sonder die toestemming van 'n beampte in beheer verwyder, om addisionele inskripsies daarop aan te bring of om ander wysigings daaraan te doen; of

(e) 'n gedenkteken op 'n Saterdag, 'n Sondag of 'n publieke vakansiedag oprig, sonder die skriftelike toestemming van 'n beampte in beheer nie.

(5) Die Munisipaliteit sal nie aanspreeklik wees vir enige skade aan 'n gedenkteken, as gevolg van grondversakkings of enige ander grondtoestande nie.

(6) 'n Persoon wat 'n gedenkteken oprig, moet op versoek van 'n beampte in beheer die skriftelike goedkeuring vir sodanige oprigting, soos voorsien in subartikel 34(4)(a) van hierdie verordening, verskaf.

(7) Alle gedenktekens sal ooreenkomstig ingediende en goedgekeurde planne vir sodanige gedenktekens tot die bevrediging van 'n beampte in beheer, opgerig word op die uitgewysde plek en op die aangeduide grafperseel vir oprigting van sodanige gedenkteken, en geen gedenkteken sal in gure weer of wanneer die grond in 'n begraafplaas in 'n onstabiele toestand verkeer, opgerig word nie.

(8) Enige gedenkteken wat nie tot bevrediging van 'n beampte in beheer in ooreenstemming met ingediende en goedgekeurde planne vir sodanige gedenkteken opgerig word nie, moet binne een (1) maand vanaf kennisgewing deur die persoon wat sodanige gedenkteken opgerig het gekorrigeer word of op die koste van die persoon wat sodanige gedenkteken opgerig het verwyder word.

(9) 'n Gedenkteken of die materiaal wat gebruik word om sodanige gedenkteken op te rig, mag nie op so 'n wyse in 'n begraafplaas of 'n krematorium vervoer word, dat dit geboue, paaie, voetpaaie, grasperke of ander gedenktekens in sodanige begraafplaas of krematorium beskadig nie.

(10) Enige surplus materiaal of rommel wat die gevolg is van die oprigting van enige gedenkteken, moet deur die persoon verantwoordelik vir die oprigting van sodanige gedenkteken, na die voltooiing van werk aan 'n gedenkteken verwyder word.

35. MINDERWAARDIGE VAKMANSKAP

(1) Die Munisipaliteit sal die oprigting van 'n gedenkteken verbied, wanneer die voorgestelde materiaal wat gebruik gaan word of die afmetings en ontwerp, nie voldoen aan die spesifikasies en bepalings van hierdie verordening of bedryfstandaarde nie, of van 'n minderwarige kwaliteit en / of ontwerp is, of as die voorgestelde graveerwerk op 'n gedenkteken onaanvaarbaar, onwelvoeglik walglik of aanstootlik is.

(2) Die Munisipaliteit mag enige gedenktekens opgerig, sonder enige kompensasie aan die persoon verantwoordelik vir die grafperseel verwyder –

(a) wat nie in ooreenstemming met ingediende en goedgekeurde planne opgerig word nie;

(b) wat sonder goedgekeurde planne of enige goedkeuring of die betaling van die voorgeskrewe fooie opgerig was;

(c) wat in 'n bouvallige en / of 'n vervalle toestand is;

(d) wat reeds vir 'n periode van twaalf (12) maande beskadig is, en ten spyte van 'n kennisgewing vir die herstel van sodanige gedenkteken wat op die verantwoordelike persoon of persone bedien was, nog nie herstel is nie;

(e) wat van minderwaardige vakmanskap of kwaliteit is;

(f) met graverings wat onaanvaarbaar, onwelvoeglik, onbehoorlik of aanstootlik is; of

(g) wat 'n oortreding van die bepalings van hierdie verordening is.

36. GRAVERING OP GEDENKTEKENS

(1) Die amptelike grafnommer van die graf waarop 'n kopsteen, 'n grafsteen, 'n grafplaat, 'n gedenkteken, 'n plat gedenkplaat, 'n monument, 'n metaalplaat, of enige ander werk of voorwerp opgerig word, moet op sodanige gedenksteen vertoon word deur 'n permanente merk op 'n sigbare posisie -

(a) op die basis van 'n kopsteen, 'n grafsteen, 'n gedenkteken, 'n monument, 'n metaalplaat, of enige ander werk of voorwerp; of

(b) in die onderste linkerkantse hoek van 'n plat gedenkplaat of grafplaat wat op 'n graf in die landskapafdeling van 'n begraafplaas aangebring word.

(2) Syferwerk op gedenktekens moet verkieslik daarop gegraveer word, of wanneer uitstaan letterwerk op 'n gedenksteen gebruik word, moet dit van 'n duursame materiaal wees en permanent bevestig wees.

(3) Die naam van die vervaardiger, ontwerper of oprigter van 'n gedenkteken, mag op die gedenkteken aangebring word met die goedkeuring van die kliënt, op voorwaarde dat geen adres- of kontakbesonderhede daarby ingesluit word nie, en dat sodanige naam op die basis van die betrokke gedenkteken gegraveer of aangebring word.

37. HERSTEL EN VERWYDERING VAN GEDENKTEKENS

(1) Slegs 'n persoon of persone verantwoordelik vir die instandhouding, herstel en versorging van 'n gedenkteken op 'n grafperseel of 'n nis, soos voorsien in subartikel 11(2) van hierdie verordening, of 'n persoon wat skriftelik deur sodanige persoon of persone aangestel word,

mag met die skriftelike toestemming van die beampte in beheer, enige gedenkteken op 'n grafperseel of 'n nis, afbreek, verander, herstel, verwyder of versteur.

(2) 'n Gedenkteken wat afgebreek word vir doeleindes van die herstel daarvan, moet of verwyder word uit 'n begraafplaas of mag vir 'n periode van nie langer as dertig (30) dae, nadat sodanige gedenkteken afgebreek is, tydelik op die betrokke grafperseel gelaat word waarop dit opgerig was, terwyl dit herstel word.

(3) 'n Beampte in beheer mag in die geval van 'n tweede of daaropvolgende begrawing in 'n graf, toelaat dat die betrokke gedenkteken elders in 'n begraafplaas gestoor word, vir 'n periode wat nie meer as dertig (30) dae na sodanige begrawing sal wees nie.

(4) Die persoon wat 'n gedenkteken afbreek of herstel, soos voorsien in subartikel 37(1) van hierdie verordening, sal onmiddelik nadat die werk afgehandel is, alle surplus materiaal of rommel wat voortspruit uit werksaamhede verwyder.

(5) Wanneer 'n persoon of persone verantwoordelik vir die instandhouding, herstel en versorging van 'n gedenkteken op 'n grafperseel of 'n nis, soos verwys na in subartikel 37(1) van hierdie verordening –

(a) versuim om 'n afgebreekte gedenkteken of nis binne dertig (30) dae weer op te rig; of

(b) sodanige afgebreekte gedenkteken of nis strydig met die bepalings van subartikels 37(2) en 37(3) van hierdie verordening, binne in 'n begraafplaas laat,

sal die Munisipaliteit dertig (30) dae skriftelike kennis gee aan sodanige persoon of persone, waarin hy of sy opdrag gegee word om die betrokke gedenkteken of nis en enige rommel wat daarmee verband hou uit die begraafplaas te verwyder of om die betrokke gedenkwerk of nis onmiddelik weer op te rig.

(6) Wanneer enige gedenkteken of nis in 'n begraafplaas -

(a) beskadig word;

(b) vervalle raak;

(c) 'n gevaar vir die publiek raak; of

(d) opgerig word strydig met die bepalings van hierdie verordening,

sal die Munisipaliteit dertig (30) dae skriftelike kennis gee aan 'n persoon of persone verantwoordelik vir die instandhouding, herstel en versorging van 'n gedenkteken op 'n grafperseel of 'n nis, soos verwys na 'n subartikel 37(1) van hierdie verordening, waarin hy of sy opdrag gegee word om -

(i) sodanige gedenkteken of nis te verander, te herstel, te repareer of dit te beveilig, sodat dit voldoen aan die bepalings van hierdie verordening; of

(ii) sodanige gedenkteken of nis af te breek en sodanige gedenkteken of nis, tesame met alle rommel verbandhoudend daarmee, op eie koste uit 'n begraafplaas te verwyder, binne 'n periode soos gespesifiseer in die kennisgewing.

(7) Wanneer 'n persoon of persone verantwoordelik vir die instandhouding, herstel en versorging van 'n gedenkteken op 'n grafperseel of 'n nis, soos verwys na in subartikel 37(1) van hierdie verordening, versuim om te voldoen aan 'n kennisgewing uitgereik in terme van subartikels 37(5) of 37(6) van hierdie verordening, mag die Munisipaliteit –

(a) die betrokke gedenkteken of nis herstel en heroprig;

(b) die betrokke gedenkteken of nis afbreek, verwyder en daaroor beskik, en enige rommel verwyder wat daarmee verband hou; of

(c) die betrokke gedenkteken of nis veilig maak,

en sodanige persoon of persone verantwoordelik vir die instandhouding, herstel en versorging van 'n gedenkteken op 'n grafperseel of 'n nis, aanspreeklik hou vir die kostes van herstel, heroprigting, afbreek, verwydering of beskikking aangegaan deur die Munisipaliteit.

(8) Die Munisipaliteit mag sonder om enige kennis te gee of om enige aanspreeklikheid te aanvaar ten opsigte van die persoon of persone verantwoordelik vir die instandhouding, herstel en versorging van 'n gedenkteken op 'n grafperseel of 'n nis, soos verwys na in subartikel 37(1) van hierdie verordening -

(a) 'n gedenkteken of 'n nis afbreek en verwyder, asook enige rommel geassosieer daarmee, behalwe gedenktekens wat beskerm word deur die bepalings van die Wet op Nasionale Erfenishulpbronne, 1999 (Wet No 25 van 1999), soos gewysig; of

(b) 'n gedenkteken of 'n nis beveilig, wanneer die betrokke gedenkteken of 'n nis so gevaarlik raak, dat onmiddelike dringende stappe nodig is om die veiligheid van die publiek te verseker.

(10) Wanneer die Munisipaliteit opgetree het in terme van subartikel 37(8) van hierdie verordening, moet die Munisipaliiteit die persoon of persone verantwoordelik vir die instandhouding, herstel en versorging van 'n gedenkteken op 'n grafperseel of 'n nis, skriftelik in kennis stel dat indien hy of sy nie die betrokke gedenkteken of nis in herbesit neem binne die periode soos in die kennisgewing gespesifiseer nie, die Munisipaliteit self oor die betrokke gedenkteken of nis sal beskik.

(11) Die persoon of persone, waarna verwys word in subartikel 37(1) van hierdie verordening, sal aanspreeklik wees vir die kostes deur die Munisipaliteit aangegaan, vir die aksies onderneem in terme van subartikel 37(8) van hierdie verordening, en wanneer sodanige persoon of persone versuim om die kostes betrokke te betaal of herbesit te neem van die betrokke gedenkteken of nis, mag die Munisipaliteit op enige wyse as wat wenslik geag word deur die Munisipaliteit, oor sodanige gedenktekens beskik, en die opbrengs van sodanige beskikking moet aangewend word ter delging van die kostes vir afbreek, verwydering, stoor of beskikking van die gedenkteken of nis betrokke, en die rommel geassosieer daarmee.

(12) Die Munisipaliteit mag wanneer die kontakbesonderhede van die persoon of persone verantwoordelik vir die instandhouding, herstel en versorging van 'n gedenkteken op 'n grafperseel of 'n nis nie bekend is nie, 'n kennisgewing plaas in 'n nuusblad wat in die gebied van jurisdiksie van die Munisipaliteit

sirkuleer, waarin die verantwoordelike persone in kennis gestel word van die vereiste aksies wat onderneem moet word binne 'n periode van dertig (30) dae vanaf die datum van publikasie van die kennisgewing, om die beskadigde, gevaarlike en vervalle gedenkteken of nis te herstel, te repareer of te verwyder, en sodanige kennisgewing sal aandui dat die Munisipaliteit -

(a) die herstelwerke benodig om die beskadigde, gevaarlike en vervalle gedenkteken of nis in 'n begraafplaas te herstel, sal onderneem wanneer die die herstel, reparasie of verwydering van die betrokke gedenkteken of nis nie na bevrediging van die Munisipalitet binne die gespesifiseerde tydperk plaasvind nie;

(b) die betrokke gedenkteken of nis sonder enige kompensasie mag verwyder; en

(c) die koste vir herstel, reparasie of verwydering van die persoon of persone betrokke sal verhaal.

(13) Die Munisipaliteit mag na behoorlike kennisgewing aan 'n persoon verantwoordelik vir die oprigting van 'n gedenkteken, ter eniger tyd die posisionering van sodanige gedenkteken wysig en die koste aangegaan daarvoor van die oprigter van die gedenkteken betrokke verhaal, met dien verstande dat waar sodanige gedenkteken geplaas was met die toestemming van die Munisipaliteit, sal enige wysiging op die koste van die Munisipaliteit geskied.

38. ALGEMENE VEREISTES VIR GEDENKTEKENS

(1) Alle gedenktekens moet gekonstrueer of gemaak word van marmer, graniet of 'n ander SANS goedgekeurde harde steen of 'n duursame materiaal, met 'n lewensverwagting van minstens vyf-en-twintig (25) jaar.

(2) Gedenktekens mag op 'n enkel graf of oor twee (2) aanliggende grafte as 'n dubbele gedenkteken opgerig word.

(3) Enige persoon wat gedenktekens in 'n begraafplaas oprig, moet dit doen met die goedkeuring van 'n gemagtigde beampte en nadat die vereiste planne ingedien was.

(4) Alle gedenktekens wat opgerig word, moet aan die volgende algemene vereistes voldoen–

(a) enige deel van 'n gedenkteken wat aan enige ander deel van 'n gedenkteken geheg word, moet met koper of gegalviniseerde ysterpenne in terme van die volgende spesifikasies geheg word –

(i) vir gedenktekens van 'n hoogte tot vyfhonderd (500) millimeter, twee (2) of meer penne wat minstens vyf (5) millimeter dik is en eenhonderd (100) millimeter lank is;

(ii) vir gedenktekens van vyfhonderd-en-een (501) millimeter tot 'n hoogte van eenduisend (1 000) millimeter, twee (2) of meer penne wat minstens tien (10) millimeter dik is en tweehonderd (200) millimeter lank is; of

(iii) vir gedenktekens van eenduisend-en-een (1 001) millimeter en hoër is, twee (2) of meer penne wat minstens twintig (20) millimeter dik is en driehonderd (300) millimeter lank is;

(b) enige deel van 'n gedenkteken wat op die grond rus, of enige steen of fondasie moet behoorlik opgestel, beveilig en voorberei wees;

(c) geen materiaal van onewe dikte of met gebreekte hoeke mag gebruik word nie;

(d) die onderkant van elke plat gedenkplaat of grafplaat, en die basis van elke ander gedenkwerk, moet ten minste vyftig (50) millimeter onder die natuurlike grondvlak wees;

(e) geen grens- of randsteen, wat meer as tweehonderd vyf-en-twintig (225) millimeter bokant grondvlak is of meer as tweehonderd (200) millimeter onder grondvlak is, sal gebruik word sonder die toestemming van die Munisipaliteit nie;

(f) alle gedenktekens, insluitend die kopstene, randstene en grensstene, moet met ronde koper of gegalvaniseerde yster penne of klampe, behoorlik bevestig of vasgeklamp wees;

(g) alle kopstene en alle ander gedenktekens, tot eenhonderd-en-vyftig (150) millimeter in dikte, moet op 'n aanvaarbare manier aan die basis van 'n gedenkteken behoorlik bevestig word;

(h) alle kompenente van 'n gedenkteken of 'n nis moet van terrein af voltooi word, voordat dit na 'n begraafplaas of 'n krematorium gebring word vir oprigting;

(i) voetstene en randstene wat op 'n enkelgraf gebruik word, moet uit een stuk bestaan;

(j) gedenktekens wat op 'n basis bevestig word, moet altyd -
  (i) op 'n beton fondasie geplaas word, wat deur 'n beampte in beheer goedgekeur moet word;
  (ii) met in hoë kwaliteit sementpleister bevestig word; en
  (iii) op 'n basis van nie minder as eenduisend (1 000) millimeter by driehonderd-en-dertig (330) millimeter by driehonderd-en-dertig (330) millimeter in grootte bevestig word;

(k) die beton fondasie voorsien vir kopstene moet die volgende afmetings hê –
  (i) die lengte reghoekig tot die longitudinale as, moet minstens eenduisend driehonderd (1 300) millimeter wees;
  (ii) die wydte sal nie minder as die onderkant van die kopsteen wees nie, plus 'n uitsteeksel van minstens eenhonderd-en-sestig (160) millimeter aan elke kant;
  (iii) die diepte of dikte moet minstens eenhonderd-en-sestig (160) millimeter wees; en
  (iv) die boonste vlak van die fondasie moet minstens sestig (60) millimeter onder grondvlak wees;

(l) die beton fondasies vir rand en grensstene, sal oor die voet en sye van 'n graf strek en moet die volgende afmetings hê -
  (i) die lengte sal minstens eenduisend tweehonderd-en-twingtig (1 220) millimeter wees;
  (ii) die wydte moet minstens driehonderd en-dertig (330) millimeters wees;
  (iii) die diepte of dikte moet minstens eenhonderd-en-tien (110) millimeter wees; en
  (iv) die boonste vlak van die fondasie moet minstens sestig (60) millimeter onder grondvlak wees;

(m) die onderste basis van 'n gedenkteken op 'n enkelgraf mag nie minder as negehonderd (900) millimeter lank, tweehonderd-en-twintig (220) millimeter breed en tweehonderd en vyftig (250) millimeter dik wees nie, en in die geval van 'n gedenkteken op 'n dubbelgraf nie minder as tweeduisend tweehonderd ses-en-tagtig (2 286) millimeter lank, tweehonderd-en-twintig (220) millimeter breed en tweehonderd en vyftig (250) millimeter dik wees nie;

(n) wanneer los klipgruis op 'n graf geplaas word as 'n bedekking, sal die vlak van sodanige klipgruis nie meer as tien (10) millimeter onder die vlak van die omringende randstene of grensstene wees nie

HOOFSTUK 8:
SPESIFIKASIES VIR VERSKILLENDE AFDELINGS IN 'n BEGRAAFPLAAS

39. DIFFERENSIASIE TUSSEN AFDELINGS IN 'n BEGRAAFPLAAS

(1) Die Munisipaliteit mag verskillende afdelings in 'n begraafplaas vestig vir –

(a) die ter aarde stelling in kiste en / of lyksakke van die liggame van afgestorwe persone;

(b) die hou van die as van afgestorwe persone in grafte of nisse;

(c) vir persone met 'n spesifiefe godsdienstige geloofsoortuiging en begrafnisvereistes;

(d) die ter aarde stelling van die liggame van gestorwenes wat gesterf het ter verdediging van hulle land en / of gemenebes oorlogsgrafte; en

(e) vir doeleindes van differensiasie tussen tipes gedenkstene, wat in 'n spesifieke afdeling toelaatbaar sal wees.

(2) Die differensiasie tussen afdelings sal nie gebruik word om teen enige persoon te diskrimineer nie, en geen persoon sal begrawing in 'n spesifieke afdeling geweier word nie, onderhewig aan voldoening aan die voorwaardes en spesifikasie van toepassing op sodanige afdeling, die bepalings van die Wet op Gemenebes Grafte, 1992 (Wet No 8 van 1992), soos gewysig, en ander toepaslike wetgewing.

40. VESTIGING VAN GODSDIENSTIGE AFDELINGS

Die Munisipaliteit mag spesifieke godsdienstige afdelings vir die verskillende godsdienstige gelowe op versoek vestig, en mag die voorwaardes en spesifikasies vir die ter aarde stelling van liggame in sodanige afdelings, in ooreenstemming met die geloofsoortuigings van 'n spesifieke geloof bepaal.

41. VESTIGING VAN 'n OORLOGSGRAFTE AFDELING

Die Munisipaliteit mag 'n spesifieke afdeling van 'n begraafplaas, as 'n heldeakker vir oorlogsgrafte, gemenebes oorlogsgrafte of grafte van konflik, in ooreenstemming met die toepaslike wetgewing reserveer, en mag die voorwaardes en spesifikasies vir die ter aarde stelling van liggame in sodanige afdelings, in ooreenstemming met die betrokke wetgewing en militêre protokol bepaal.

42. SPESIFIKASIES VIR GEDENKTEKENS IN 'n TUIN VAN HERINNERINGE

(1) 'n Munisipaliteit mag 'n gedeelte van 'n begraafplaas of 'n krematorium reserveer vir gebruik, waar –

(a) strukture soos 'n muur van herinneringe of ander gedenkfasiliteite, met nisse en / of bewaarplekke voorsien word om die as van veraste liggame in te plaas;

(b) die as van veraste liggame in grafte ter aarde gestel kan word;

(c) gedenktekens in die vorm van gedenkplate, grafplate of plat gedenkstene, aangebring of geplaas mag word; of

(d) die as van 'n veraste liggaam uitgestrooi mag word.

(2) Die gedenktekens wat in 'n tuin van herinneringe toegelaat word, word beperk tot 'n grafplaat of 'n gedenkplaat of 'n plat gedenksteen, wat op aangewysde plekke geplaas mag word of aangebring mag word as 'n dekplaat vir 'n nis of 'n ander bewaarplek, waar die as van 'n afgestorwe persoon gehou word.

(3) Die gedenkplaat, grafplaat of plat gedenksteen wat in 'n tuin van herinneringe gebruik word, sal nie die afmetings van vyfhonderd (500) millimeter in lengte en vyfhonderd (500) millimeter in breedte, of enige ander afmetings vir 'n spesifieke muur van herrineringe of 'n kolumbarium oorskry nie.

43. SPESIFIKASIES VIR GEDENKTEKENS IN 'n GRASPERK AFDELING VAN 'n BEGRAAFPLAAS

(1) Die Munisipaliteit mag 'n spesifieke afdeling van 'n begraafplaas reserveer en gebruik as 'n grasperk afdeling, ook verwys na as 'n basis afdeling, waar spesiale voorwaardes vir die oprigting van gedenktekens sal geld.

(2) Slegs 'n kopsteen sal opgerig word as 'n gedenksteen op 'n graf in die grasperk afdeling van 'n begraafplaas, en sodanige kopsteen sal beperk word tot die basis wat deur die Munisipaliteit verskaf word.

(3) Die volgende spesifikasies sal van toepassing wees op gedenktekens op grafpersele in 'n grasperk afdeling –

(a) die afmetings van die basis of die voetstuk van enige kopsteen op die graf van 'n volwassene, sal nie negehonderd (900) millimeter in lengte en tweehonderd-en-sestig (260) millimeter in wydte oorskry nie, en wanneer die basis of die voetstuk van 'n kopsteen oor twee grafte strek, sal sodanige basis of voetstuk nie tweeduisend tweehonderd (2 200) millimeter in lengte en tweehonderd-en-sestig (260) millimeter in wydte oorskry nie;

(b) die afmetings van die basis of die voetstuk van enige kopsteen op die graf van 'n kind, sal nie seshonderd-en-tien (610) millimeter in lengte en tweehonderd-en-sestig (260) millimeter in wydte oorskry nie, en wanneer die basis of die voetstuk van die kopsteen oor twee grafte strek, sal sodanige basis of voetstuk nie eenduisend tweehonderd (1 200) millimeter in lengte en tweehonderd-en-sestig (260) millimeter in wydte oorskry nie;

(c) geen deel van ’n kopstuk mag verby die horisontale afmetings van die basis of die voetstuk van ’n kopsteen uitsteek nie;

(d) ’n kopsteen sal op die betonbasis verskaf deur die Munisipaliteit opgerig word, behalwe in die geval van ’n tydelike oprigting, waar die applikant ’n geskikte fondasie moet verskaf totdat die Munisipaliteit die voorgeskrewe basis verskaf;

(e) geen deel van enige gedenkteken mag eenduisend vyfhonderd (1500) millimeter in hoogte bokant ’n basis oorskry nie;

(f) alle kopstene sal op so ’n wyse geposisioneer wees, dat die voorste kant van die basis minstens eenhonderd-en-twintig (120) millimeter weg sal wees van die voet van ’n kopsteen;

(g) die Munisipaliteit behou die reg voor om die grondoppervlak van ’n grafperseel, wat nie deur die basis en kopsteen bedek word nie, gelyk te maak om gemeganiseerde onderhoud te fasiliteer;

(h) die plant van enige plante op ’n afgewerkte grafperseel word verbied, soos voorsien in subartikel 43(3)(g) van hierdie verordening, behalwe met die spesifieke goedkeuring van ’n beampte in beheer;

(i) geen randsteen mag gebruik word om enige graf af te baken nie en ’n grafblad of soortgelyke bedekking is nie toelaatbaar nie;

(j) geen ander gedenkteken of voorwerp, anders as ’n kopsteen mag op die basis of op ’n grafperseel aangebring word nie, en ’n kopsteen mag nie meer as twee houers vir blomme bevat nie; en

(k) ’n blomhouer vir natuurlike of kunsmatige blomme of loof, mag in ’n holte voorsien in ’n kopsteen geplaas word en sodanige blompot mag nie driehonderd (300) millimeter in hoogte oorskry nie.

(4) Die Munisipaliteit sal enige gedenksteen, voorwerp of plant opgerig, geplaas of geplant op ’n graf in ’n grasperk afdeling, wat strydig met die bepalings van subartikels 43(2) en 43(3) van hierdie verordening, opgerig, geplaas of geplant word, verwyder en die persoon verantwoordelik vir die oortreding sal aanspreeklik wees vir enige kostes deur die Munisipaliteit aangegaan.

44. SPESIFIKASIES VIR GEDENKTEKENS IN ’n LANDSKAP AFDELING VAN ’n BEGRAAFPLAAS

(1) Die Munisipaliteit mag ’n spesifieke afdeling van ’n begraafplaas reserveer en gebruik as ’n landskap afdeling, waar spesiale voorwaardes vir die oprigting van gedenktekens sal geld.

(2) Slegs ’n grafplaat of ’n metaalplaat of ’n plat gedenksteen sal as ’n gedenkteken in ’n landskapafdeling van ’n begraafplaas toegelaat word, wat nie –

(a) vyfhonderd (500) millimeter in lengte, vyfhonderd millimeter in wydte en ’n minimum dikte van dertig (30) millimeter mag oorskry nie; en

(b) van ’n ysterhoudende materiaal gemaak mag word nie.

(3) Die grafplaat of 'n metaalplaat of 'n plat gedenksteen, soos voorsien in subartikel 44(2) van hierdie verordening, moet horisontaal op 'n geskikte fondasie bevestig word in die grond.

(4) Waar gedenktekens beperk word tot 'n grafplaat of 'n metaalplaat of 'n plat gedenksteen, moet sodanige gedenkteken horisontaal gelyk met, of nie meer as dertig (30) millimeter onder grasvlak geplaas word.

(5) Die Munisipaliteit sal enige gedenkteken, voorwerp of plant, opgerig, geplaas of geplant op 'n graf in die landskap afdeling, wat strydig met die bepalings van subartikels 44(2), 44(3) en 44(4) van hierdie verordening opgerig, geplaas of geplant is, verwyder en die Munisipaliteit sal enige kostes aangegaan van die verantwoordelike persoon wat die oortreding begaan het verhaal.

45. SPESIFIKASIES VIR GEDENKTEKENS IN DIE ALGEMENE MONUMENTALE AFDELING VAN 'n BEGRAAFPLAAS

(1) Die areas in 'n begraafplaas wat nie spesifiek as 'n godsdienstige afdeling, of 'n oorlogsgrafte afdeling, of 'n tuin van herinneringe, of 'n grasperk afdeling of 'n landskap afdeling opsy gesit word nie, soos voorsien in artikels 40 tot 44 van hierdie verordening, word as die algemene monumentale afdeling van 'n begraafplaas beskou, behalwe waar anders aangedui.

(2) In die algemene monumentale afdeling van 'n begraafplaas, word daar voorsiening gemaak vir volwasse grafte en kindergrafte afdelings, en enige tipe gedenkteken mag op sodanige grafpersele opgerig word, onderhewig aan die bepalings van artikels 34 en 36 van hierdie verordening, en die spesifikasies soos voorsien in subartikel 38(4) van hierdie verordening.

(3) Die maksimum horisontale afmetings van enige gedenkteken wat op 'n grafpersele in die algemene monumentale afdeling opgerig mag word, sal as volg wees –

(a) in die geval van 'n 'n volwasse graf, tweeduisend vyfhonderd (2 500) millimeter in lengte en een duisend-en-vyftig (1 050) in wydte; en

(a) in die geval van 'n 'n kinder graf, eenduisend vyfhonderd (1 500) millimeter in lengte en negehonderd (900) in wydte.

(4) Die maksimum hoogte van enige gedenkteken, gemeet vanaf grondvlak, sal tweeduisend (2 000) millimeter wees.

HOOFSTUK 9: VERASSINGS

46. AANSOEKE VIR VERASSINGS

(1) Die Munisipaliteit mag 'n krematorium bedryf, wanneer sodanige diens as finansieel lewensvatbaar beskou word of verassingdienste mag deur 'n privaat instelling verskaf word, wat gesertifiseer en gemagtig is om die verassing van liggame uit te voer.

(2) 'n Liggaam mag slegs in 'n gemagtigde verassingfasiliteit veras word, in ooreenstemming met die statutêre voorskrifte wat die verassing van liggame reguleer.

(3) 'n Persoon wie van voorneme is om die liggaam van 'n afgestorwe persoon te veras, moet 'n aansoek vir sodanige verassing, nie later as drie (3) werksdae voor die beoogde datum van verassing indien, en sodanige aansoek moet vergesel wees van –

(a) die voorgeskrewe fooi;

(b) 'n begrafnisorder soos uitgereik in terme van die Wet op die Registrasie van Geboortes en Sterftes;

(c) 'n doodsertifikaat; en

(d) die vereiste aansoekvorms vir verassing.

(4) Wanneer daar aan al die vereistes soos voorsien in subartikel 46(3) van hierdie verordening voldoen word, moet 'n beampte in beheer 'n aansoek vir verassing goedkeur.

(5) Wanneer die aansoek, soos voorsien in subartikel 46(3) van hierdie verordening, vir die verassing van die liggaam van 'n afgestorwe persoon is -

(a) wie ten tyde van sy of haar dood aan 'n aansteeklike siekte gely het, soos gedefinieer in artikel 1 van die Wet op Nasionale Gesondheid; of

(b) wie ter enige tyd 'n pasaangeër gedra het of radioaktiewe materiaal as 'n mediese prosedure in sy of haar liggaam ontvang het,

moet die applikant vir die verassing die volledige feite verskaf en in die geval van 'n pasaangeër en radioaktiewe materiaal, aandui of die betrokke pasaangeër en / of radioaktiewe materiaal uit die afgestorwe persoon se liggaam verwyder is.

(4) Die as van 'n veraste liggaam wat oorbly na verassing, mag op aansoek by 'n beampte in beheer, in terme van die voorgeskrewe prosedures en by betaling van die voorgeskrewe fooie, begrawe word in 'n begraafplaas, of in 'n nis geplaas word by 'n begraafplaas of 'n kolumbarium, of ter aarde gestel word in 'n graf van 'n naasbestaande.

(5) Die as van 'n liggaam, wanneer dit nie deur die naasbestaandes van 'n afgestorwe persoon opgeëis word nie of wanneer geen reëlings getref word vir die wegdoening daarvan nie, mag deur 'n beampte in beheer mee weggedoen word, deur dit te uit te strooi in 'n tuin van herinneringe.

47. URE VIR VERASSINGS

(1) Verassings mag plaasvind binne die ure en op die dae wat die Munisipaliteit bepaal.

(2) Geen verassing mag plaasvind op 'n publieke vakansiedag nie.

(3) 'n Persoon mag op aansoek en by betaling van die voorgeskrewe fooi aan 'n beampte in beheer, 'n duplikaat verassingsertifikaat bekom.

HOOFSTUK 10:
DEERNISGEVALLE

48. BEGRAWING VAN DEERNISGEVALLE

(1) 'n Persoon wat aansoek vir die begrawing van 'n deernisgeval doen, sal 'n beëdigde verklaring saam met sodanige aansoek indien, wat die redes en omstandighede uiteensit, waarom die afgestorwende as 'n deernisgeval beskou moet word.

(2) 'n Deernisgeval mag ter aarde gestel of veras word, nagelang die voorwaardes deur die Munisipaliteit bepaal.

(3) Wannneer 'n deernisgeval veras word, moet die as van sodanige afgestorwe persoon deur die Munisipaliteit behou word vir 'n periode van minstens twaalf (12) maande.

(4) Wanneer die as van 'n deernisgeval nie binne twaalf (12) maande opge-eis word nie, sal sodanige as ter aarde gestel word in 'n beskikbare graf of geplaas word in 'n beskikbare nis by 'n begraafplaas.

HOOFSTUK 11:
ALGEMENE SAKE

49. DIENSVERSKAFFERS

(1) Die Munisipaliteit mag enige of alle verantwoordelikhede in terme van hierdie verordening vir die verskaffing van begraafplaas of krematorium dienste, by wyse van 'n diensleweringooreenkoms aangegaan in terme van subartikel 81(2) van die Munisipale Stelselswet, oordra aan 'n diensverskaffer.

(2) Wanneer enige bepaling in hierdie verordening, enige magte, funksie of verpligting van die Munisipaliteit opdra of afdwing op 'n werknemer van die Munisipaliteit, sal sodanige magte, funksies of verpligtinge in die geval waar 'n diensooreenkoms aangegaan word met 'n diensverskaffer in terme van subartikel 81(2) van die Munisipale Stelselwet of enige ander statutêre bepaling, oorgaan na die diensverskaffer, en enige verwysing na sodanige beampte sal geag word as 'n verwysing te wees na die betrokke diensverskaffer, of soos toepaslik 'n gemagtigde werknemer van die diensverskaffer.

50. VERBODE HANDELINGE

(1) Geen persoon –

(a) onder die ouderdom van sestien (16) jaar, mag enige munisipale begraafplaas of munisipale krematorium betree, sonder die toesig van 'n volwasse persoon of die toestemming van 'n beampte in beheer nie;

(b) mag enige munisipale begraafplaas of munisipale krematorium binnegaan of verlaat, behalwe deur die ingang of uitgang daarvoor voorsien; of

(c) mag enige kantoor of toegesluite plek in 'n munisipale begraafplaas of 'n munisipale krematorium binnegaan, wanneer sodanige toegang verbied word, sonder die toestemming van 'n beampte in beheer nie.

(2) Geen persoon mag in enige munisipale begraafplaas of munisipale krematorium –

(a) met enige fontein, standbeeld, monument, toerusting, heining of enige eiendom van die Munisipaliteit inmeng nie;

(b) enige boom, struik, blom, plant of saailing afkap, afsny, pluk, beskadig, afbreek of vernietig nie;

(c) enige grafsteen of gedenksteen, graf, gebou, grensmuur, hek, heining of ander vaste voorwerp, of enige deel daarvan beskadig, ontsier of verwyder nie;

(d) op enige manier van afval ontslae raak, as in die afvalhouers voorsien daarvoor deur die Munisipaliteit;

(e) sit, staan, loop, klim, teken, verf of skryf op enige graf, muur, heining of grafsteen, grafplaat of gedenksteen nie;

(f) in enige dammetjie, fontein, kunsmatige of natuurlike waterloop, dam of stroom, swem, bad of was nie;

(g) in 'n begraafplaas woon en / of oornag nie, of enige struktuur bou of oorskry op sodanige grond, of 'n tent of 'n soortgelyke konstruksie, stalletjie, kraampie, stellasie, verhoog, skerm of heining sonder die skriftelike toestemming van die Munisipaliteit oprig of poog om dit op te rig nie;

(h) enige vis, voël of dier vang, jaag, skiet of inmeng daarmee, behalwe wanneer gemagtig daartoe deur die Munisipaliteit, of die eiers of neste van voëls verwyder, versteur, beskadig of vernietig;

(i) enige vuur aansteek of enige materiaal of voorwerpe verbrand, behalwe indien spesiale toestemming vir sodanige aksie deur die Munisipaliteit verleen word;

(j) '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 spesiale goedkeuring daarvoor verleen is of indien dit van 'n gemagtigde beampte of 'n lid van die Suid-Afrikaanse Polisiediens vereis word in die uitvoering van hulle pligte;

(k) 'n voertuig op grasperke of oor grafte of grafpersele bestuur of die spoedgrens van vyftien (15) kilometer per uur oorskry nie, behalwe 'n gemagtigde beampte of 'n lid van die Suid- Afrikaanse Polisiediens in die uitvoering van hulle pligte;

(l) sonder die vooraf skriftelike toestemming van die Munisipaliteit 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;

(m) 'n openbare oorlas veroorsaak nie, of enige aanstootlike of onwelvoeglike daad verrig of in die openbaar urineer of ontlas nie;

(n) met uitsondering van kinders onder die ouderdom van vyf (5) jaar, fasiliteite wat vir die teenoorgestelde geslag opsy gesit is, gebruik of binnegaan nie;

(o) onder die invloed van drank en / of dwelms wees nie;

(p) enige musiekinstrument of musiek speel nie, sonder die goedkeuring van 'n beampte in beheer;

(q) 'n publieke toespaak lewer, uitgesonder 'n toespraak by 'n goedgekeurde begrafnisdiens of 'n gedenkdiens, of enige aksie onderneem of apparaat gebruik wat begrafnisverrigtinge of publieke orde of ter aarde stellings of begrafnis- en gedenkdienste kan ontwrig;

(r) onwelvoeglike of vuiltaal gebruik of op sodanige wyse optree, dat dit 'n oorlas vir ander mense veroorsaak of aanstoot gee of die openbare orde versteur;

(s) enigiets doen wat spesifiek verbied word deur tekens en / of kennisgewings op 'n perseel;

(t) enige dier op die perseel van 'n begraafplaas of 'n krematorium bring, 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;

(u) 'n vuurwapen of enige ander gevaarlike wapen dra, vertoon of gebruik, behalwe 'n gemagtigde beampte of lid van die Suid-Afrikaanse Polisiediens in die uitvoering van hulle pligte;

(v) na-ure wanneer 'n begraafplaas of 'n krematorium nie oop is vir die publiek nie, sonder toestemming in sodanige begraafplaas of krematorium ingaan of agterbly; en

(w) 'n beampte in beheer of enige beampte van die Munisipaliteit in die uitvoering van sy of haar pligte of in die uitoefening van enige van sy of haar magte, toegeken in terme van hierdie verordening, hinder, verhinder of teengaan.

(3) Enige dier wat gevind word wat oortree in 'n begraafplaas of 'n krematorium, mag in terme van die Verordening insake die Skut van Diere van die Munisipaliteit van Theewaterskloof geskut word, en sal slegs vrygelaat word by betaling van die voorgeskrewe fooie en tariewe.

51. 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, skriftelik kennis aan die Munisipale Bestuurder te gee van die appèl, en redes vir die appèl te verstrek.

52. GEMEENSKAPSKAKELFORUMS

(1) Die Munisipaliteit mag skakelforums in 'n gemeenskap instel met die doel om –

(a) geleenthede vir die gemeenskap te skep om deel te neem aan die sake van die Munisipaliteit, wat verband hou met die aangeleenthede waarna verwys word in hierdie verordening;

(b) advies oor aangeleenthede te lewer, wanneer 'n skakelforum deur die Munisipaliteit versoek word om advies te lewer, en

(c) 'n veilige en gesonde omgewing te bevorder.

(2) 'n Skakelforum mag bestaan uit –

(a) 'n lid of lede van 'n belangegroep, of geaffekteerde persone;

(b) 'n lid of lede van die gemeenskap; en

(c) 'n aangewese beampte of beamptes van die Munisipaliteit of ander owerheidsinstellings.

(3) (a) Die Munisipaliteit mag wanneer 'n aansoek om 'n toestemming of 'n permit ingevolge hierdie verordening oorweeg word, die insette van 'n skakelforum versoek.

(b) 'n Skakelforum of enige persoon of persone gedoel in subartikel 52(2) van hierdie verordening, mag op eie inisiatief 'n inset aan die Munisipaliteit vir oorweging verskaf.

53. 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 53(1)(a), 53(1)(b) of 53(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, 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 'n persoon 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.

54. STRAFBEPALINGS

Enige persoon wat -

(a) versuim om te voldoen aan die instruksies van 'n gemagtigde beampte in terme van hierdie verordening of 'n kennisgewing aangebring op 'n kennisgewingbord;

(b) versuim om te voldoen aan enige kennisgewing wat in terme van hierdie verordening bedien word;

(c) enige bepaling van hierdie verordening oortree; of

(d) doelbewus 'n gemagtigde beampte in die uitvoering van sy of her pligte in terme van hierdie verordening belemmer,

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 'n 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 kostes en / of uitgawes wat die Hof bevind deur die Munisipaliteit aangaan was, as gevolg van sodanige oortreding.

55. 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.

56. HERROEPING VAN VERORDENINGE

(1) Die bepalings van enige ander verordeninge, voorheen uitgevaardig deur die Munisipaliteit of deur enigeen van die afgeskafte munisipaliteite wat nou in die Munisipaliteit geïnkorporeer is, word hiermee herroep insoverre dit betrekking het op aangeleenthede waarvoor daar in hierdie verordening voorsiening gemaak word.

(2) Die volgende verordening van die Munisipaliteit van Theewaterskloof word hiermee spesifiek herroep –

Naam van verordening	Datum van publikasie	In die geheel of gedeeltelik
Verordening insake die beheer van begraafplase.	PK 6234 gedateer 8 Maart 2005	In die geheel

57. KORT TITEL

Hierdie verordening staan bekend as die Verordening insake Begraafplase en Krematoriums van die Munisipaliteit van Theewaterskloof.

58. INWERKINGTREDING

Hierdie verordening tree op datum van publikasie daarvan in werking.

THEEWATERSKLOOF MUNICIPALITY

COMMUNITY FIRE SAFETY 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 recognises:

(i) that everyone has the constitutional right to an environment that is not harmful to their safety or well-being;
(ii) that losses due to fire, and the subsequent economic and social impact on people, property and infrastructure, causes unnecessary hardship;
(iii) that the protection of all sectors of the community against fire related incidents, threats and damages, is an important aspect in the development and sustainability of the economy;
(iv) that certain aspects of the daily existence of people need to be controlled in such a manner, as to prevent and reduce the effects of fire on the community as a whole;
(v) that the community has a vital role to play in achieving the objectives of this by-law, and
(vi) that the benefits of a fire-safe environment should be made accessible to all, within the constraints of available funding resources.

The purpose and scope of the by-law is:

(i) to promote the achievement of a fire-safe environment for the benefit of all persons within the area of jurisdiction of the Theewaterskloof Municipality; and
(ii) to provide for procedures, methods and practices to regulate fire safety within the area of jurisdiction of the Theewaterskloof Municipality.

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CHAPTER 1:
INTERPRETATION

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, any officer appointed as traffic officer in terms of section 3A of the National Road Traffic Act, 1996 (Act No 93 of 1996), as amended, or any employee of the Controlling Authority or the Theewaterskloof Municipality, who are authorized by the Theewaterskloof Municipality to enforce the provisions of this by-law;

"chief fire officer", means the person in charge of a fire brigade service as chief fire officer, or the acting chief fire officer, as contemplated in the Fire Brigade Services Act, 1987 (Act No 99 of 1987), as amended;

"combustible waste or material", means combustible waste or material, and may include any combustible fibres, plant material, hay, straw, hair, feathers, down, wood shavings and turnings, rubber trimmings, all types of paper products, soiled cloth trimmings and cuttings, rubber trimmings, and any mixture of the above items, or any other recyclable combustible waste material;

"Controlling Authority", means the Overberg District Municipality, represented by the Chief Fire Officer appointed by Overberg District Municipality or the Municipal Manager of the Overberg District Municipality, or their respective appointed delegates;

"dangerous goods", means the commodities, substances and goods listed in the standard specifications of the latest edition of Standards South Africa publication No. 0228 – The identification and classification of dangerous substances and goods, or any revision or substitution thereof;

"division separating element", means a building element or component which separates one area in a building from another and has a fire resistance of not less than that required by the National Building Regulations, promulgated in terms of section 17(1) of the National Building Regulations and Building Standards Act, 1977 (Act No 103 of 1977), as amended, and **"occupancy separation element"** has a corresponding meaning;

"emergency evacuation plan", means a plan specifically designed to aid in the evacuation of occupants from a building or a premises in the event of a fire or other threatening danger, and assigns responsibility to various staff members, indicates escape routes to be used and provides for general contingencies for a safe and quick evacuation from the building or premises;

"emergency vehicle", means any fire, rescue or other vehicle intended for use at emergency situations, such as fires and other threatening dangers;

"entertainment and public assembly venue", means a place or facility where people gather to engage with each other, or assemble for meetings, socializing, eating, drinking and dancing, or to participate in entertainment and other forms of recreation;

"escape door", means the door in an escape route, which is at ground level and directly leads to a street or public place or to any approved open space, to be used as an assembly point or place of safety;

"escape route", means the entire path of travel from the furthest point in any room in a building to the nearest escape door, and may include an emergency route;

"escape route plan", means a diagram indicating the floor layout, a person's current position and the route of travel to the nearest primary and secondary escape routes in the building concerned, as well as the actions to be taken in the event of a fire or any other threatening danger;

"Fire Brigade Services Act", means the Fire Brigade Services Act, 1987 (Act No 99 of 1987), as amended;

"fire brigade service", means services intended for -

(a) preventing the outbreak or spread of fire
(b) fighting or extinguishing a fire;
(c) the protection of life or property against a fire or other threatening danger;
(d) the rescue of life or property from a fire or other danger;
(e) the performance of inspection functions on premises, buildings, structures or vehicles, to ensure compliance with procedures, methods and practices to regulate and promote fire safety; and
(f) the performance of any other function related to fire brigade services and fire safety;

"fire door", means an automatic or self-closing door or shutter assembly, specifically constructed and installed, to prevent the passage of fire for a specific period of time from one area to another area;

"fire extinguisher", means a portable or mobile rechargeable container, which has a fire extinguishing substance that is discharged by means of an action of internal pressure on a fire for the purposes of extinguishing such fire;

"fire hazard", means any situation, process, material or condition which may cause a fire or an explosion, or provide a ready fuel supply to increase the spread or intensity of a fire or an explosion, or which poses a threat to life or property;

"fire lanes or fire corridors", means the road, path or other passageway, constructed or designated or reserved for emergency vehicles, to allow preferred access and passage for emergency vehicles;

"fire protection system", means any device or system, including smoke detectors, designed and installed to -
(a) detect, control or extinguish a fire, or
(b) alert occupants or the fire service, or both, of a fire,
but excludes portable and mobile fire extinguishers;

"fire wall", means a wall that is able to withstand the effects of fire for a specific period of time, as contemplated in the National Building Regulations, promulgated in terms of section 17(1) of the National Building Regulations and Building Standards Act, 1977 (Act No 103 of 1977), as amended;

"flammable liquid", means a liquid or mixtures of liquids, or a liquid containing solids in solution or in suspension, that give off a flammable vapour at or below sixty-point-five (60.5) degrees Celsius, or a liquid as determined by SANS codes;

"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 Manager", means a person appointed in terms of section 54A of the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000), as amended;

"Municipal Structures Act", means the Local Government: Municipal Structures Act, 1998 (Act No 117 of 1998), as amended;

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

"National Building Regulations", means the regulations promulgated in terms of section 17(1) of the National Building Regulations and Building Standards Act, 1977 (Act No 103 of 1977), as amended;

"**National Road Traffic Act**", means the National Road Traffic Act, 1996 (Act No 93 of 1996), as amended;

"occupancy separating element", means a building element or component which separates one area in a building from another area, and has a fire resistance of not less than that required by the National Building Regulations, promulgated in terms of section 17(1) of the National Building Regulations and Building Standards Act, 1977 (Act No 103 of 1977), as amended;

"Occupational Health and Safety Act", means the Occupational Health and Safety Act, 1993 (Act No 85 of 1993), as amended;

"operator", means the person responsible for the use of a motor vehicle and who has been registered as the operator of such a vehicle in terms of the National Road Traffic Act, 1996 (Act No 93 of 1996), as amended;

"owner", means with regard to property, the registered owner of a property, who can be either or a natural or juristic person, and include the occupant, lessee, holder of a servitude right, holder of a land tenure right, holder of a land rights letter, holder of a letter of occupation, trustee, executor, curator or appointed agent or administrator of a property;

"organ of state", means -

(a) any department of state or administration in the national, provincial or local sphere of government; or
(b) any other functionary or institution –
  (i) exercising a power or performing a function in terms of the Constitution of the Republic of South Africa, 1996 or a provincial constitution; or
  (ii) exercising a public power or performing a public function in terms of any legislation, but does not include a court or judicial officer;

"Overberg District Municipality", means the Overberg District Municipality, established in terms of section 12 of the Local Government: Municipal Structures Act, 1998 (Act No 117 of 1998), as amended, by Provincial Notice 486 of 2000, dated 22 September 2000, and as amended by Provincial Notice 162 dated 20 August 2004, and includes any reference to any duly delegated and / or appointed officials;

"occupant of property", means and includes **"occupier"**, and is any person who occupies or has control over any premises, or who resides on a premise;

"person", means and includes for purpose of this by-law, a natural person or a juristic person or any industrial or commercial undertaking or and an organ of state;

"person in charge", means -

(a) in relation to a premises, either a natural or juristic person who is permanently or temporarily responsible for the management, maintenance or utilisation of a premise;
(b) in relation to a building, either a natural or juristic person who is permanently or temporarily responsible for the management, maintenance or utilisation of a building;
(c) in relation to any installation, either a natural or juristic person who is permanently or temporarily responsible for the management or utilisation of an installation; and
(d) in the event of the controlling authority being unable to determine the identity of a person mentioned in (a), (b) and (c), any person who in the opinion of the Controlling Authority, is deemed to be in charge of such premises, building or installation;

"population", means the population as determined in accordance with the National Building Regulations, promulgated in terms of section 17(1) of the National Building Regulations and Building Standards Act, 1977 (Act No 103 of 1977), as amended;

"premises", means any portion of land situated within the area of jurisdiction of the Theewaterskloof Municipality, of which the outer boundaries are demarcated on a general plan or a diagram or a sectional title plan, registered in accordance with applicable legislation, and includes any building or other structures on a portion of land used in connection with any activities carried out on that portion of land, and also includes for purpose of this by-law any locomotive or other vessel or vehicle, which operates or is present within the area of jurisdiction of the Theewaterskloof Municipality;

"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, street, alley or road reserve;

"SANS codes", means a South African National Standard as contemplated in the Standards Act, 2008 (Act No 8 of 2008), as amended, and the use of the abbreviation "SANS", followed by any sequel of numbers, means a reference to a SANS code of practices, specifications or standards, published under the corresponding number;

"SANS 1186-1", means the latest edition of Standards South Africa publication No. 101301, titled "Symbolic safety signs - Part 1: Standard signs and general requirements", or any revision or substitution thereof;

"SANS 1253", means the latest edition of Standards South Africa publication No. 1253, titled "Fire doors and fire shutters", or any revision or substitution thereof;

"Standards Act", means the Standards Act, 2008 (Act No 8 of 2008), as amended;

"**vehicle**", means a vehicle as defined in the National Road Traffic Act, 1996 (Act No 93 of 1996), as amended, and includes the following -

(a) **"road tank vehicle",** means a tank truck, tank trailer, or a truck-tractor and tank semi-trailer combination;
(b) **"tank semi-trailer",** means a vehicle with a tank mounted on it or built on it as an integral part of the vehicle, and constructed in such a way that when the semi-trailer is drawn by a truck-tractor or another trailer through a fifth wheel connection, part of the load rest on the towing vehicle;
(c) **"tank trailer",** means a vehicle with a tank mounted on it or built on it as an integral part of the vehicle and so constructed, that when the tank trailer is drawn by a tank truck, practically all the load rests on the wheels of the tank trailer;
(d) **"tank truck",** means a single self-propelled vehicle with a tank mounted on it;
(e) **"truck-tractor",** means a self-propelled vehicle with no mounted tank, used to pull a tank semi-trailer; and
(f) any other vehicle used at the discretion of the controlling authority, for the transport of dangerous goods.

CHAPTER 2:
SERVICE DELIVERY AND ADMINISTRATIVE PROVISIONS

2. PROVISION OF FIRE BRIGADE SERVICES

(1) Fire brigade services shall be delivered by the Overberg District Municipality, in the area of jurisdiction of the Municipality.

(2) The Overberg District Municipality shall be the controlling authority for the implementation of procedures, methods and practices to regulate and promote fire safety.

3. ADMINISTRATION AND ENFORCEMENT OF THE BY-LAW

(1) When fire brigade services are not established and operated by the Municipality in the area of jurisdiction of the Municipality, but provided by another municipality or organ of state, the Municipal Manager shall be responsible for supervision over the administration and enforcement of this by-law, and the municipality or other organ of state providing the fire brigade services, shall as controlling authority be responsible for the administration of procedures, methods and practices to regulate and promote fire safety, and the enforcement of this by-law and any other by-laws relating to fire safety.

(2) This by-law is applicable to all premises and persons within the area of jurisdiction of the Municipality, and includes both formal and informal sectors of the community and economy.

4. DELEGATIONS

The Municipal Manager may delegate any power granted to him or her in terms of this by-law, subject to the system of delegation of the Municipality developed in terms of section 59 of the Municipal Systems Act.

5. ENFORCEMENT OF PROVISIONS BY THE CONTROLING AUTHORITY

(1) The Controlling Authority may promulgate by-laws relating to fire safety and / or fire brigade services, which shall be applicable for the area of jurisdiction of the Municipality.

(2) The Controlling Authority may, whenever it is regarded as necessary or expedient to do so, in collaboration with the Municipality –

(a) enter any premises at any reasonable time to ensure compliance with procedures, methods and practices to regulate and promote fire safety; and

(b) implement actions to abate any condition which is in violation of any procedures, methods and practices to regulate and promote fire safety, and which presents an immediate fire hazard or other threatening danger.

(3) The Controlling Authority shall remedy any violation identified in subsection 5(2) of this by-law, by performing or implementing the necessary actions or mitigating measures, and may also –

(a) order the immediate evacuation of a premises;
(b) order the closure of any premises or facility, until such time as the violation concerned has been rectified;

(c) order the cessation of any activity, and

(d) order the removal of any immediate threat to fire safety.

6. AUTHORITY TO INVESTIGATE

Notwithstanding anything to the contrary contained in any other law or by-law relating to fire safety, the Controlling Authority in collaboration with the Municipality has the authority to investigate the cause, origin and circumstances of any fire or fire hazard or any other threatening danger, for purpose of the promotion of fire safety.

7. ISSUANCE OF WRITTEN NOTICES

When the Municipality and the Controlling Authority finds that there is non-compliance with the provisions of this by-law, excluding the non-compliances referred to in subsection 5(3) of this by-law, they shall consult with each other on the actions to be taken and issue a written notice to the transgressor, which notice shall include the following information –

(a) confirmation of the findings on non-compliance;

(b) the provisions of this by-law that are being contravened;

(c) the remedial actions required to rectify the non-compliances, and

(d) the target date for compliance.

8. REFUSAL, SUSPENSION OR REVOCATION OF APPROVALS OR CERTIFICATES

(1) The Municipality may be requested by the Controlling Authority to refuse, suspend or revoke any approvals or certificates provided and / or issued by the Municipality, when the owner or occupant or a person in charge of a premises, fails to comply or meet procedures, methods and practices to regulate and promote fire safety.

(2) The Controlling Authority may refuse, suspend or revoke any approval or certificate required for fire safety certification in the area of jurisdiction of the Municipality, for any failure to meet, or non-compliance with the provisions of this by-law or any other applicable by-law for fire safety.

9. RECORD REQUIREMENTS

The safekeeping of all records and documents relating to fire safety or any provision of this by-law, is the co-responsibility of the Municipality and the Controlling Authority, and the institutions concerned shall by mutual agreement implement arrangements for record keeping and the safekeeping of documents.

10. FEES AND TARIFFS

(1) The Controlling Authority shall in collaboration with the Municipality determine the fees payable by a person, or owner or occupant of a premises, on whose behalf the Controlling Authority rendered in the area of jurisdiction of the Municipality, a fire safety service or a service as contemplated in section 10 of the Fire Brigade Services Act.

(2) The Municipality may determine and charge fees and tariffs in accordance with the Tariff By-law of the Theewaterskloof Municipality for the provision of any inspection, re-inspection or any other service, or the issuing of approvals or certificates for fire safety and related matters, when such an inspection or service or issuing of a permit, approval or certificate, is not undertaken or provided by the Controlling Authority.

CHAPTER 3:
FIRE AND PUBLIC SAFETY

11. REPORTING OF FIRE HAZARDS AND OTHER THREATENING DANGERS TO FIRE SAFETY

(1) The owner or the occupant or the person in charge of a premises, upon discovering any evidence of a fire hazard or other threatening danger to fire safety, shall immediately notify the Controlling Authority or the Municipality thereof.

(2) When a fire hazard or other threatening danger to fire safety has been reported to the Municipality, the Municipality shall immediately inform the Controlling Authority, as to allow for the required actions to be implemented in terms of predetermined protocols.

(3) When a fire hazard and / or other threatening danger to fire safety has been reported to the Controlling Authority, a report on the identified fire hazard and / or threat, and the actions taken and required to address the reported hazard and / or threat, shall be conveyed to the Municipality in an agreed upon format, to ensure that the required further actions needed to be undertaken by the Municipality are brought to the attention of the Municipality.

(4) The Municipality and the Controlling Authority shall mutually determine and implement a format for reporting to each other with regard to fire hazards, threats to fire safety, inspections carried out for fire safety, fire brigade services required and rendered, and associated matters.

12. FIRE PROTECTION AND SAFETY AT BUILDINGS

(1) The Controlling Authority shall in terms of subsection 5(3) and / or subsection 8(1) of this by-law, in collaboration with the Municipality decide on and implement procedures, methods and practices to regulate and promote fire safety and ensure that no contraventions of the National Building Regulations, relating to fire protection and fire safety at buildings occur.

(2) The Controlling Authority shall ensure that -

(a) access for emergency vehicles exist;

(b) fire lanes and / or fire corridors are provided on public roads and / or premises, as applicable;

(c) division separation elements and / or occupancy separation elements and / or fire walls in buildings are provided and that such building element or component are not unlawfully altered;

(d) fire doors and shutter assemblies in buildings are maintained in terms of SANS 1253;

(e) escape routes and doors, and escape route plans on premises and in buildings, are properly planned, formulated, marked and / or maintained;

(f) escape routes are clearly marked with signage, which are compliant to SANS 1186-1; and

(g) fire safety equipment, such as, but not limited to, fire extinguishers, fire protection systems, fire alarms, smoke detectors, fire hydrants, are compliant to the National Building Regulations, the Occupational Health and Safety Act and the various applicable SANS codes, and are provided and properly maintained in terms of prescribed directions, on all premises and at all buildings.

13. ERECTION OF TENTS AND OTHER STRUCTURES FOR EVENTS

(1) Prior to the erection and temporary usage of a tent or other structure for an event, for an occupancy category as contemplated in terms of the National Building Regulations, an applicant shall –

(a) submit an application in terms of the National Building Regulations to the Municipality for the erection and usage of such a tent or other structure for an event, and

(b) submit an application in terms of subsection 14(1) of this by-law to the Controlling Authority for a certificate of suitability for public safety of the tent or other structure used for the proposed event.

(2) The Controlling Authority shall ensure in collaboration with the Municipality, that the application for the temporary erection of a tent or other structure for an event, comply with and include the following information –

(a) a predetermined and acceptable location for purpose of fire safety, of the tent or other structure on the premises concerned;

(b) proper emergency vehicle access;

(c) compliance with the provisions of the National Building Regulations, with regard to the allowable population at the event, population density at the event, use during darkness, seating arrangements, and the provision of fire extinguishers;

(d) a prohibition and / or restrictions on the preparation of food in or nearby a tent or other structure;

(e) a prohibition of open fires in a tent or other structure;

(f) restrictions on the use of open flames, such as candles, torches or lanterns, in a tent or other structure;

(g) a prohibition on smoking, and the installation of non-smoking signs in terms of SANS 1186-1;

(h) electrical and lighting installations compliant to the applicable codes of practice for the wiring of premises; and

(i) any other requirements for fire safety determined by the Controlling Authority

14. PREVENTION AND THE CONTROL OF OVERCROWDING

(1) Prior to the usage of a premises or a facility for entertainment or a public event, the owner or person in charge of such premises or facility shall submit an application for a certificate of suitability for public safety to the Controlling Authority, when required by the Controlling Authority and / or the Municipality.

(2) The Municipality may not approve any event in terms of the By-law relating to the Holding of Events of the Theewaterskloof Municipality, before the Controlling Authority submitted their input on such an application, and indicated the requirements for a certificate of suitability for public safety, as contemplated in subsection 14(1) of this by-law

15. FORMULATION OF AN EMERGENCY EVACUATION PLAN

(1) The owner and / or person in charge of a school, hospital, residential institution, hotel, guest house, hostel or other similar facility, which has an occupancy capacity in excess of twenty-five (25) persons, including staff, shall formulate an emergency evacuation plan detailing the appropriate actions to be taken by the staff and the occupants, in the event of a fire or other threatening danger.

(2) The Controlling Authority may order the owner or person in charge of any premises to formulate in addition to the arrangements contemplated in subsection 15(1) of this by-law, additional emergency evacuation planning, detailing the appropriate actions to be taken in the event of a fire or other threatening danger.

16. FIRE SAFETY AT VACANT BUILDINGS AND PREMISES

The owner or person in charge of a building or premises or any portion thereof, which is vacant and abandoned, shall to the satisfaction of the Municipality and the Controlling Authority remove all combustible waste or material from the premises or building concerned, and shall lock and / or barricade or otherwise secure all windows, doors and / or other openings in the building or on the premises, to prevent the creation of fire hazards caused by the unauthorised persons entering a vacant and abandoned building or premises.

17. COMBUSTIBLE WASTE

(1) The owner or person in charge of a premise, or a portion thereof, shall not allow combustible waste to accumulate in any area or in any manner on the premise, creating a fire hazard or other threatening danger.

(2) Combustible waste shall be properly stored, as dictated by the Municipality and the Controlling Authority, or disposed of in a prescribed manner to prevent a fire hazard or other threatening danger.

18. COMBUSTIBLE MATERIAL

(1) The owner or occupant or person in charge of a premise may not store, transport, stack, or cause or permit any combustible material or a flammable substance, to be stored, transported, used or stacked, whether inside or outside a premises or a building in quantities or in a manner likely to cause or create a fire hazard or other threatening danger.

(2) The owner or occupant or person in charge of a premise, may not permit vegetation or any other combustible material to accumulate thereon in quantities or in a manner likely to cause or create a fire hazard or other threatening danger.

19. LIGHTING OF FIRES AND THE BURNING OF COMBUSTIBLE MATERIAL

(1) The lighting of fires in any other place, except the areas and places designated for open fires for barbequing and / or cooking, and the disposal of combustible material by burning shall be prohibited, except when written approval has been provided for it by the Controlling Authority and the Municipality.

(2) A person may only light a fire for the purpose of preparing food or for any other domestic purpose, on condition that such fire shall not cause a fire hazard or other threatening danger, that fires shall only be made in places specifically prepared and reserved for such purpose, and that open fires not be prohibited by any sign, instruction or other legislation in the locality where it are lit.

(3) Burning of combustible material may only take place, after written approval has been obtained from the Controlling Authority and the Municipality.

20. REPORTING OF ACCIDENTS OR INCIDENTS

When an accident or incident occurs, which involves a flammable substance and a resulting fire, explosion, spillage or the loss of a flammable substance, as well as personal injury or death, the owner or person in charge of such a premises, building, installation or vehicle shall immediately notify the Controlling Authority and the Municipality of the accident or incident, for emergency planning to be implemented to prevent further damage or loss of life.

21. SPRAY PAINTING ROOMS, BOOTHS OR AREAS

Any spray painting room, booth or area designated for the application of a flammable liquid by spraying, shall be constructed and equipped in such a manner as to comply with safety regulations promulgated in terms of the Occupational Health and Safety Act, and shall be approved and regularly inspected by the Municipality for compliance to National Building Regulations and the Controlling Authority for compliance to procedures, methods and practices for fire safety.

22. TRANSPORTATION OF DANGEROUS GOODS

(1) The operator of a vehicle designed and used for the transportation of dangerous goods on public roads, may not operate such a vehicle in the area of jurisdiction of the Municipality, unless a dangerous goods transportation certificate has been issued to the operator by a fire brigade service, as contemplated in terms of the National Road Traffic Act.

(2) An operator of a vehicle transporting dangerous goods in or through the area of jurisdiction of the Municipality, shall submit an application for a dangerous goods transportation certificate to the Controlling Authority for fire brigade services in the area of jurisdiction of the Municipality.

(3) The Controlling Authority may request additional information from an applicant for a dangerous goods transportation certificate, when an application has been received.

(4) The Controlling Authority shall refuse to issue or renew a transportation certificate for dangerous goods, when a vehicle does not comply with the requirements of the applicable SANS codes and when the Controlling

Authority is of the opinion that the defects on a vehicle cannot be remedied easily and / or immediately, and in such instance the Municipality shall be requested to declare the vehicle concerned un-roadworthy for the transportation of dangerous goods.

(5) A dangerous goods transportation certificate shall be renewed annually, on or before the date as indicated on the certificate concerned, or whenever major maintenance or repairs have been performed on the vehicle concerned.

(6) When the Controlling Authority, at any time becomes aware that the usage of a vehicle is not in accordance with the dangerous goods transportation certificate issued, the Controlling Authority shall act in terms of subsections 5(3) and 8(1) of this by-law, and in collaboration with the Municipality take the required actions against the transgressions, which shall include, but is not limited to, the revoking of the dangerous goods certificate issued.

(7) A dangerous goods certificate is only valid for the vehicle for which it was issued.

(8) A dangerous goods certificate shall always be available in a vehicle transporting dangerous goods, and shall be presented for inspection when requested by an authorized official.

(9) The Controlling Authority in collaboration with the Municipality, shall keep records of all vehicles in respect of which a dangerous goods certificate has been issued, amended and renewed.

CHAPTER 4:
GENERAL PROVISIONS

23. 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 community fire safety.

(2) A community liaison forum may consist of –

(a) a member or members of an interested 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 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 23(2) of this by-law, may on their own initiative provide input to the Municipality for consideration.

24. 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 24(2)(a), 24(2)(b) or 24(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.

25. 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.

26. OFFENCES AND PENALTIES

(1) 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 expenses, deemed by the Court, to have been incurred by the Municipality as a result of such contraventions.

(2) The imposition of a penalty for any contravention shall not excuse the contravention, nor may the contravention be permitted to continue.

(3) The Controlling Authority shall instruct a person found guilty of a contravention, to correct or remedy the contravention or defect concerned at own costs, within a time period specified by the Controlling Authority.

27. 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.

28. 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.

29. SHORT TITLE

This by-law shall be called the Community Fire Safety By-law of the Theewaterskloof Municipality.

30. OPERATIVE DATE.

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

MUNISIPALITEIT VAN THEEWATERSKLOOF

VERORDENING INSAKE GEMEENSKAPSBRANDVEILIGHEID

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 erken:

(i) dat elkeen die grondwetlike reg het op 'n omgewing wat nie skadelik vir hulle veiligheid of welstand is nie;
(ii) dat verliese as gevolg van brand, en die gevolglike ekonomiese en maatskaplike gevolge vir mense, eiendom en infrastruktuur, onnodige ontbering veroorsaak;
(iii) dat die beskerming van alle sektore van die gemeenskap teen brandverwante insidente, bedreigings en skade, 'n belangrike aspek van die ontwikkeling en volhoubaarheid van die ekonomie is;
(iv) dat sekere aspekte van die daaglikse bestaan van mense op so 'n wyse beheer moet word, dat die gevolge van brande vir die gemeenskap as geheel voorkom en verminder kan word;
(v) dat die gemeenskap 'n deurslaggewende rol ter verwesenliking van die doelwitte van hierdie verordening het om te speel; en
(vi) dat binne die beperking van die beskikbare bronne van befondsing, die voordele van 'n brandveilige omgewing vir almal toeganklik moet wees.

Die doel en bestek van hierdie verordening is:
(i) om 'n brandveilige omgewing tot die voordeel van alle persone in die gebied van jurisdiksie van die Munisipaliteit van Theewaterskloof, te bewerkstellig en te bevorder; en
(ii) om voorsiening te maak vir prosedures, metodes en praktyke om brandveiligheid in die gebied van jurisdiksie van die Munisipaliteit van Theewaterskloof te reguleer.

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HOOFSTUK 1:
INTERPRETASIE

1. INTERPRETASIE

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

"afskortingskeidingselement", 'n bou-element of komponent wat een area in 'n gebou van 'n ander area skei, met 'n brandweerstand van minstens die vereistes soos voorgeskryf in die Nasionale Bouregulasies, soos afgekondig in terme van artikel 17(1) van die Wet op Nasionale Bouregulasies en Boustandaarde, 1977 (Wet No 103 van 1977), soos gewysig, en **"okkupasieskeidingselement"** het 'n ooreenstemmende betekenis;

"Beheerowerheid", is die Overberg Distrikmunisipaliteit, verteenwoordig deur die Hoof Brandweerbeampte, soos aangestel deur die Overberg Distrikmunisipaliteit, of die Munisipale Bestuurder van die Overberg Distrikmunisipaliteit, of hulle onderskeie aangestelde gemagtigdes;

"brandbare afval of materiaal", is brandbare afval of materiaal, en kan enige brandbare vesels, plantmateriaal, hooi, strooi, hare, vere, dons, houtskaafsels en -afdraaisels, rubberafsnysels, alle tipe papierprodukte, vuil materiaalsnysels en -afval, en enige mengsel van bogenoende items of enige ander herwinbare materiaal insluit;

"brandbeskermingstelsel", enige toestel of stelsel, insluitend rookalarms, wat ontwerp en geïnstalleer word om -
(a) 'n brand op te spoor, te bestry of te blus; of
(b) okkupeerders of die brandweerdiens, of beide, van 'n brand bewus te maak, maar sluit draagbare en mobiele brandblussers uit;

"brandblusser", 'n draagbare of mobiele herlaaibare houer wat 'n brandblusstof bevat, wat deur die werking van interne druk op 'n vuur uitgespuit word om dit te blus;

"branddeur", 'n outomatiese of selfsluitende deur of luiksamestelling, wat spesifiek sodanig vervaardig en geïnstalleer word, om die deurgang van vuur van een area na 'n ander area vir 'n spesifieke tydperk te verhoed;

"brandgevaar", enige situasie, proses, materiaal of toestand wat 'n brand of 'n ontploffing kan veroorsaak, of 'n geredelike toevoer van brandbare materiaal kan verskaf, wat tydens 'n brand of 'n ontploffing die verspreiding van vuur verhaas of die intensiteit daarvan verhoog, of wat 'n bedreiging vir lewe of eiendom inhou;

"brandbaan of brandgang", die pad, roete of ander deurgang, wat gebou of aangewys of gereserveer word vir noodvoertuie, ten einde voorkeur toegang en reg van voorrang vir noodvoertuie te bied;

"brandmuur", 'n muur wat die effek van 'n brand vir 'n spesifieke tydperk kan weerstaan, soos voorsien in die Nasionale Bouregulasies, soos afgekondig in terme van artikel 17(1) van die Wet op Nasionale Bouregulasies en Boustandaarde, 1977 (Wet No 103 van 1977), soos gewysig;

"brandweerdiens", 'n diens bedoel vir -

(a) die voorkoming van die uitbreek en verspreiding van vure;
(b) die beheer of blus van vure;
(c) die beskerming van lewens of eiendom teen vure en ander dreigende gevare;
(d) die redding van lewens en eiendom van vure en ander gevare;
(e) die uitvoer van inspeksies op persele en by geboue, strukture en voertuie, om voldoening aan prosedures, metodes en praktyke te verseker en brandveiligheid te bevorder; en
(f) die uitvoer van enige ander funksie verbandhoudend tot brandweerdienste en brandveiligheid.

"brandweerhoof", die persoon in beheer van die brandweerdiens as brandweerhoof, of die waarnemende brandweerhoof, soos voorsien in die Wet op Brandweerdienste, 1987 (Wet No 99 van 1987), soos gewysig;

"eienaar", is met betrekking tot eiendom, die geregistreerde eienaar van 'n eiendom, wie of 'n natuurlike persoon of 'n regspersoon kan wees, en sluit die okkupeerder, huurder, serwituuthouer, huurpaghouer, houer van grondregte, houer van regte vir grondokkupasie, trustee, eksekuteur, kurator of aangewysde agent of administrateur van sodanige eiendom in;

"gemagtigde beampte", enige vredesbeampte gemagtig ingevolge artikel 334 van die Strafproseswet, 1977 (Wet No 51 van 1977), soos gewysig, of enige beampte aangestel as 'n verkeersbeampte in terme van artikel 3A van die Wet op Nasionale Padverkeer, 1996 (Wet No 93 van 1996), soos gewysig, of enige beampte van die Beheerowerheid of die Munisipaliteit van Theewaterskloof, wat deur die Munisipaliteit van Theewaterskloof gemagtig is om die bepalings van hierdie verordening af te dwing;

"gevaarlike stowwe", die kommoditeite, substansies en goedere gelys in die standaard spesifikasies van die jongste uitgawe van Standaarde Suid-Afrika-publikasie No. 0288 - "The identification and classification of dangerous substances and goods", of enige hersiening of vervanging daarvan;

"Munisipale Bestuurder", 'n persoon aangestel in terme van artikel 54A van die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet No 32 of 2000), soos gewysig;

"Munisipale Stelselswet", die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet No 32 of 2000), soos gewysig;

"Munisipale Strukturewet", die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet No 117 of 1998), soos gewysig;

"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;

"Nasionale Bouregulasies", die regulasies afgekondig in terme van artikel 17(1) van die Wet op Nasionale Bouregulasies en Boustandaarde, 1977 (Wet No 103 van 1977), soos gewysig;

"Nasionale Padverkeerswet", die Wet op Nasionale Padverkeer, 1996(Wet No 93 van 1996), soos gewysig;

"nood ontruimingsplan", 'n plan spesifiek saamgestel om die okkupeerders van 'n gebou of 'n perseel, tydens die ontruiming van sodanige gebou of perseel weens 'n brand of ander dreigende gevaar te assisteer, en bevat die besonderhede van die pligte van die onderskeie personeellede tydens 'n ontruimingsaksie, ontsnappingsroetes en ander gebeurlikhede vir 'n vinnige en veilige ontruiming van sodanige gebou of perseel;

"noodvoertuig", enige brandweer, redding of ander voertuig bedoel vir gebruik in noodtoestande, soos brande en ander dreigende gevare;

"okkupasieskeidingselement", 'n bou-element of komponent wat een okkupasie in 'n gebou skei van 'n ander, en wat 'n brandweerstand het van minstens die vereiste soos voorgeskryf in die Nasionale Bouregulasies, soos afgekondig in terme van artikel 17(1) van die Wet op Nasionale Bouregulasies, 1977 (Wet No 103 van 1977), soos gewysig;

"okkupeerder van eiendom", enige persoon wat 'n perseel okkupeer of beheer daaroor het of dit bewoon, en sluit **"bewoner"** in;

"ontsnappingsdeur", 'n deur in 'n ontsnappingsroete wat op grondvlak regstreeks uitgang na 'n straat of openbare plek of enige goedgekeurde oop spasie bied, wat gebruik kan word as versamelpunt of plek van veiligheid;

"ontsnappingsroete", die hele roete van die verste punt in enige vertrek of gebou, tot by die naaste ontsnappingsdeur, en kan 'n noodroete insluit;

"ontsnaproeteplan", 'n diagram wat die vloeruitleg, 'n persoon se huidige posisie en die roete na die naaste primêre en sekondêre ontsnaproetes in die betrokke gebou aantoon, asook die stappe wat gevolg moet word in die geval van 'n brand of ander dreigende gevaar;

"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;

"operateur", die persoon verantwoordelik vir die gebruik van 'n motorvoertuig, en wat geregistreer is as die operateur van sodanige voertuig in terme van die Wet op Nasionale Padverkeer, 1996 (Wet No 93 van 1996), soos gewysig;

"Overberg Distriksmunisipaliteit", die Overberg Distriksmunisipaliteit gestig in terme van artikel 12 van die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet No 117 van1998), soos gewysig, ingevolge Provinsiale Kennisgewing 486 van 2000, gedateer 22 September 2000, en soos gewysig per Provinsiale Kennisgewing 162 van 2004, gedateer 20 Augustus 2004, wat insluit enige verwysing na behoorlike gemagtigde en / of aangestelde beamptes en / of diensverskaffers, in terme van dienslewering sooreenkomste van die Overberg Distrikmunisipaliteit;

"perseel", enige gedeelte grond geleë in die regsgebied van die Munisipaliteit van Theewaterskloof, waarvan die buitegrense afgebaken is op 'n algemene plan of 'n diagram of 'n deeltitelplan, en wat ingevolge die toepaslike wetgewing geregistreer is, wat insluit 'n gebou of struktuur wat op 'n gedeelte grond gebou of opgerig is, en sluit vir doeleindes van hierdie verordening, enige lokomotief of ander vaartuig of voertuig in, wat opereer of teenwoordig is in die gebied van jurisdiksie van die Munisipaliteit van Theewaterskloof;

"persoon", sluit vir doeleindes van hierdie verordening, 'n natuurlike persoon, 'n regspersoon, enige onderneming, 'n vereniging of organisasie of 'n instelling van die staat in;

"persoon in beheer", is -

(a) met betrekking tot 'n perseel, 'n natuurlike of regspersoon wat permanent of tydelik verantwoordelik is vir die bestuur, instandhouding of benutting van 'n perseel;
(b) met betrekking tot 'n gebou, 'n natuurlike of regspersoon wat permanent of tydelik verantwoordelik is vir die bestuur, instandhouding of benutting van 'n gebou;
(c) met betrekking tot 'n installasie 'n natuurlike of regspersoon wat permanent of tydelik verantwoordelik is vir die bestuur of benutting van 'n installasie; en
(d) in die geval as die Beheerowerheid nie in staat is om die identiteit van die persoon soos bedoel in (a), (b) en (c) te bepaal nie, enige persoon wat geag in beheer van sodanige perseel, gebou of installasie te wees.

"plek van samekoms vir vermaak en openbare byeenkomste", 'n plek waar mense byeenkom vir interaksie met mekaar, of bymekaarkom om te vergader, te sosialiseer, te eet, te drink en te dans, of om deel te neem aan vermaak of een of ander vorm van ontspanning;

"populasie", die populasie soos bepaal in ooreenstemming met die Nasionale Bouregulasies, soos afgekondig in terme van artikel 17(1) van die Wet op Nasionale Bouregulasies en Boustandaarde, 1977 (Wet No 103 van 1977), soos gewysig;

"SANS-kode", 'n Suid-Afrikaanse Nasionale Standaard, soos voorsien in die Wet op Standaarde, 2008 (Wet No. 8 van 2008), soos gewysig, en die gebruik van die afkorting "SANS", gevolg deur 'n series van nommers, verwys na 'n spesifieke SANS-kode van praktyke, spesifikasies of standaarde, wat onder die spesifieke nommer gepubliseer is;

"SANS 1186-1", die jongste uitgawe van Standaarde Suid-Afrika-publikasie No. 1186-1, getitel "Symbolic safety signs - Part 1: Standard signs and general requirements", of enige hersiening of vervanging daarvan;

"SANS 1253", die jongste uitgawe van Standaarde Suid-Afrika-publikasie No. 1253, getitel "Fire doors and fire shutters", of enige hersiening of vervanging daarvan;

"staatsinstelling", is -

(a) enige staatsdepartement of administrasie in die nasionale, provinsiale of plaaslike sfeer van regering; of

(b) enige funksionaris of instelling –

(i) wat 'n mag uitoefen of 'n funksie vervul in terme van die Grondwet van die Republiek van Suid-Afrika, 1996 of 'n provinsiale grondwet; of

(ii) wat 'n mag uitoefen of 'n publieke funksie vervul in terme van wetgewing, maar sluit 'n hof of 'n regterlike beampte uit;

"vlambare vloeistof", 'n vloeistof of mengsel van vloeistowwe, of 'n vloeistof wat vaste stowwe in oplossing of in suspensie bevat, wat 'n damp afgee by of onder sestig-punt-vyf (60.5) grade Celsius, of 'n vloeistof soos deur SANS-kodes bepaal;

"voertuig", 'n voertuig soos omskryf in die die Wet op Nasionale Padverkeer, 1996(Wet No 93 van 1996), soos gewysig, en sluit in -

(a) **"padtenkvoertuig",** 'n tenkvragmotor, tenksleepwa of 'n kombinasie van 'n voorspanmotor en tenkleunwa;

(b) **"tenkleunwa",** 'n voertuig met 'n tenk daarop gemonteer of daarop gebou, sodat wanneer die leunwa deur 'n voorspanmotor of ander sleepwa gesleep word by wyse van 'n vyfdewielverbinding, 'n deel van die las op die sleepvoertuig rus;

(c) **"tenksleepwa",** 'n voertuig met 'n tenk daarop gemonteer of op so 'n wyse daarop gebou, dat wanneer die tenksleepwa deur 'n tenkvragmotor gesleep word, feitlik die hele las op die wiele van die tenksleepwa rus;

(d) **"tenkvragmotor",** 'n enkele selfaangedrewe voertuig met 'n tenk daarop gemonteer;

(e) **"voorspanwa",** 'n selfaangedrewe voertuig, met geen tenk daarop gemonteer nie, wat gebruik word om 'n tenkleunwa te sleep; en

(f) enige ander voertuig wat ingevolge die diskresie van die beheerowerheid 'n voertuig is wat gevaarlike stowwe vervoer.

"Wet op Beroepsgesondheid en Veiligheid", die Wet op Beroepsgesondheid en Veiligheid, 1993 (Wet No 85 van 1993), soos gewysig;

"Wet op Brandweerdienste", die Wet op Brandweerdienste, 1987 (Wet No 99 van 1987), soos gewysig;

"Wet op Standaarde", die Wet op Standaarde, 2008 (Wet No 8 van 2008), soos gewysig;

HOOFSTUK 2:
DIENSLEWERING EN ADMINISTRATIEWE BEPALINGS

2. LEWERING VAN BRANDWEERDIENSTE

(1) Brandweerdienste in die gebied van jurisdiksie van die Munisipaliteit sal deur die Overberg Distrikmunisipaliteit gelewer word.

(2) Die Overberg Distrikmunisipaliteit sal die beheerowerheid wees vir die implementering van prosedures, metodes en praktyke om brandveiligheid te reguleer en te bevorder.

3. ADMINISTRASIE EN TOEPASSING VAN DIE VERORDENING

(1) Indien brandweerdienste nie in die area van jurisdiksie van die Munisipaliteit deur die Munisipaliteit self gevestig en gelewer word nie, maar die lewering van brandweerdienste word onderneem deur 'n ander munisipaliteit of staatsinstelling, sal die Munisipale Bestuurder van die Munisipaliteit verantwoordelik daarvoor wees om toesig te hou oor die administrasie en toepassing van hierdie verordening, terwyl die betrokke munisipaliteit of staatsinstelling wat die brandweerdiens lewer, as beheerowerheid hierdie verordening en enige ander verordening verbandhoudend tot brandveiligheid sal administreer en toepas, en prosedures, metodes en praktyke implementeer om brandveiligheid te reguleer en te bevorder.

(2) Hierdie verordening is van toepassing op alle persele en persone in die gebied van jurisdiksie van die Munisipaliteit, en sluit beide die formele en informele sektore van die gemeenskap en ekonomie in.

4. DELEGASIES

Die Munisipale Bestuurder mag enige bevoegdheid aan hom of haar verleen in terme van hierdie verordening delegeer, onderhewig aan die delegasiestelsel van die Munisipaliteit, soos ontwikkel in terme van artikel 59 van die Munisipale Stelselswet.

5. TOEPASSING VAN BEPALINGS DEUR DIE BEHEEROWERHEID

(1) Die Beheerowerheid mag verordeninge verbandhoudend tot die regulering van brandveiligheid en / of die lewering van brandweerdienste in die gebied van jurisdiksie van die Munisipaliteit afkondig, vir toepassing in die gebied van jurisdiksie van die Munisipaliteit.

(2) Die Beheerowerheid mag in samewerking met die Munisipaliteit, wanneer dit as noodsaaklik of raadsaam geag word om dit te doen –

(a) op enige redelike tyd enige perseel betree, om te bepaal of daar voldoen word aan die prosedures, metodes en praktyke om brandveiligheid te reguleer en te bevorder; en

(b) aksies implementeer, om enige oortreding van die prosedures, metodes en praktyke vir die regulering en bevordering van brandveiligheid aan te spreek, ten einde die onmiddelike risiko's vir 'n brandgevaar of ander dreigende gevaar te verminder.

(3) Die Beheerowerheid moet enige oortreding geïdentifiseer ingevolge subartikel 5(2) van hierdie verordening, aanspreek deur die nodige aksies en verligtingmaatreëls te implementeer, en mag –

(a) die onmiddelike ontruiming van 'n perseel vereis;

(b) die sluiting van enige perseel of fasiliteit gelas, totdat die betrokke oortreding gekorrigeer word;

(c) die staking van enige aktiwiteit gelas; en

(d) die verwydering van enige onmiddelike bedreiging vir brandveiligheid gelas.

6. BEVOEGDHEID OM ONDERSOEKE TE DOEN

Nieteenstaande enigiets tot die teendeel vervat in ander wetgewing of verordening verbandhoudend tot brandveiligheid, het 'n beheerowerheid in oorleg met die Munisipaliteit, die bevoegdheid om die oorsaak, bron en omstandighede van enige brand of brandgevaar of enige ander dreigende gevaar te ondersoek, vir doeleindes van die bevordering van brandveiligheid.

7. UITREIKING VAN SKRIFTELIKE KENNISGEWINGS

Indien die Munisipaliteit en die Beheerowerheid bevind dat daar nie aan die bepalings van hierdie verordening voldoen word nie, uitgesluit die versuime soos na verwys in subartikel 5(3) van hierdie verordening, moet die instellings in oorleg met mekaar besluit watter aksies om te implementeer en 'n skriftelike kennisgewing uitreik aan 'n oortreder, welke kennisgewing die volgende inligting moet bevat -

(a) bevesting van die bevindings aangaande nie-voldoening;

(b) die bepalings van hierdie verordening wat oortree word;

(c) die regstellende aksies wat vereis word om die versuime te korrigeer; en

(d) die teikendatum vir voldoening.

8. WEIERING, OPSKORTING OF HERROEPING VAN GOEDKEURINGS OF SERTIFIKATE

(1) Die Munisipaliteit mag deur die Beheerowerheid versoek word, om enige magtigings of die goedkeuring van enige sertifikate, wat deur die Munisipaliteit verleen en / of uitgereik word, te weier, op te skort of te herroep, wanneer die eienaar of okkupeerder of persoon in beheer van 'n perseel versuim om te voldoen aan prosedures, metodes en praktyke om brandveiligheid te reguleer en te bevorder.

(2) Die Beheerowerheid mag enige goedkeuring of sertifikaat wat uitgereik moet word vir brandveiligheidsertifisering in die gebied van jurisdiksie van die Munisipaliteit, weier, opskort of herroep vir enige versuim of nie-voldoening aan die bepalings van hierdie verordening of enige ander verordening verbandhoudend tot brandveiligheid.

9. VEREISTES VIR REKORDHOUDING

Die veilige bewaring van alle tersaaklike rekords en dokumente verbandhoudend tot brandveiligheid of enige bepaling van hierdie verordening, is die gesamentlike verantwoordelikheid van die Munisipaliteit en die Beheerowerheid, en die betrokke instellings moet gesamentlik ooreenkom oor hoe die betrokke rekords en dokumente veilige bewaar gaan word.

10. FOOIE EN TARIEWE

(1) Die Beheerowerheid moet, in oorleg met die Munisipaliteit, die fooie betaalbaar deur 'n persoon, of eienaar of okkupeerder van 'n perseel, namens wie die Beheerowerheid in die gebied van jurisdiksie van die Munisipaliteit 'n brandveiligheidsdiens of 'n diens soos voorsien in artikel 10 van die Wet op Brandweerdienste gelewer het, bepaal.

(2) Die Munisipaliteit mag ingevolge die Tariewe Verordening van die Munisipaliteit van Theewaterskloof, fooie en tariewe bepaal en hef vir enige inspeksie, her-inspeksie of ander diens gelewer, of die uitreiking van 'n magtiging of 'n sertifikaat met betrekking tot brandveiligheid en verwante sake, indien sodanige inspeksie of diens of uitreiking van 'n magtiging of 'n sertifikaat, nie deur die Beheerowerheid onderneem of voorsien word nie.

HOOFSTUK 3:
BRAND EN PUBLIEKE VEILIGHEID

11. RAPPORTERING VAN BRANDGEVARE EN ANDER DREIGENDE GEVARE VIR BRANDVEILIGHEID

(1) Die eienaar of okkupeerder of die persoon in beheer van 'n perseel, moet wanneer enige bewyse van 'n brandgevaar of 'n ander dreigende gevaar gevind word, onmiddelik die Beheerowerheid of die Munisipaliteit daarvan in kennis stel.

(2) Wanneer 'n brandgevaar of 'n ander dreigende gevaar gerapporteer word aan die Munisipaliteit, moet die Munisipaliteit onmiddelik die Beheerowerheid in kennis stel, sodat die nodige aksies ingevolge voorafbepaalde protokolle geïmplementeer kan word.

(3) Wanneer 'n brandgevaar en / of ander dreigende gevaar vir brandveiligheid aan die Beheerowerheid gerapporteer word, moet die Beheerowerheid 'n verslag in 'n voorafbepaalde formaat aan die Munisipaliteit verskaf oor die geïdentifiseerde brandgevaar en / of bedreiging, en die aksies wat benodig was en nog onderneem moet word om die gerapporteerde brandgevaar en / of bedreiging aan te spreek, ten einde te verseker dat enige verdere aksies wat nog deur die Munisipaliteit onderneem moet word met betrekking tot die aangeleentheid, onder die aandag van die Munisipaliteit gebring word.

(4) Die Munisipaliteit en die Beheerowerheid, moet gesamentlik 'n formaat vir rapportering aan mekaar oor brandgevare, bedreigings vir brandveiligheid, inspeksies uitgevoer vir brandveiligheid, brandweerdienste benodig en gelewer, en verwante sake, bepaal en implementeer.

12. BRANDBESKERMING EN –VEILIGHEID BY GEBOUE

(1) Die Beheerowerheid moet in terme van subartikel 5(3) en / of subartikel 8(1) van hierdie verordening, en in oorleg met die Munisipaliteit prosedures, metodes en praktyke om brandveiligheid te reguleer en te bevorder opstel en implementeer, en verseker dat geen oortreding van die Nasionale Bouregulasies met betrekking tot brandbeskerming en brandveiligheid by geboue voorkom nie.

(2) Die Beheerowerheid moet verseker dat daar op alle persele en by alle geboue -

(a) toegang vir noodvoertuie bestaan;

(b) brandbane en / of brandgange op publieke paaie en persele voorsien word, soos toepaslik;

(c) afskortingskeidingselemente en / of okkupasieskeidingselemente en / of brandmure in geboue voorsien word en dat sodanige bou-elemente of komponente nie onwettig gewysig word nie;

(d) branddeure en luiksamestellings in geboue in ooreenstemming met SANS 1253 in stand gehou word;

(e) ontsnappingroetes en -deure, en ontsnaproeteplanne op persele en in geboue, behoorlik beplan, geformuleer, gemerk en / of in stand gehou word;

(f) ontsnappingroetes duidelik met tekens gemerk word wat voldoen aan SANS 1186-1; en

(g) brandveiligheidtoerusting, wat insluit, maar nie beperk is tot, brandblussers, brandbeskermingstelsels, brandalarms, rookalarms, brandkrane, voldoen aan die vereistes van die Nasionale Bouregulasies, die Wet op Beroepsgesondheid en Veiligheid, en die onderskeie toepaslike SANS-kodes, en verskaf en onderhou word ingevolge voorafbepaalde voorskrifte.

13. OPRIGTING VAN TENTE EN STRUKTURE VIR GELEENTHEDE

(1) Voor die tydelike oprigting en gebruik van 'n tent of 'n ander struktuur vir 'n geleentheid, vir 'n okkupasiekategorie soos voorsien in terme van die Nasionale Bouregulasies, moet 'n applikant -

(a) 'n aansoek indien by die Munisipaliteit in terme van die Nasionale Bouregulasies, vir die oprigting en gebruik van sodanige tent of ander struktuur vir 'n geleentheid; en

(b) 'n aansoek in terme van subartikel 14(1) van hierdie verordening by die Beheerowerheid indien, vir 'n geskiktheidsertifikaat vir publieke veiligheid vir sodanige tent of ander struktuur gebruik vir die beoogde geleentheid.

(2) Die Beheerowerheid moet in oorleg met die Munisipaliteit, verseker dat 'n aansoek vir die tydelike oprigting van 'n tent of 'n ander struktuur vir 'n geleentheid, voldoen aan en / of die volgende inligting bevat -

(a) 'n voorafbepaalde en aanvaarbare plasing op die betrokke perseel vir doeleindes van brandveiligheid van die tent of ander struktuur;

(b) behoorlike toegang vir noodvoertuie;

(c) voldoening aan die bepalings van die Nasionale Bouregulasies, met verwysing na, die toelaatbare populasie by die geleentheid, populasie digtheid by die geleentheid, gebruik gedurende die nag, sitplekreëlings, en die voorsiening van brandblussers;

(d) 'n verbod of beperking van voedselvoorbereiding in of naby 'n tentof ander struktuur;

(e) 'n verbod op oop vure in 'n tent of ander struktuur;

(f) 'n verbod op die gebruik van oop vlamme, soos kerse, fakkels of lanterns in 'n tent of ander struktuur;

(g) 'n verbod op rook, en die aanbring van nie-rook tekens soos voorgeskryf in terme van SANS 1186-1;

(h) elektriese en beligting installasies wat voldoen aan die toepaslike kodes vir praktyk vir die bedrading van persele; en

(i) enige ander vereistes vir brandveiligheid soos deur die Beheerowerheid bepaal.

14. VOORKOMING EN BEHEER VAN OORBEVOLKING

(1) Voor die gebruik van 'n perseel of 'n fasiliteit vir vermaak of 'n publieke geleentheid, moet die eienaar of die persoon in beheer van sodanige perseel of fasiliteit by die Beheerowerheid vir 'n geskiktheidsertifikaat vir publieke veiligheid vir die betrokke perseel of fasiliteit aansoek doen, indien so vereis deur die Beheerowerheid en of die Munisipaliteit.

(2) Die Munisipaliteit mag nie enige geleentheid goedkeur in terme van die Verordening insake die Hou van Geleenthede van die Munisipaliteit van Theewaterskloof nie, alvorens die Beheerowerheid insette gelewer het op sodanige aansoek, en die vereistes vir 'n geskiktheidsertifikaat vir publieke veiligheid aangedui het, soos voorsien in subartikel 14(1) van hierdie verordening.

15. FORMULERING VAN 'n NOODONTRUIMINGSPLAN

(1) Die eienaar en / of persoon in beheer van 'n skool, hospitaal, residensiële instelling, hotel, gastehuis, hostel, of enige soortgelyke fasiliteit, wat 'n okkupasie kapasiteit van meer as vyf-en-twintig (25) persone het, wat personeel insluit, moet 'n noodontruimingsplan vir sodanige fasiliteit formuleer, wat die gepaste aksies wat deur die personeel en okkupeerders onderneem moet word tydens 'n brand of ander dreigende gevaar, uiteensit.

(2) Die Beheerowerheid mag die eienaar of die persoon in bevel van enige perseel, gelas om, bo en behalwe die reëlings soos voorsien in subartikel 15(2) van hierdie verordening, ook addisionele noodontruiming beplanning te formuleer vir gepaste aksies tydens 'n brand of ander dreigende gevaar.

16. BRANDVEILIGHEID BY VAKANTE GEBOUE EN PERSELE

Die eienaar of persoon in beheer van 'n gebou of perseel of enige gedeelte daarvan wat vakant en verlate is, moet tot bevrediging van die Munisipaliteit en die Beheerowerheid, alle brandbare afval of materiaal van die betrokke perseel of gebou verwyder en moet die perseel of gebou sluit, versper of andersins beveilig, deur alle vensters, deure en / of openinge af te sluit en / of te versper, om die betreding deur ongemagtigde persone van 'n vakante en verlate perseel of gebou, en die gevolglike ontstaan van brandgevare te voorkom.

17. BRANDBARE AFVAL

(1) Die eienaar of persoon in beheer van 'n gebou of 'n perseel of 'n gedeelte daarvan, mag nie toelaat dat brandbare afval opgaar in enige area of op enige wyse op 'n perseel nie, wat tot 'n brandgevaar of ander dreigende gevaar aanleiding kan gee.

(2) Brandbare afval moet behoorlik op 'n wyse soos voorgeskryf deur die Munisipaliteit en die Beheerowerheid gestoor word, of moet op 'n voorgeskrewe wyse mee weggedoen word om 'n brandgevaar of ander dreigende gevaar te voorkom.

18. BRANDBARE MATERIAAL

(1) Die eienaar of okkupeerder of persoon in beheer van 'n perseel mag nie enige brandbare materiaal of vlambare substansie, stoor, vervoer, stapel, of veroorsaak of toelaat dat enige brandbare materiaal of vlambare substansie, gestoor, vervoer, gebruik of gestapel word, hetsy binne of buite 'n perseel of gebou, in sodanige hoeveelhede en op sodanige wyse dat dit 'n brandgevaar of ander dreigende gevaar meebring of veroorsaak nie.

(2) Die eienaar of okkupeerder of persoon in beheer van 'n perseel mag nie toelaat, dat plantmateriaal of enige ander brandbare matreriaal op 'n perseel in sodanige hoeveelhede en op sodanige wyse opgaar, dat dit 'n brandgevaar of ander dreigende gevaar meebring of veroorsaak.

19. AANSTEEK VAN VURE EN DIE VERBRANDING VAN BRANDBARE MATERIAAL

(1) Die aansteek van vure, op enige ander plek as die areas en plekke aangewys vir oop vure vir braaivleis en / of voedselvoorbereiding, en die wegdoening met brandbare materiaal deur die verbranding daarvan is verbode, behalwe indien die Beheerowerheid en die Munisipaliteit dit skriftelik goedgekeur het.

(2) 'n Persoon mag 'n vuur slegs vir doeleindes van kosvoorbereiding of vir enige ander huishoudelike doeleindes aansteek, met dien verstande dat dit op so 'n wyse gedoen word dat dit nie 'n brandgevaar of ander dreigende gevaar veroorsaak nie, dat dit slegs op sodanige plekke wat spesifiek vir die doel voorberei en gereserveer is gedoen word, en dat oop vure nie op die betrokke lokaliteit waar dit gemaak word deur enige teken, instruksie of ander wetgewing verbied word nie.

(3) Die brand van vlambare materiaal mag slegs plaasvind, nadat skriftelike goedkeuring daarvoor deur die Beheerowerheid en die Munisipaliteit verleen word.

20. RAPPORTERING VAN ONGELUKKE EN INSIDENTE

Wanneer 'n ongeluk of insident plaasvind waarby 'n vlambare substansie betrokke is, met 'n gevolglike brand, ontploffing, storting of verlies van 'n vlambare substansie, wat ook beserings aan of die dood van persone veroorsaak, moet die eienaar of persoon in beheer van die betrokke perseel, gebou, installasie of voertuig, onmiddelik die Beheerowerheid en die Munisipaliteit in kennis stel van die ongeluk of insident, sodat noodbeplanning in werking gestel kan word om verdere skade en verlies aan lewe te voorkom.

21. SPUITVERFKAMERS, -TENTE OF AREAS

Enige spuitverfkamer, -tent of area bedoel vir die aanwending van 'n vlambare vloeistof deur middel van bespuiting, moet sodanig gekonstrueer en toegerus wees, dat dit voldoen aan die veilgheidsregulasies afgekondig in terme van die Wet op Beroepsgesondheid en Veiligheid, en moet deur die Munisipaliteit goedgekeur en gereeld geïnspekteur word om te bepaal of daar voldoen word aan die bepalings van Nasionale Bouregulasies, en deur die Beheerowerheid goedgekeur en gereeld geïnspekteur word om te bepaal of daar voldoen word aan die prosedures, metodes en praktyke vir brandveiligheid.

22. VERVOER VAN GEVAARLIKE STOWWE

(1) Die operateur van 'n voertuig ontwerp en gebruik vir die vervoer van gevaarlike stowwe op openbare paaie, mag nie sodanige voertuig bedryf in die gebied van juirisdiksie van die Munisipaliteit nie, tensy 'n sertifikaat vir die vervoer van gevaarlike stowwe deur 'n brandweerdiens, soos voorsien in terme van die Nasionale Padverkeerswet, aan die operateur uitgereik is.

(2) Die operateur van 'n voertuig wat gevaarlike stowwe vervoer in of deur die gebied van jurisdiksie van die Munisipaliteit, moet 'n aansoek vir 'n sertifikaat vir die vervoer van gevaarlike stowwe by die Beheerowerheid vir brandweerdienste in die gebied van jurisdiksie van die Munisipaliteit indien.

(3) Die Beheerowerheid mag addisionele inligting van 'n applikant vir 'n sertifikaat vir die vervoer van gevaarlike stowwe aanvra, wanneer 'n aansoek ontvang word.

(4) Die Beheerowerheid moet weier om 'n sertifikaat vir die vervoer van gevaarlike stowwe uit te reik of te hernu, indien 'n voertuig nie aan die vereistes van die toepaslike SANS-kodes voldoen nie en indien die Beheerowerheid van opinie is dat die gebreke van 'n betrokke voertuig van so 'n aard is dat die betrokke gebreke van die voertuig nie onmiddelik en / of maklik herstel kan word nie, moet die Munisipaliteit versoek word om die betrokke voertuig as onpadwaardig vir die vervoer van gevaarlike stowwe te verklaar.

(5) 'n Sertifikaat vir die vervoer van gevaarlike stowwe moet jaarliks hernu word, op of voor die datum soos op die betrokke sertifikaat aangedui, of wanneer die betrokke voertuig 'n groot diens ondergaan of herstel word.

(6) Wanner die Beheerowerheid, op enige tydstip bewus raak dat die gebruik van 'n voertuig nie in ooreenstemming met die uitgereikte sertifikaat vir die vervoer van gevaarlike stowwe geskied nie, moet die Beheerowerheid in terme van subartikels 5(3) en 8(1) van hierdie verordening optree, en in oorleg met die Munisipaliteit die nodige stappe teen die oortredings implementeer, wat sal insluit, maar nie beperk is tot, die herroeping van die uitgereikte sertifikaat vir die vervoer van gevaarlike stowwe.

(7) 'n Sertifikaat vir die vervoer van gevaarlike stowwe sal slegs geldig wees vir die voertuig waarvoor dit uitgereik word.

(8) 'n Sertifikaat vir die vervoer van gevaarlike stowwe moet altyd beskikbaar wees in 'n voertuig wat gevaarlike stowwe vervoer, en moet getoon word vir inspeksie op versoek van 'n gemagtigde beampte.

(9) Die Beheerowerheid in oorleg met die Munisipaliteit, moet rekords byhou van alle sertifikate vir die vervoer van gevaarlike stowwe wat uitgereik, gewysig en hernu word.

HOOFSTUK 4:
ALGEMENE BEPALINGS

23. GEMEENSKAPSKAKELFORUMS

(1) Die Munisipaliteit mag een of meer 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 gemeenskapsbrandveiligheid te bevorder.

(2) 'n Skakelforum mag bestaan uit –
- (a) 'n lid of lede van 'n belangegroep en / of geaffekteerde persone;
- (b) 'n lid of lede van die gemeenskap; en

(c) 'n aangewese beampte of beamptes van die Munisipaliteit of staatsinstellings.

(3) (a) Die Munisipaliteit mag wanneer 'n aansoek om toestemming 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 23(2) van hierdie verordening, mag op eie inisiatief 'n inset aan die Munisipaliteit vir oorweging verskaf.

24. 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 24(1)(a), 24(1)(b) of 24(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.

25. 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.

26. STRAFBEPALINGS

(1) Enige 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 wat 'n gemagtigde beampte verhinder in die uitvoering van sy of haar pligte, begaan 'n misdryf 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 of 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.

(2) Die oplegging van 'n straf vir enige oortreding verskoon nie die oortreding nie, en die oortreding mag ook nie toegelaat word om voort te duur nie.

(3) Die Beheerowerheid moet 'n persoon wat skuldig bevind word aan 'n oortreding, opdrag gee om die betrokke oortreding of defek te korrigeer of te herstel op eie koste, binne 'n tydperk soos bepaal deur die Beheerowerheid.

27. 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.

28. HERROEPING VAN VERORDENINGE

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.

29. KORT TITEL

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

30. INWERKINGTREDING.

Hierdie verordening tree op datum van publikasie daarvan in werking.

THEEWATERSKLOOF MUNICIPALITY

ELECTRICITY SUPPLY 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 regulate the distribution and supply of electricity in the area of jurisdiction of the Theewaterskloof Municipality, and to provide for matters incidental thereto.

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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 -

"accredited person", means a person registered in terms of the Occupational Health and Safety Regulations as an electrical tester for single phase, an installation electrician or a master installation electrician, as the case may be;

"applicable standard specification", means -
(a) SANS 1019:2008 - Standard voltage-, currents- and insulation levels for electricity supply, or any revision or substitution thereof;
(b) SANS 1607 – Electro-mechanical watt-hour meters, or any revision or substitution thereof;
(c) SANS 1524 Parts 1 & 2 - Electricity dispensing systems, or any revision or substitution thereof;
(d) SANS IEC 60211 - Maximum demand indicators, Class1.0, or any revision or substitution thereof;
(e) SANS IEC 60521 - Alternating current electro-mechanical watt-hour meter (Classes 0.5, 1 & 2), or any revision or substitution thereof;
(f) SANS 0142:2009 - Code of practice for the wiring of premises, or any revision or substitution thereof;
(g) NRS 047 - National rationalized specification for electricity supply: Quality of Service, or any revision or substitution thereof;
(h) NRS 048 - National rationalized specification for electricity supply: Quality of Supply, or any revision or substitution thereof; and
(i) NRS 057 - Electricity metering: Minimum requirements, or any revision or substitution thereof;

"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;

"authorized electrical official", means a competent person in the Electricity Department of the Theewaterskloof Municipality, who is authorized in terms of statutory stipulations to carry out switching on MV systems;

"certificate of compliance", means a compliance certificate issued in terms of the Occupational Health and Safety Regulations in respect of an electrical installation or part of an electrical installation by an accredited person;

"credit meter", means a meter which measure the consumption of a service, which service per arrangement is based on the principle of use a service now and pay for it later;

"customer", means a person or organisation or institution, with whom the Theewaterskloof Municipality has concluded an agreement for the provision of a municipal service as provided for in the Credit Control and Debt Collection By-Law of the Theewaterskloof Municipality, which includes in relation to premises -

(a) any occupant of a premises or any other person with whom the Theewaterskloof Municipality has contracted to supply or generate electricity; or
(b) when such a premises is not occupied, any person who currently has a valid agreement with the Theewaterskloof Municipality for the supply or generation of electricity to such a premises; or
(c) when there is no such person or occupant, the owner of a premise;

"effective date", means the date on which the responsibility for the delivery of an electricity service is transferred to the Theewaterskloof Municipality;

"electrical contractor", means an electrical contractor as defined in the Occupational Health and Safety Regulations;

"electrical installation", means an electrical installation as defined in the Occupational Health and Safety Regulations;

"**Electricity Regulation Act**" means the Electricity Regulation Act, 2006 (Act No 4 of 2006), as amended;

"generation of electricity", means the process of generating electrical power from any source of primary energy;

"high voltage", means the set of nominal voltage levels that are used in power systems for bulk transmission of electricity in the range of 44 kV<Un to 220 kV, as contemplated in SANS 1019:2008, or any revision or substitution thereof;

"leakage currents", measured in micro amperes, means the leakage of electric current from an electricity installation, as a result of -

(a) the gradual loss of energy from a charged capacitor, caused by the switched-off electronic devices still attached to such a loaded capacitor, which conduct a small amount of current flow, even when the system is turned off;

(b) dielectric leakage caused by dielectric material, being an imperfect insulator with some non-zero conductivity, when used in capacitors allow leakage currents to flow from capacitors;
(c) current leaking from an electrical circuit, flowing through an alternate path;
(d) an unwanted transfer of energy from one electric circuit to another;
(e) current flowing in the electric circuits of electronic assemblies on standby;
(f) a quantum phenomenon, where mobile charge carriers "tunnel" through an insulation; and
(g) leakage from inside transistors and interconnects;

"low voltage", means the set of nominal voltage levels that are used for the alternating current distribution of electricity, and whose upper limit is generally accepted to be an voltage of one thousand (1000) volt for alternating current, or a direct current voltage of one thousand five hundred (1500) volt, as contemplated in SANS 1019:2008, or any revision or substitution thereof;

"medium voltage", means the set of nominal voltage levels that lie above low voltage and below high voltage in the range of 1 kV < Un to 44 kV, as stated in SANS 1019:2008, or any revision or substitution thereof;

"meter", means a device which records the demand and / or the electrical energy consumed, and includes, but is not limited to, conventional meters, prepayment meters, net meters and smart meters;

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

"motor rating", means the maximum continuous kilowatt (kW) output of an electric motor as stated on the maker's rating plate;

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

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

"**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;

"net metering", means measuring the difference between the electricity supplied by the Theewaterskloof Municipality and the electricity generated by a customer over an applicable billing period;

"occupant", means a person who occupies and control land or a premises, and includes a resident, and **"occupier"** has a corresponding meaning;

"owner", means with regard to immovable property, the registered owner of a property, who can be either or a natural or juristic person, and includes the occupant, lessee, holder of a servitude right, holder of a land tenure right, holder of a letter of occupation, holder of a letter of land rights, trustee, executor, curator or appointed agent or administrator of a property;

"point of consumption", means a "point of consumption", as defined in the Occupational Health and Safety Regulations;

"point of metering", means the point at which the consumption of electricity by a customer is measured, and which may be at the point of supply, or at any other point on the distribution system of the Theewaterskloof Municipality, or on the electrical installation of the customer, or any other position as specified by the Theewaterskloof Municipality, provided that the total consumption of electricity by such customer shall be metered;

"point of supply", means the point determined by the Theewaterskloof Municipality at which electricity is supplied to any premises;

"premises" means any portion of land, situated within the area of jurisdiction of the Theewaterskloof Municipality, of which the outer boundaries are demarcated on a general plan or diagram or sectional title plan registered in accordance with applicable legislation;

"pre-payment meter", means a measuring device, that can be programmed to allow the flow of pre-purchased amounts of energy in an electrical circuit through the measuring device in proportion to the amount pre-paid by the consumer;

"property" means –

(a) immovable property registered in the name of a person, including in the case of a sectional title scheme, a sectional title unit registered in the name of a person;
(b) a right registered against immovable property in the name of a person, excluding a mortgage bond registered against a property;
(c) a land tenure right registered in the name of a person or granted to a person in terms of legislation; and
(d) public service infrastructure;

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

"retail wheeling of electricity", means the process of moving electricity generated by a third party, from the point of generation by the third party across distribution systems of transmission lines to a customer, including the transmission lines of the Theewaterskloof Municipality;

"safety standard", means the Code of Practice for the Wiring of Premises SANS 10142-1, or any revision or substitution thereof, as incorporated in the Occupational Health and Safety Regulations;

"SANS", means a South African National Standard;

"service connection", means all the electrical cables and equipment required to connect the municipal supply system, to an electrical installation of a customer, at the identified point of supply;

"service protective device", means any fuse or circuit breaker installed for the purpose of protecting municipal equipment from overloads or faults occurring on the electrical installation or on an internal service connection;

"smart meter", means an electricity meter that has several functions and allows for the measurement of energy consumed on a time interval basis;

"South African Bureau of Standards", means the South African Bureau of Standards, as established in terms of section 2 of the Standards Act, 2008 (Act 8 of 2008), as amended;

"standby electricity supply", means an alternative electricity supply not normally used by a customer, but available for use by a consumer;

"supply system", means any part of the municipal electricity network;

"tariff" means the tariff for the supply of electricity and the applicable sundry fees for electricity, as determined annually in terms of the Tariff By-law of the Theewaterskloof Municipality;

"temporary supply", means the electricity supply required by a customer for a specific period, in terms of conditions negotiated in a temporary supply agreement;

"token", means the element of a pre-payment metering system, used to transfer information from a point of sale for electricity credit to a pre-payment meter; and

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

(2) All other terms or definitions used in this by-law shall, unless the context indicates otherwise, have the meaning assigned thereto in the Electricity Regulation Act, 2006 (Act No 4 of 2006), as amended, or the Occupational Health and Safety Act, 1993 (Act No 85 of 1993), as amended.

CHAPTER 1:
GENERAL CONDITIONS OF SUPPLY

2. PROVISION OF ELETRICITY SERVICES

(1) Only the Municipality may supply or contract for the supply of bulk electricity, within the area of distribution jurisdiction of the Municipality.

(2) The Municipality may permit the bulk supply or retail wheeling of electricity through the municipal electrical network, by another electricity supplier licensed to supply electricity in terms of the Electricity Regulation Act.

(3) Permissions in terms of subsection 2(2) of this by-law, shall be governed by a service delivery agreement, as contemplated in section 80 of the Municipal Systems Act.

(4) The Municipality may permit the co-generation of electrical power by the customers of the Municipality, subject to -

(a) a generation agreement being entered into between such generators of electrical power and the Municipality;

(b) compliance with all the relevant statutory requirements pertaining to the generation of electrical power and the safety regulations therefore;

(c) registration at the Municipality of all fixed installations where electrical power shall be generated; and

(d) compliance with the safety and the quality requirements determined by the Municipality, prior to allowance of the generated electrical power into the municipal electrical networks.

(5) The surplus generation of electrical power may be regulated, and the Municipality may determine conditions for such surplus generation pertaining to timing and quantity.

3. SUPPLY AND GENERATION OF ELECTRICITY PER AGREEMENT

(1) No person may use an electricity supply from the Municipality, unless or until such person has entered into an agreement in writing with the Municipality, in accordance with the Guidelines for Embedded Generations and the Credit Control and Debt Collection By-law and Policy of the Theewaterskloof Municipality for such supply of electricity, and such agreements together with the provisions of this by-law shall regulate such supply of electricity.

(2) When a person uses an electricity supply, without entering into an agreement with the Municipality, as contemplated in subsection 3(1) of this by-law, he or she shall be liable for the cost of all electricity used, as stated in section 42 of this by-law.

(3) No person may generate electricity by way of a fixed installation and feed the generated electrical power into a municipal electricity network, unless an agreement has been concluded with the Municipality in accordance with the Guidelines for Embedded Generations and the Credit Control and Debt Collection By-law and Policy of the Theewaterskloof Municipality for such electrical power generation, and such agreement together with the provisions of this by-law, as well as any other legislation governing the licensing of electrical power generators, shall regulate such generation of electricity.

4. SERVING OF NOTICES AND OTHER DOCUMENTATION

(1) The Municipality may by written notice, instruct the owner or occupant of a premises, a customer or any other person, who by action or omission, failed to comply with the provisions of this by-law or to fulfil any condition imposed by the provisions of the by-law, to rectify his or her failure within a reasonable period specified in the notice concerned.

(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 the manner provided by paragraphs 4(1)(a), 4(1)(b) or 4(1)(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) Any legal process is effectively and sufficiently served on the Municipality when it is delivered to the Municipal Manager or a person in attendance at the office of the Municipal Manager.

(5) 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.

(6) A notice, instruction, letter of demand, or other document shall for purpose of authentication, be properly signed by the Municipality.

5. COMPLIANCE TO NOTICES

Any person to whom a notice has been duly served in terms of this by-law, shall within the time specified in such notice, comply with the terms and conditions of such notice.

6. APPLICATIONS FOR THE SUPPLY OR GENERATION OF ELECTRICITY

(1) Applications for the supply or generation of electricity shall be made in writing by the prospective customer in the prescribed format, and the estimated demand for electricity or the generation capacity of the installation concerned, expressed as kilovolt-ampere shall be stated in such application.

(2) The application contemplated in subsection 6(1) of this by-law for the supply or generation of electricity shall be made as early as possible, to enable the Municipality to carry out the construction work required for installations, within the time periods stipulated in the NRS 047-1 document, or any revision or substitution thereof.

(3) When an application for the supply or generation of electricity has to be submitted, the following documents shall be submitted with the application –

(a) proof of the identity of the applicant, or in the case of a business or an enterprise, a letter of resolution authorizing the person concerned to submit an application on behalf of the business or enterprise; and

(b) a valid lease agreement in the case of a tenant of a premises, or in the case of an owner of a premises, proof of ownership of the premises for which an electricity supply or a generation agreement of electrical power is required, and the Municipality may with regard to the supply or generation of electricity, decide to only contract with the owner of a premises and not a lessee.

(4) An application for a temporary supply of electricity shall be considered at the discretion of the Municipality, which may specify any special conditions which shall be complied with.

7. PROCESSING OF APPLICATIONS FOR THE SUPPLY OR GENERATION OF ELECTRICITY

Applications for the supply or generation of electricity shall be processed by the Municipality in accordance with the standard operating procedures therefore, and the supply of electricity shall be made available within the periods stipulated in the NRS 047 document, or any revision or substitution thereof.

8. WAY LEAVES

(1) The Municipality may refuse to supply or construct an electrical service connection, above or below ground level on any thoroughfare not vested in the Municipality, or on any private property, unless and until the prospective customer has obtained written permission from the property owner or title holder of the thoroughfare, authorizing the installation or the construction of an electrical service connection thereon or there over.

(2) A way leave granted in terms of sub section 8(1) of this by-law shall be binding on the owner of a property who granted the way leave, and on all successors in title of the property concerned, for as long as the electricity connection is operative, and such way leave may not be withdrawn without concurrence of the Municipality.

9. STATUTORY SERVITUTES

(1) Subject to the provisions of subsection 9(3) and subsection 10(1) of this by-law, the Municipality may within area of jurisdiction of the Municipality -

(a) regulate, control, provide, establish and maintain electricity services;

(b) acquire, construct, lay, extend, enlarge, divert, maintain, repair, discontinue the use of, close up and dismantle electricity supply systems;

(c) construct, erect or install any electricity supply systems on, across, over or under any street or immovable property, and the ownership of any such system shall vest in the Municipality;

(d) implement any other action necessary, desirable for, incidental, supplementary or ancillary to any matter contemplated in subsections 9(1)(a) to (c) of this by-law.

(2) When the Municipality constructs, erects or installs any electricity supply system on, across, over or under any street or immovable property not owned by the Municipality or under the control or management of the Municipality, the Municipality shall pay to the owner of such street or property, compensation in an amount agreed upon, or in the absence of any agreement, as determined either by arbitration or a court of law.

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

10. RIGHT OF ACCESS TO PREMISES

(1) The Municipality shall, by means of authorized officials and service providers, have access to or over any property for the purposes of -

(a) implementing the provisions of this by-law or any other statutory stipulation;

(b) inspecting and examining any electrical service systems and anything connected therewith;

(c) enquiries, surveys and investigations into the suitability of immovable property for future electrical installations and other electrical work;

(d) ascertaining whether there has been contraventions of the provisions of this by-law, or any other statutory stipulation; and

(e) enforcing compliance with the provisions of this by-law or any other statutory stipulation.

(2) The Municipality may pay compensation, as and when applicable, as agreed upon between the affected parties, to any person suffering damage as a result of the exercise of the rights of access, as contemplated in subsection 10(1) of this by-law.

(3) Subsection 10(2) of this by-law shall not be applicable, where the Municipality is authorized to execute work at the cost of a customer or another person.

(4) In the absence of an agreement between the affected parties, compensation may be determined by arbitration or a court of law.

(5) An authorized official may, by written notification, require from an owner or an occupant of a premise, to provide access to such property for any purpose referred to in subsection 10(1) of this by-law.

(6) In case of emergency the Municipality may enter any premises or property without prior notice, and may take whatever action is necessary or desirable to protect life or property.

(7) Authorized officials and service providers of the Municipality who intend to enter private property, shall on request provide their identification.

11. REFUSAL OR FAILURE TO PROVIDE INFORMATION

(1) No person may refuse or fail to give such information as may be reasonably required of him or her by any authorized official of the Municipality, or render any false information to any such authorized official regarding any electrical installation work contemplated or completed.

(2) The Municipality may not, subject to the provisions of any other statutory stipulation, make any information available concerning the electricity supply to, or account details of any customer to any third party, without the written concurrence of such customer.

12. INSPECTIONS AND THE RIGHT OF ACCESS

(1) No person may deliberately hinder, obstruct or refuse admittance to any authorized official of the Municipality in the performance of his or her duties under this by-law or any other relevant statutory stipulation.

(2) An authorized official of the Municipality may, by written notice served on the owner or the occupant of any premises, require the owner or the occupant of the premises concerned to provide at any reasonable date or time, access to the involved premises to an authorized official, for purpose of inspection of such premises.

(3) An authorised official of the Municipality may at all reasonable times enter any premises or any portion thereof, with the aim of carrying out any inspection or test to determine the current status or use of electricity services installations, or for any purpose connected with the implementation or enforcement of this by-law.

13. IMPROPER USE OF ELECTRICITY

(1) When a customer uses electricity in such a manner, which the Municipality has reasonable grounds to believe interferes in an improper or an unsafe manner, or is planned to interfere in an improper or an unsafe manner, with the efficient supply of electricity to other customers, the Municipality may with or without notice disconnect the electricity supply to such a customer, provided that such supply shall be restored as soon as the cause for the improper use of electricity has been remedied or removed, and the prescribed fees, tariffs and penalties, as applicable, have been paid.

(2) The fees, tariffs and penalties as prescribed by the Municipality in terms of the Tariff By-law for the Theewaterskloof Municipality, for the disconnection and re-connection of electricity supply, shall be paid by the customer before the electricity supply is restored to such customer, unless it can be proved that such customer did not misused electricity in any way.

14. ELECTRICITY TARIFFS

Copies of electricity tariffs as annually determined in terms of the Tariff By-law of the Theewaterskloof Municipality, may be obtained at the offices of the Municipality.

15. DEPOSITS

(1) The Municipality may in terms of the Credit Control and Debt Collection By-law and Policy of the Theewaterskloof Municipality, require from a customer to deposit a sum of money as security in payment of any fee or tariff for electricity, which is due or may become due to the Municipality.

(2) The amount of the deposit in respect of each electricity installation shall be determined annually by the Municipality in terms of the Tariff Policy of the Municipality.

16. PAYMENT OF FEES AND TARIFFS

A customer shall be liable for all fees and tariffs for electricity services, as annually determined in terms of the Tariff By-law of the Theewaterskloof Municipality, and all amounts in arrears in for electricity supplied, shall be recovered in terms of the Credit Control and Debt Collection By-law and Policy of the Theewaterskloof Municipality.

17. INTEREST PAYABLE ON ACCOUNTS IN ARREAR

The Municipality may charge interest on accounts which are not paid by the due date in terms of the Credit Control and Debt Collection By-law and Policy of the Theewaterskloof Municipality.

18. PRINCIPLES FOR THE RESALE OF ELECTRICITY

(1) Unless authorized in writing by the Municipality, no person may sell electricity supplied to his or her premises, or electricity generated by him or her under an agreement with the Municipality, to any other person or persons for use on any other premises, or permit such resale of electricity or allow such supply of generated electricity to other premises to take place.

(2) The resale of electricity shall always comply with the licensing and registration requirements set out in the Electricity Regulation Act.

(3) When electricity is resold for use upon the same premises, the electricity resold shall be measured by a sub meter, of a type which has been certified by the South African Bureau of Standards and which has been supplied, installed and programmed in accordance with the standards of the Municipality.

(4) The fees and tariffs, and the conditions of sale, in terms of which electricity is resold, shall not be less favourable to the purchaser of such electricity, than those that would have been payable and applicable had the purchaser been supplied directly with electricity by the Municipality.

(5) When electricity is resold, the purchaser shall be furnished with monthly accounts by the seller, which contains the similar billing information provided by the Municipality to electricity users of the Municipality.

(6) The Municipality may request audited reports from resellers of electricity, to prove that the conditions for the resale of electricity, as contemplated in subsections 18(2) to 18)5) of this by-law have been met, and the costs to obtain such audited reports shall be the responsibility of the reseller.

19. THE RIGHT TO DISCONNECT OR REMOVE THE ELECTRICITY SUPPLY TO PREMISES

(1) The Municipality has a right to restrict or disconnect the supply of electricity in accordance with the Credit Control and Debt Collection Policy of the Municipality, to any premises -

(a) without notice, when there is -
(i) a grave danger to persons or property; or
(ii) evidence of tampering with a supply system; and

(b) by written notice, when -
(i) a customer fails to pay any amounts owed to the Municipality in connection with electricity supply or any other municipal service;
(ii) any provision of this by-law has been contravened and the customer has failed to remedy the default after proper notice has been served on him or her; or
(iii) access to inspect metering equipment has been denied.

(2) When subsection 18(1) of this by-law, with regard to the resale of electricity has been contravened, the Municipality may limit the supply of electricity to a premise from which electricity is illegally supplied or resold, to twenty (20) ampere.

(3) After disconnection for the non-payment of accounts or the improper or unsafe use of electricity, the fees and tariff as prescribed by the Municipality, shall be paid for the re-connection of such electricity supply.

(4) When an electrical installation has been illegally re-connected on a customer's premises, after having been lawfully disconnected by the Municipality, or when the electrical equipment of the Municipality has been tampered with to prevent the correct registration of electricity consumption by a meter, the Municipality may remove the electricity supply from such premises in total.

20. LIABILITY OF THE MUNICIPALITY

The Municipality shall not be liable for any loss or damage, directly or consequently suffered or sustained by a customer, as a result of or arising from the cessation, the interruption or any other abnormality of the supply of electricity, unless caused by negligence on the part of the Municipality.

21. LEAKAGE OF ELECTRICITY

No rebate shall be allowed on an account for electricity supplied and metered, in respect of electricity used as a result of electrical leakage or any other fault in an electrical installation of a customer.

22. FAILURE OF THE SUPPLY OF ELECTRICITY

(1) The Municipality shall not attend to a failure of supply of electricity, as a result of a fault in the electrical installation of a customer, except when such failure is a result of the functioning of the service protective device or any other devices of the Municipality.

(2) When any failure of supply of electricity is found to be a result of a fault in the electrical installation of a customer, or a result of the faulty operation of an electrical apparatus used in connection therewith, the Municipality may charge the customer concerned the applicable fees and tariffs for re-connection of the supply of electricity, in addition to the cost of repairing any damage which may have been caused to the electricity service system and electricity meters by such fault or faulty functioning of the apparatus concerned.

23. MUNICIPAL SEALS

(1) All electricity meters, load control appurtenances or service protective appurtenances, and all other electrical apparatus belonging to the Municipality, shall be sealed or locked by an authorized official of the Municipality, and no unauthorized person may in any manner or for any reason remove or break or tamper or interfere with such seals or locks.

(2) The Municipality may recover the costs involved for the replacement of a seal or a lock from the person involved, should such seal or lock be broken or be removed by a customer.

24. TAMPERING WITH SERVICE CONNECTIONS OR ILLEGAL CONNECTIONS TO THE ELECTRICAL SUPPLY SYSTEM

(1) No person may in any manner or for any reason whatsoever, tamper, interfere with, vandalize, affix advertising material to or deface any meter or metering equipment or service connection or service protective device or a municipal electricity supply system, or any other electrical equipment of the Municipality.

(2) No person may in any manner or for any reason whatsoever illegally connect onto the electrical installation of any other customer of the Municipality.

(3) Where *prima facie* evidence exists that a customer or any person have contravened subsection 24(1) of this by-law, the Municipality may levy any penalties or fees and tariffs provided for in terms of the Tariff By-law of the Theewaterskloof Municipality, and may recover any costs incurred as a result

of the replacement of a damaged meter, or may disconnect the supply of electricity immediately without prior notice to the customer, and in addition may institute legal action and lay criminal charges against the customer concerned.

(4) Where a customer or any person has contravened subsection 24(1) of this by-law, and such contravention has resulted in a meter recording less than the actual consumption, the Municipality shall have the right to recover from such customer the full cost of the estimated consumption.

25. PROTECTION OF THE MUNICIPAL ELECTRICAL SUPPLY SYSTEM

(1) No person may, except with the consent of the Municipality, and subject to such conditions as may be imposed by the Municipality –

(a) construct, erect or install, or permit the construction or erection or installation of any building, structure or any other object, or the planting of trees or other vegetation over, under or in such a position or in such a manner, that it may interfere with or endanger an electricity supply system;

(b) excavate, disturb, open up or remove the soil above, next to, under or near any part of an electricity supply system;

(c) damage, endanger, remove or destroy, or do anything likely to damage, endanger or destroy any part of an electricity supply system; or

(d) make any unauthorized connection to any part of the electricity supply system or divert or cause any electricity supply to be diverted.

(2) The owner or the occupant of a premises shall limit the height of trees or other vegetation or the length of projecting branches of trees or other vegetation in the proximity of overhead electricity lines, or provide a means of protection against the branches of such trees or vegetation touching electricity lines, which in the opinion of the Municipality shall adequately prevent trees or vegetation from interfering with the electrical conductors of an electricity supply system.

(3) When the owner or the occupant of a premises, fails to observe the provisions of subsection 25(2) of this by-law, the Municipality may by means of written notification to such owner or occupant of a premises, order the owner or the occupant to trim or remove the trees or other vegetation concerned, as to comply with the provisions of subsection 25(2) of this by-law, or in any emergency trim or remove such trees or vegetation themselves.

(4) The Municipality may subject to obtaining an order of court, demolish, remove, alter or otherwise deal with any building, structure or any other object constructed, erected or installed, or tree or vegetation planted in

contravention of the provisions of this by-law, which inhibits or damage an electrical installation or a municipal electricity supply system.

(5) The Municipality may in the case of an emergency or a disaster remove anything damaging, obstructing or endangering or likely to damage, obstruct, endanger or destroy any part of an electricity supply system.

26. PREVENTION OF TAMPERING WITH SERVICE CONNECTIONS

When the Municipality finds it necessary or desirable to implement special precautionary measures in order to prevent tampering with any portion of an electricity supply system, service connections, service protective devices, electricity meters or metering equipment, the Municipality may require from a customer to either supply or install the necessary protection equipment or pay the costs involved where such protection equipment is supplied and installed by the Municipality.

27. UNAUTHORIZED CONNECTIONS

No unauthorized person may directly or indirectly connect, attempt to connect or cause or permit any electrical installation to be connected to an electricity supply system or any electrical service connection.

28. UNAUTHORIZED RE-CONNECTIONS

(1) No unauthorized person may re-connect, attempt to re-connect or cause or permit any re-connection to an electricity supply system or the electricity service connection of any electrical installation, which has been disconnected by the Municipality.

(2) When the supply of electricity to a premise that has been disconnected, is re-connected without authorization, the customer using such supply of electricity shall be liable for all fees and tariffs for the electricity consumed between the date of disconnection and the date the electricity supply was found to be re-connected, as well as any other costs incurred or penalties payable in this regard.

(3) The Municipality has the right to remove any part of or all the electricity supply equipment on a premise, until such time as the payment contemplated in subsection 28(2) of this by-law, has been received in full, and the customer shall be responsible for all the costs associated with the re-installation of such electricity supply equipment.

29. TEMPORARY DISCONNECTION AND RE-CONNECTION OF THE ELECTRICITY SUPPLY

(1) The Municipality shall at the request of a customer temporarily disconnect and / or re-connect the supply of electricity to the customer's electrical installation, upon payment of the prescribed fees and tariffs for such disconnection and subsequent re-connection.

(2) In the event that the Municipality has to implement a temporary disconnection and re-connection of the supply of electricity to a customer's electrical installation for maintenance or emergency repairs, the payment of any fee or tariff shall not be applicable.

(3) The Municipality may only under exceptional circumstances temporarily disconnect the supply of electricity to any premises without notice, and then only for emergency repairs or the urgent testing of electrical connections.

30. TEMPORARY ELECTRICITY SUPPLY

(1) When any temporary supply of electricity supply is found to interfere with the efficient and economical supply of electricity to other customers, the Municipality may with proper written notification, or under emergency circumstances without any prior notice, terminate such temporary electricity supply to a client and the Municipality shall not be liable for any loss or damage suffered by such a customer because of the termination.

(2) A temporary electricity supply shall be allowed and be valid for a period of twelve (12) months, after which a new application for a temporary electricity supply shall be submitted for continued use.

(3) The Municipality may disconnect a temporary electricity supply, when the conditions for such supply have not been complied with.

31. TEMPORARY INSTALLATION WORK

(1) Temporary electrical installations requiring a temporary supply of electricity may not be connected directly or indirectly to an electricity supply system, except with the permission of the Municipality.

(2) Complete information as to the reasons for and the nature of work for which a temporary installation is required, shall accompany the application and the Municipality may refuse or grant permission.

(3) Where permission is refused, the applicant shall be informed of the reasons for the decision.

32. LOAD REDUCTION

(1) At times of peak load or in an emergency, or when it is necessary to reduce the load on an electricity supply system of the Municipality, the Municipality may without prior notice interrupt and for such period as what the Municipality may deem to be necessary, discontinue the electricity supply to the electrically operated thermal storage water heater or any other specific appliance or the whole electricity installation of a customer.

(2) The Municipality shall not be liable for any loss or damage, directly or consequentially as a result of or arising from such interruption and discontinuance of the electricity supply.

(3) Except at times of excessive peak load or in cases of emergency, the Municipality shall when possible and practically viable, not interrupt the electricity supply customers without notification.

(4) The Municipality may install on the premises of a customer, such apparatus and equipment as may be required to implement the provisions of subsection 32(1) of this by-law, and any authorized official of the Municipality may at any reasonable time enter any premises for the purpose of installing, inspecting, testing, adjusting or changing such apparatus and equipment.

(5) Notwithstanding the provisions of subsection 32(3) of this by-law, a customer or an owner of a premises shall when installing an electrically operated water storage heater, provide wiring as may be necessary at a later stage, to assist with the installation of the apparatus and the equipment referred to in subsection 32(4) of this by-law.

33. HIGH, MEDIUM AND LOW VOLTAGE SWITCHGEAR AND EQUIPMENT

(1) When a supply of electricity is provided at either high, medium or low voltage, the supply or installation of the switchgear, the cables and the equipment forming part of such a service connection shall be paid by the customer, unless otherwise approved by the Municipality.

(2) All equipment installed on the customer's premises, as contemplated in subsection 33(1) of this by-law, shall comply with the electrical performance standards of the Municipality.

(3) No unauthorized person may open, close, isolate, link or earth, any high or medium voltage switchgear or equipment, without giving prior notice well in advance of such intended action, to the System Control Centre of the Municipality.

(4) When a customer has high or medium voltage switchgear installed, requiring high or medium voltage supply, the Municipality shall be advised of the competent person appointed by the customer, as required in terms of the Regulations and be informed of any changes to such appointment.

(5) When a low voltage supply of electricity has been installed, the customer shall provide and install a low voltage main switch or any other equipment as required by the Municipality.

(6) When a generator of any kind is installed on a customer's premises, he or she shall ensure that the necessary safety isolation equipment, as required by municipal safety standards are installed, to prevent any back feed of electricity after the municipal electricity supply network has been isolated.

34. PROVISION OF SPACE TO ACCOMMODATE A SUBSTATION

(1) The Municipality may require from the owner of a premises to provide and maintain space for the accommodation of a substation, which may consist of a separate room or rooms, to be used exclusively for the housing of medium voltage cables and switchgear, transformers, low voltage cables and switchgear and any other equipment necessary for the supply of electricity requested by a customer.

(2) The accommodation for a substation, shall be located at a point to which free, adequate and unrestricted access shall be available at all times for purposes associated with the operation and the maintenance of the equipment concerned.

(3) The Municipality reserves the right to supply the municipal electricity networks from the municipal electrical equipment installed in any such substation accommodation, and when additional space is required by the Municipality for any extension of any electrical equipment, such additional space shall be provided at the expense of the Municipality.

35. WIRING DIAGRAMS AND SPECIFICATIONS

(1) When more than one electrical installation or electricity supply from a common electricity supply system, or more than one distribution board or meter is required for any building or block of buildings, the wiring diagram and the specifications of the circuits starting from the main switch, shall on request be supplied to the Municipality in duplicate for approval, before such work commences.

(2) Where an electrical installation is to be supplied from a substation on the same premises as which the current is transformed from high voltage, or from one of the substations of the Municipality through an electricity supply system separate from the general electricity distribution system, complete specifications and drawings for the proposed installation by a client shall when so required be provided to the Municipality for approval, before any material in connection therewith is ordered for construction.

36. STANDBY SUPPLY OF ELECTRICITY

(1) No person shall be entitled to a standby supply of electricity from the Municipality for any premises having a separate source of electricity supply, except with the written consent of the Municipality.

(2) Upon cessation of the alternative supply of electricity to any premises, the Municipality may supply standby electricity to such a customer in any manner necessary.

37. ALTERNATIVE ELECTRICITY SUPPLY EQUIPMENT OF CUSTOMERS

(1) No alternative electricity supply equipment provided by a customer in terms of any Regulations for emergency electricity supply or the operational requirements of such customer, may be connected to any installation without the prior written approval of the Municipality.

(2) An application for an approval, as contemplated in subsection 36(1) of this by-law, shall be made in writing and shall include the detailed specifications of the equipment and wiring diagrams.

(3) The emergency supply and alternative supply equipment shall be designed and installed as such, that it shall be impossible for a municipal electricity supply systems to be energized by means of a back feed from such equipment, when an electricity supply system has been isolated.

(4) The customer shall be responsible for providing and installing all the required protective equipment.

(5) When the emergency supply and alternative supply equipment of the customer is permitted by special agreement with the Municipality to be directly coupled to, and run in parallel with the municipal electricity supply systems, the customer shall be responsible for providing, installing and maintaining all the necessary synchronizing and protective equipment, required for such safe parallel operations.

38. MUNICIPAL CIRCULLARS ON ELECTRICITY SERVICES

The Municipality may from time to time issue municipal circulars on electricity services, detailing the requirements and standards of the Municipality, regarding matters not specifically covered in the Regulations or this by-law, but which are necessary for the safe and efficient operation and management of the municipal electricity supply.

CHAPTER 2:
RESPONSIBILITIES OF CUSTOMERS

39. CUSTOMERS TO INSTALL AND MAINTAIN ELECTRICAL INSTALLATIONS

Any electrical installation connected or to be connected to the municipal electrical supply system, and any additions or alterations to such installations shall be provided and maintained by the customer at his or her own expense, and in accordance with the provisions of this by-law and the Regulations.

40. FAULTS IN AN ELECTRICAL INSTALLATION

(1) When any fault develops in an electrical installation, which constitutes a hazard to persons, animals or property, the customer shall immediately shut off the electricity supply and without any delay give notice of the hazard to the Municipality, and where possible implement steps to remedy the fault.

(2) The Municipality may recover from a customer the costs for all expenses incurred with regard to the correction of a fault at an electrical installation.

41. DISCONTINUANCE OF THE USE OF SUPPLY

In the event of a customer electing to discontinue using the municipal electricity supply, he or she must give at least two (2) working days written notice of such intended discontinuance to the Municipality, failing which he or she shall remain liable for all payments due in terms of the fees and tariffs for the supply of electricity, until the date of actual disconnection.

42. CHANGES IN THE OCCUPATION OF A PREMISE

(1) A customer vacating any premises shall give the Municipality not less than two (2) working days written notice of his or her intention to discontinue using the municipal electricity supply to a premise, failing which he or she shall remain liable for the payment of fees and tariffs for the supply of electricity services to such premises.

(2) When the person taking over occupation of a premises prefer to continue using the municipal electricity supply to the premises, he or she shall apply in terms of subsection 3(1) of this by-law for such service, and when he or she fails to apply for a continuation of electricity supply from the Municipality within ten (10) working days of taking occupation of the premises, the supply of electricity to such premises may be permanently disconnected.

(3) The person referred to in subsection 42(2) of this by-law, shall be liable for the payment of fees and tariffs for the unauthorized connection to a municipal electricity supply system and any electricity consumption from the date of occupation of a premises, until such time as the supply is formally disconnected by the Municipality, as contemplated in subsection 42(2) of this by-law.

(4) Where a premise is fitted with a pre-payment electricity meter, any person occupying such premises shall at such time be regarded as to be the customer.

(5) Until such time as an application has been submitted, as contemplated in subsection 3(1) of this by-law, the occupant of a premise shall be liable for consumption at the metering point of a premises, as well as any outstanding amounts payable with regard to such metering point, whether accrued by such occupant or not.

(6) The Municipality may impose conditions for the re-connection of an electricity supply service, which may include the withholding of electricity supply to a premise, where the previous customer's account is in arrears.

(7) In the event of change of ownership of a premise, a new certificate of compliance for such a premise shall be issued by an accredited electrician, unless the existing certificate was issued within the preceding twenty four (24) months period, and no subsequent alteration of the electrical installation was effected within such period.

43. ELECTRICITY SUPPLY SERVICES APPARATUS

(1) The customer shall be liable for all costs arising from damage to or loss of any metering equipment, service protective devices, service connections or any other apparatus on a premises, unless such damage or loss have been caused by an occurrence of natural forces or an act or an omission of an employee of the Municipality, or has been caused by an abnormality or a considerable fluctuation in the supply of electricity to such premises.

(2) When an electrical installation has been disconnected from a municipal electrical supply system for a period, and the municipal electricity supply system, metering equipment or any other service apparatus belonging to the Municipality and used for the disconnected installation, are damaged during the period of disconnection as a result of the illegal use or the unlawful removal of such electrical equipment or apparatus, or has been damaged to such an extend as to render the use thereof for re-connection dangerous, the owner or the occupant of such premises shall be held responsible for the cost of repairing and / or replacing such equipment, when a re-connection of the electrical installation is requested.

(3) Where there is a communal metering position on a premise, the owner of the premises shall be liable for all costs arising from damage to or loss of any metering equipment.

(4) The amount payable in terms of subsection 43(1) of this by-law shall be manifested by a certificate from the Municipality, which shall be final and binding.

CHAPTER 3:
SPECIFIC CONDITIONS OF SUPPLY

44. SERVICE CONNECTIONS

(1) A customer shall bear the cost of a service connection, subject to approval of such connection by the Municipality

(2) Notwithstanding the fact that a customer bears the cost of a service connection, the ownership of the service connection installed or constructed by the Municipality, shall vest in the Municipality and the Municipality shall be responsible for the maintenance of such service connection up to the point of supply.

(3) A customer shall under no circumstances be entitled to any compensation from the Municipality, in respect of a service connection to a premise.

(4) The extent of the work to be carried out by the Municipality for a service connection to the premises of a customer shall be determined by the Municipality and the installation costs shall be paid by the customer.

(5) A service connection shall be installed underground, irrespective whether the municipal electrical supply systems are laid underground or erected overhead, unless an overhead service connection is specifically required by the Municipality.

(6) The Municipality may require a customer to replace an overhead service connection with an underground service connection, when such overhead services connection to a premises are damaged or where it poses a threat to the safety of the electricity installation.

(7) A customer shall provide, fix or maintain on his or her premises such ducts, wire ways, trenches, fastenings and overhead clearance for municipal electrical supply systems, as may be required by the Municipality for the installation of a service connection.

(8) The conductor used for a service connection, shall have a cross-sectional area according to the size of the electrical supply, but may not be less than ten (10) millimetre square copper or a copper equivalent, and all electrical conductors shall have the same cross-sectional area, unless an alternative specification has been approved by the Municipality.

(9) Unless otherwise approved, the Municipality shall only allow and provide one (1) service connection to each registered premises.

(10) Where two (2) or more adjacent premises belonging to one owner are utilized in a consolidated manner, only a single bulk service connection for electricity may be made available, provided that the Municipality may require the customer to consolidate the erven concerned or have the erven tied notarial.

(11) The cover of a wire way carrying the supply circuit from the point of supply to the metering equipment, shall provide for places for the affixing of the seals of the Municipality.

(12) The electrical conductor or the cable within an electrical meter box shall terminate in an un-obscured position, and the conductors shall be visible throughout their length when their installed cover plates are removed.

(13) In the case of blocks of buildings occupied by a number of individual customers, separate wire ways and conductors or cables shall be installed from the common metering room or rooms to each individual customer in the block of buildings, or when conduits are used as alternative, the conductors of the individual circuits shall be clearly identified and be tied together every one point five (1.5) meter, throughout their whole length.

45. ACCOMMODATION OF METERS

(1) The customer shall when required by the Municipality, provide accommodation in an approved position on a premise for a meter board and adequate conductors for the metering equipment, service apparatus and protective appurtenances of the Municipality.

(2) The protected accommodation for any meter boards, metering equipment, service apparatus and protective appurtenances, shall be provided and maintained at the cost of the customer or the owner of a premises, and shall in the case of credit meters be situated at a point to which free and unrestricted access shall at all times be accessible for the reading of meters and for purposes associated with the operation and maintenance of the service equipment concerned.

(3) Where sub metering equipment has to be installed at a premise, accommodation separate from the metering equipment of the Municipality shall be provided for such sub metering equipment.

(4) The customer or in the case of a communal meter position, the owner of a premises, shall provide adequate electric lighting in the space set aside for accommodating the metering equipment and service apparatus.

(5) Where the position of a meter, a service connection, a protective appurtenances or a main distribution board is no longer readily accessible or becomes a danger to life or property or in any way becomes unsuitable, the owner or the customer shall move such meter, service connection, protective appurtenances or main distribution board to a new position, and the cost of such removal shall be paid by the owner or the customer.

(6) The accommodation for municipal metering equipment and protective appurtenances, may when approved include the main switch and main protective appurtenance of the customer, and no apparatus other than that used in connection with the supply and use of electricity may be installed or accommodated in such meter accommodation.

CHAPTER 4:
SYSTEMS OF SUPPLY

46. LOAD REQUIREMENTS

An alternating current supply shall be provided to customers, as prescribed by the NRS 048 document, or any revision or substitution thereof, and in the absence of a quality of supply agreement with a customer, a current supply as set out in the applicable standard specification shall be provided.

47. LOAD LIMITATIONS

(1) Where the estimated load calculated in terms of safety standards, does not exceed fifteen (15) kilovolt ampere, the electrical installation shall be prepared for a two wire single phase supply of electricity, unless an alternative specification has been approved by the Municipality.

(2) Where a three phase four wire supply of electricity is provided, the load shall be approximately balanced over the three (3) phases, on condition that the maximum out-of-balance load shall not exceed fifteen (15) kilovolt ampere, unless an alternative specification has been approved by the Municipality.

(3) No current consuming appliance which is inherently single phase in character, with a rating which exceeds fifteen (15) kilovolt ampere, may be connected to an electrical installation of a premise, without the prior approval of the Municipality.

48. INTERFERENCE WITH THE ELECTRICAL EQUIPMENT OF OTHER PERSONS

(1) No person may operate electrical equipment having load characteristics which, singly or collectively, may give rise to voltage variations, harmonic voltages, harmonic currents or unbalanced phase currents which fall outside the applicable standard specifications for electricity supply systems.

(2) The assessment of interference with the electrical equipment of other persons shall be carried out by means of measurements taken at the point of communal coupling.

(3) When it has been established that undue interference is in fact occurring, the person concerned shall at his or her own cost, install the necessary equipment to filter out the interference and to prevent the interference reaching an electricity supply system.

49. ELECTRICITY SUPPLY TO ELECTRIC MOTORS

Unless otherwise approved by the Municipality, the rating of electric motors shall be limited as follows -

(1) Limiting the size of low voltage motors - The rating of a low voltage single-phase motor shall be limited to two (2) kilowatt, and the starting current of such a motor may not exceed seventy (70) ampere, and all low voltage single-phase motors exceeding these limits shall be wound for three (3) phase at low voltage or such higher voltage as may be required.

(2) Maximum starting and accelerating currents of three phase alternating current motors - The starting current of permitted low voltage three phase motors, shall correlate as follows with the capacity of a customer's service connection -

Insulated service cable, size in mm² (copper equivalent)	Maximum permissible starting current	Maximum motor rating		
mm²	Ampere (A)	Kilowatt (kW)		
		Direct on line (6 x full-load current	Star/Delta (2.5 x full-load current)	Other means (1.5 x full-load current)
		kW	kW	kW
16	72	6	13.5	23
25	95	7.5	18	30
35	115	9	22	36.5
50	135	10	25	45
70	165	13	31	55
95	200	16	38	67
120	230	18	46	77
150	260	20	52	87

(3) Consumers supplied at medium voltage – When an installation is supplied at medium voltage, the starting current of a low voltage motor shall be limited to one point five (1.5) times the rated full load current of the transformer supplying such a motor, and the starting arrangement for medium voltage motors shall be subject to the approval of the Municipality.

50. POWER FACTOR

(1) When required by the Municipality, the power factor of any load must be maintained within the limits zero point eight five (0.85) lagging and zero point nine (0.9) leading.

(2) When it is required to install power factor corrective devices for purpose of complying with subsection 50(1) of this by-law, such corrective devices shall be connected to the individual user terminals, unless the correction of the power factor can be automatically controlled.

(3) The customer shall at his or her own cost install corrective devices.

51. PROTECTION FOR ELECTRICAL MOTORS

Electrical protective devices for electrical motors shall be of such a design, that it effectively shall prevent sustained overloading, and restrict maximum starting currents and accelerating currents as required.

CHAPTER 5:
MEASUREMENT OF ELECTRICITY CONSUMPTION

52. METERING EQUIPMENT

(1) The Municipality shall provide, install and maintain appropriately rated metering equipment at the point of metering of the electricity supplied to a premise, and the customer shall pay therefore in the form of a direct charge or a prescribed fee or a prescribed tariff.

(2) The electricity used by a customer during any metering period, shall be ascertained by the reading of the appropriate meter or meters, supplied and installed by the Municipality, except for pre-payment meters.

(3) When metering equipment is found to be defective, the consumption for the period shall be estimated.

(4) When the electricity used by a customer, is charged at different rates, the consumption shall be metered separately for each rate.

(5) The Municipality reserves the right to meter the supply to blocks of shops and flats, tenement housing and similar buildings, for a building as a whole or for individual users or for groups of users.

(6) No alterations, repairs, or additions to electrical equipment or electrical connections of any kind, may be made on the supply side of a point of metering, unless specifically approved in writing by the Municipality.

(7) The Municipality shall have the right to decide which metering equipment shall be most appropriate for a specific point of metering, and the Municipality shall also have the right to convert to alternative metering equipment at any time.

53. ACCURACY OF MEASUREMENT

(1) A meter shall be presumed to be registering accurately, when the deviation thereof, as tested in the manner prescribed in subsection 53(5) of this by-law, is found to be within the limits of error as provided for in the applicable standard specifications.

(2) The Municipality has the right to test municipal metering equipment regularly, and when it is established by testing or any other way that such metering equipment is defective, the Municipality may as contemplated in subsection 53(6) of this by-law -

(a) in the case of a credit meter, adjust the account rendered; and

(b) in the case of a pre-payment meter -
(i) render an account to a customer in instances where the meter has been under-registering; or
(ii) issue a free token to a customer in instances where the meter has been over-registering.

(3) A customer shall be entitled to have any municipal metering equipment on his or her premises tested by the Municipality, on payment of the prescribed fees and tariffs, and when such metering equipment is found not to comply with the applicable system accuracy requirements, as provided for in the applicable standard specifications, an adjustment of the account concerned, in accordance with the provisions of subsections 53(2) and 53(6) of this by-law, shall be made.

(4) In case of a dispute, the customer shall have the right to have the metering equipment under dispute tested at his or her own cost by an approved independent testing institution, and the result of such test shall be final and binding on both parties.

(5) Meters shall be tested in a manner as provided for in the applicable standard specifications, as prescribed by a competent authority.

(6) When an adjustment of an account is made in terms of subsections 53(2) or 53(3) of this by-law, such adjustment shall either be based on the percentage error of the meter concerned, as determined by a meter test as contemplated in subsection 53(5) of this by-law or upon a calculation by the Municipality from available consumption data, and where applicable shall allowance be made for seasonal or other variations which may affect the consumption of electricity.

(7) When an adjustment is made as contemplated in subsection 53(6) of this by-law, the period of adjustment may not exceed six (6) months preceding the date on which the metering equipment was found to be inaccurate, on condition that a customer may claim overpayment for any longer period.

(8) Where the actual electrical load of a customer differs from the initial estimated electrical load provided for as contemplated in subsection 47(1) of this by-law, to the extent that the Municipality deems it necessary to alter or replace the installed municipal metering equipment to match the actual electrical load, the costs of such alteration or replacement of metering equipment shall be paid by the customer.

(9) Prior to the Municipality making any upward adjustment on an account in terms of subsection 53(6) of this by-law , the Municipality shall –

(a) notify the customer in writing of the monetary value of the adjustment to be made and the reasons therefore;

(b) provide sufficient particulars in such notification to enable the customer to submit representations thereon, and

(c) call upon the customer in such notice to provide as applicable written reasons within twenty one (21) days or any such longer period as the Municipality may permit, why the account concerned should not be adjusted as indicated in the notification.

(10) When a customer fail to make any representations or decline the opportunity for input, as contemplated in subsection 53(9)(c) of this by-law, the Municipality shall be entitled to adjust the account concerned.

(11) The Municipality shall consider any reasons provided by a customer in terms of subsection 53(9)(c) of this by-law, and when satisfied that the evidence and / or arguments provided justifies adjustments, adjust the account appropriately.

(12) When the Municipality, after having considered the representation made by the customer, decides that such representations do not warrant any adjustment to the monetary value of the account concerned, the account rendered in terms of subsection 53(9)(a) of this by-law shall become payable, subject to the customer's right of appeal against the decision in terms of section 62 of this by-law.

54. READING OF CREDIT METERS

(1) Unless otherwise determined, credit meters shall normally be read at intervals of one (1) month and the amount payable for such account shall be assessed accordingly.

(2) When a credit meter cannot be read for any reason, the Municipality may render an estimated account, provided that the electrical consumption shall be adjusted in subsequent accounts in accordance with the actual electricity consumption.

(3) When a customer vacates a premises and a final reading of the electricity consumption on a meter is not possible, an estimation of the consumption may be made and a final account may be rendered based on such estimation.

(4) When a special reading of a meter is requested by a customer, such reading shall be provided within a period of two (2) days, upon payment of the prescribed fees and tariffs.

(5) When any calculation, reading or metering error is discovered in respect of any account rendered to a customer, the error shall be corrected in subsequent accounts, and any such corrections shall only apply in respect of accounts for a period of three years preceding the date on which the error in the accounts was discovered, and shall be based on the actual tariffs applicable during that periods.

(6) The application of subsection 54(5) of this by-law, does not prevent a customer from claiming back overpayment for any longer period, as allowed for in statutory stipulations

55. PRE-PAYMENT METERS

(1) No refund of the amount tendered for the purchase of electricity credits shall be given at a point of sale, after initiation of the process by which a pre-payment meter token is produced.

(2) Duplicates of previously issued tokens for the transfer of electricity credits to a pre-payment meter, may be issued at the request of a customer.

(3) When a customer vacates any premises where a pre-payment meter is installed, no refund for the credit remaining on the pre-payment meter shall be made to such customer.

(4) The Municipality shall not be liable for the re-instatement of any lost credits in a pre-payment meter, as a result of tampering with such pre-payment meter or the incorrect use or the abuse of a pre-payment meter or tokens.

(5) When a customer is indebted to the Municipality for electricity consumed or for any other municipal service supplied by the Municipality or for property rates or for any other municipal levy, the Municipality may deduct a percentage from the amount tendered for electricity credits, as partial payment of the amount owed to the Municipality, as contemplated in the agreement in accordance with the Credit Control and Debt Collection By-law and Policy of the Theewaterskloof Municipality for the supply of electricity.

(6) The Municipality may at the discretion of the Municipality, appoint vendors for the sale of electricity credits for pre-payment meters in terms of supply chain procedures, and the continued operation of any vendor for such sales shall not be guaranteed at any time

CHAPTER 6:
ELECTRICAL CONTRACTORS

56. ADDITIONAL REQUIREMENTS FOR ELECTRICAL CONTRACTORS

In addition to the requirements of the Regulations for electrical contractors, the following additional requirements shall be applicable for electrical contractors within the area of jurisdiction of the Municipality -

(a) where an application for a new or an increased supply of electricity has been made to the Municipality, any duly authorized official of the Municipality may at his or her discretion accept notification of the completion of any part of an electrical installation, where the circuit arrangements allows for the electrical installation to be divided up into well-defined separate portions, and any such part of the electrical installation may at the discretion of such authorized official of the Municipality be inspected, tested and connected to a municipal electricity supply system, as though it were a complete installation;

(b) the examination, the testing and the inspection of any electrical installation that may be carried out at the discretion of the Municipality, in no way relieves the electrical contractor or the accredited person or the owner or the occupant or the user or the lessor of a premises, from his or her responsibility for any defect in such an installation; and

(c) any examination, testing and inspection of an electrical installation shall not be conceived in a way, even where the electrical installation has been connected to a municipal electricity supply system, as to indicate or guarantee in any way that an electrical installation has been carried out in a correct way with the most suitable materials for the purpose, or that the installation has been done in accordance with the provisions of this by-law, or that all safety standard has been complied with, and the Municipality shall not be held responsible for any defect or fault in such electrical installation.

57. LIABILITY FOR THE WORK OF CONTRACTORS

The Municipality shall not be held responsible for the work done by an electrical contractor or any other accredited person on a customer's premises, and shall not in any way be responsible for any loss or damage which may be caused by a fire or by any accident arising from the state of the electrical wiring on a premise.

CHAPTER 7:
COST OF WORK

58. COST OF WORK DONE BY THE MUNICIPALITY

The Municipality may repair any damage done in contravention of this by-law or resulting from a contravention of this by-law, and the cost of any such work carried out by the Municipality, shall be recovered from the person responsible for contravening the provisions of this by-law.

CHAPTER 8:
ENERGY SAVING MEASURES AND THE REDUCED USE OF ELECTRICITY

59. NORMS, STANDARDS AND GUIDELINES FOR ENERGY MANAGEMENT

(1) The Municipality may determine and publish norms, standards and guidelines for energy management, which may prescribe appropriate measures to save energy or to reduce the use of electricity, and such norms standards and guidelines shall be maintained in the form of an operational manual.

(2) The norms, standards and guidelines contemplated in subsection 59(1) of this by-law, may differentiate between communities, geographical areas and different kinds of premises.

CHAPTER 9:
GENERAL PROVISIONS

60. EXEMPTIONS

(1) Any person may in writing apply to the Municipality for exemption from any provision of this by-law.

(2) The Municipality may –

(a) grant an exemption in writing, stipulating the conditions for the exemption, and indicating the period for which such exemption shall be valid;

(b) alter or cancel any exemption or any condition for such an exemption; or

(c) refuse to grant an exemption, in which case the applicant shall be informed in writing of the reasons for such refusal.

(3) An exemption does not take effect before the applicant has undertaken in writing to comply with all the conditions imposed by the Municipality, and when any action or activity related to the exemption applied for is commenced before such undertaking has been submitted to the Municipality by the applicant, the exemption shall lapse.

(4) When any condition of an exemption is not complied with, the exemption lapses immediately.

61. COMMUNITY LIAISON FORUMS

(1) The Municipality may establish one or more liaison forums in a community for the purposes of obtaining community participation with regard to the matters dealt with in this by-law.

(2) A liaison forum may consist of –

(a) a member of members of an interest group, or affected persons;

(b) a member or members of the 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 consent 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 as contemplated in subsection 61(2) of this by-law, may on own initiative provide input to the Municipality for consideration.

62. APPEALS

A person whose rights are affected by a decision of the Municipality in terms of any delegated powers, may appeal against such 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.

63. OFFENCES AND PENALTIES

Any person who -

(a) obstructs or hinders any authorized official of the Municipality to gain access to a premises in the exercising of his or her powers or the performance of his or her functions or duties, in terms of the provisions of this by-law;

(b) obstructs an authorized official to do the necessary maintenance work on or changes to metering equipment or installing credit or pre-payment meters;

(c) fails to comply to the instructions of an authorized official issued in terms of this by-law, or fails to comply with a notice posted on a notice board;

(d) tampers or interferes with any metering equipment, municipal electrical installations, municipal electrical service connections or the municipal electricity supply systems;

(e) interferes with the electrical equipment of other persons;

(f) illegally or unauthorized connect to a municipal electricity supply system, or illegally re-connects or restores an electrical service connection to a municipal electricity supply system that has been disconnected by the Municipality,

(g) improperly or unsafely use or misuse of electricity;

(h) endangers a municipal electricity supply system by unlawful or unsafe actions, or by linking without prior approval alternative electrical supply equipment or medium or high voltage electrical equipment to a municipal electricity supply system;

(i) illegally and unauthorized resell electricity;

(j) refuse or fail to provide information;

(k) break municipal seals on electricity supply equipment and meters; or

(l) contravenes or fails to comply with any provision 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 an additional fine or an additional period of imprisonment or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment, for each day on which such offence is continued; and

(iii) 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.

64. 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.

65. 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 –

Name of by-law	Date published	As a whole or partially
Electricity Supply By-law	PG 6234 dated 8 March 2005	As a whole.

66. SHORT TITLE

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

67. OPERATIVE DATE

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

MUNISIPALITEIT VAN THEEWATERSKLOOF

VERORDENING INSAKE ELEKTRISITEITSVOORSIENING

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

AANHEF

Die doel van hierdie verordening is om elektrisiteitsvoorsiening en -verspreiding in die gebied van jurisdiksie van die Munisipaliteit van Theewaterskloof te reguleer, en om voorsiening te maak vir aangeleenthede verbandhoudend daartoe.

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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 konteks anders aandui, beteken –

"betalingsbewys", die element van 'n vooruitbetaalmeter stelsel wat gebruik word om inligting oor te dra van 'n verkooppunt vir elektrisiteitkrediet na 'n vooruitbetaalmeter;

"bevoegde persoon", 'n persoon geregistreer in terme van die Beroepsgesondheid en Veiligheid Regulasies, as 'n elektriese toetsbeampte vir enkel fase, 'n installasie elektrisiën of 'n meester installasie elektrisiën;

"diensaansluiting", al die kabels en toerusting wat nodig is om die munisipale voorsieningstelsel by 'n verbruiker se elektriese installasie aan te sluit, by die geïdentifiseerde voorsieningspunt;

"diensbeveiligingstoestel", enige sekering of stroombreker wat geïnstalleer word met die doel om die munisipale toerusting te beskerm teen oorbelading of foute, wat op die installasie of op die interne diensaansluiting voorkom;

"effektiewe datum", die datum waarop die verantwoordelikheid vir die lewering van 'n elektrisiteitdiens, na die Munisipaliteit van Theewaterskloof oorgaan;

"eienaar", is met betrekking tot eiendom, die geregistreerde eienaar van 'n eiendom, wie of 'n natuurlike persoon of 'n regspersoon kan wees, en sluit die okkupeerder, huurder, serwituuthouer, huurpaghouer, grondregte briefhouer, trustee, eksekuteur, kurator of aangewysde agent of administrateur van sodanige eiendom in;

"eiendom", is –

(a) onroerende eiendom geregistreer in die naam van 'n persoon, insluitend in die geval van 'n deeltitelskema, 'n deeltiteleenheid wat in die naam van 'n persoon geregistreer is;
(b) 'n reg geregistreer teen onroerende eiendom in die naam van 'n persoon, met uitsluiting van 'n verbandlening wat teen 'n eiendom geregistreer is;
(c) 'n grondbesitreg geregistreer in die naam van 'n persoon ingevolge wetgewing; en
(d) openbare dienste infrastruktuur, wat insluit enige openbare pad;

"elektriese installasie", 'n elektriese installasie soos gedefinieer in die Beroepsgesondheid en Veiligheid Regulasies;

"elektriese kontrakteur", 'n elektriese kontrakteur soos gedefineer in die Beroepsgesondheid en Veiligheid Regulasies;

"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 gemagtig is deur die Munisipaliteit van Theewaterskloof, om die bepalings van hierdie verordening af te dwing;

"gemagtigde elektriese beampte", 'n bevoegde persoon in die Elektrisiteit Departement van die Theewaterskloof Munisipaliteit, wie gemagtig is om ingevolge statutêre bepalings, skakelings op MV sisteme te onderneem;

"gereedsheidstoevoer", 'n alternatiewe toevoer van elektrisiteit, wat nie normaalweg deur 'n verbruiker verbruik word nie;

"hoë spanning", die stel nominale spanningsvlakke wat in kragstelsels vir grootmaat transmissie van elektrisiteit in die omgewing van 44 kV<Un tot 220 kV gebruik word, soos voorsien in SANS 10I9:2008, of enige hersiening of vervanging daarvan;

"kleinhandel kringbeweging van elektrisiteit", die proses om elektrisiteit wat deur 'n derde party opgewek word, van die punt van generering deur die derde party oor 'n distribusiestelsel van transmissie lyne, insluitend die transmissielyne van die Munisipaliteit van Theewaterskloof, na 'n kliënt te beweeg;

"kliënt", 'n persoon of organisasie of instelling, met wie die Munisipaliteit van Theewaterskloof 'n ooreenkoms aangegaan het vir die verskaffing van 'n munisipale diens, soos voorsien in die Verordening insake Kredietbeheer en Skuldinvordering van die Munisipaliteit van Theewaterskloof, en sluit met betrekking tot persele in -

(a) enige okkupeerder van 'n perseel of enige ander persoon met wie die Munisipaliteit van Theewaterskloof gekontrakteer het om elektrisiteit te voorsien of opwek; of

(b) wanneer sodanige perseel nie okkupeer word nie, enige persoon wie tans 'n wettige ooreenkoms met die Munisipalitet van Theewaterskloof, het vir elektrisiteitsvoorsiening of -generering met betrekking tot sodanige perseel; of

(c) indien daar geen sodanige persoon of okkupeerder is nie, die eienaar van 'n perseel;

"kredietmeter", 'n meter wat die gebruik van 'n diens meet, welke diens per ooreenkoms op die beginsel van gebruik nou en betaal later funksioneer;

"lae spanning", die stel nominale spanningsvlakke wat gebruik word vir die verspreiding van elektrisiteit, waarvan die boonste perk oor die algemeen aanvaar word as 'n wisselstroomspanning van eenduisend (I 000) volt of 'n gelykstroomspanning van eenduisend vyfhonderd (I 500) volt, soos voorsien in SANS 10I9: 2008, of enige hersiening of vervanging daarvan;

"lekstrome", gemeet in mikro ampere, is die lek van elektriese stroom van 'n elektriese installasie, as gevolg van –

(a) die geleidelike verlies van energie deur 'n gelaaide kapasitor, veroorsaak deur afgeskakelde elektroniese toestelle wat nog steeds aan sodanig gelaaide kapasitor gekoppel is, wat aanleiding gee tot die vloei van klein hoeveelhede elektriese stroom, selfs al is die stelsel afgeskakel;

(b) di-elektriese lekstrome veroorsaak deur di-elektriese materiaal wat 'n swak isoleerder met nie-zero geleiding is, wat wanneer dit in kapasitors gebruik word, aanleiding gee tot lekstrome;

(c) strome wat lek vanuit 'n elektriese stroombaan, wat deur alternatiewe geleiers vloei;

(d) 'n ongevraagde oordrag van energie van een elektriese stroombaan na 'n ander;

(e) strome wat in elektriese stroombane van elektriese monterings wat op bystand is vloei;

(f) 'n kwantum verskynsel, waar positief gelaaide kragdraers deur insoleerders "tonnel";
(g) lekstrome vanaf transistors en inter-verbindings;

"medium spanning", die stel nominale spanningsvlakke bo lae spanning en benede hoë spanning, in die omgewing van I kV < Un tot 44 kV, soos aangedui in SANS 10I9: 2008, of enige hersiening of vervanging daarvan;

"meter", 'n toestel wat die elektriese energie aanvraag en / of die elektriese energie wat verbruik word aandui, en sluit in, maar is nie beperk tot, konvensionele meters, vooruitbetaalmeters, netmeters en slimmeters;

"motoraansitstroom", met betrekking tot wisselstroommotore, die gemiddelde vierkantwortelwaarde van die simmetriese stroom wat deur 'n motor verbruik word, wanneer dit aangedryf word volgens die geraamde spanning daarvan met die aansitter in 'n aansitposisie en die rotor gesluit;

"motorlas total aangeskakel", die somtotaal van die kW-vermoë van al die afsonderlike elektriese motore wat by 'n installasie aangesluit is;

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

"Munisipaliteit", die Munisipaliteit van Theewaterskloof, wat insluit enige verwysing na behoorlike gemagtigde en / of aangestelde beamptes en / of diensverskaffers in terme van dienslewering ooreenkomste van die Munisipaliteit van Theewaterskloof;

"netmeter", meettoerusting gebruik om die verskil tussen die elektrisiteit voorsien deur die Munisipaliteit van Theewaterskloof en die elektrisiteit opgewek deur 'n kliënt vir die toepaslike heffingperiode te meet;

"okkupeerder", 'n persoon wat 'n eiendom of 'n perseel okkupeer en beheer, insluitent 'n inwoner, en **"okkupeerders"** het 'n ooreenstemmende betekenis;

"opwekking van elektrisiteit", die proses van generering van elektriese krag van enige bron van primêre energie;

"perseel", enige gedeelte grond, geleë binne die regsgebied van die Munisipaliteit van Theewaterskloof, waarvan die buitegrense afgebaken is op 'n algemene plan of diagram of deeltitelplan, en wat ingevolge die toepaslike wetgewing geregistreer is;

"punt van gebruik", 'n "punt van gebruik", soos gedefinieer in die Beroepsgesondheid en Veiligheid Regulasies;

"punt van meting", die punt waar die verbruiker se elektrisiteitsverbruik gemeet word, en wat by die voorsieningspunt of by enige ander punt op die verspreidingstelsel van die Munisipaliteit van Theewaterskloof of die elektriese installasie van die verbruiker kan wees of enige ander punt soos deur die Munisipaliteit van Theewaterskloof bepaal, met dien verstande dat die totale elektrisiteitverbruik van die verbruiker gemeet sal word;

"punt van voorsiening", die punt wat deur die Munisipaliteit van Theewaterskloof vasgestel word waar elektrisiteit aan 'n perseel voorsien word;

"Regulasies", die Beroepsgesondheid en Veiligheid Regulasies, afgekondig in terme van die Wet op Beroepsgesondheid en Veiligheid, 1993 (Wet No 85 van 1993), soos gewysig;

"SANS", 'n Suid-Afrikaanse Nasionale Standaard;

"sertifikaat van voldoening", 'n voldoeningsertifikaat uitgereik in terme van die Beroepsgesondheid en Veiligheid Regulasies, vir 'n elektriese installasie of 'n gedeelte van 'n elektriese installasie;

"slimmeter", 'n elektrisiteitmeter wat die meting van elektrisiteitverbruik in tydintervalle meet, en verskeie ander funksies het;

"**spanning**", die gemiddelde vierkantswortelwaarde van elektriese potensiaal tussen twee geleiers;

"Suid-Afrikaanse Buro van Standaarde", die Suid-afrikaanse Buro van Standaarde, soos gevestig in terme van artikel 2 van die Wet op Standaarde, 2008 (Wet No 8 van 2008), soos gewysig;

"tarief", die fooie en tariewe vir die voorsiening van elektrisiteit, en die toepaslike diverse tariewe vir elektrisiteit, soos jaarliks bepaal in terme van die Tariewe Verordening van die Munisipaliteit van Theewaterskloof;

"toepaslike standaard spesifikasie", die -

(a) SANS 1019:2008 – "Standard voltage-, currents- and insulation levels for electricity supply", of enige hersiening of vervanging daarvan;
(b) SANS 1607 – "Electro-mechanical watt-hour meters", of enige hersiening of vervanging daarvan;
(c) SANS 1524 Parts 1 & 2 – "Electricity dispensing systems", of enige hersiening of vervanging daarvan
(d) SANS IEC 60211 – "Maximum demand indicators, Class1.0", of enige hersiening of vervanging daarvan;
(e) SANS IEC 60521 – "alternating current electro-mechanical watt-hour meter (Classes 0.5, 1 & 2)", of enige hersiening of vervanging daarvan;
(f) SANS 0142:2009 – "Code of practice for the wiring of premises", of enige hersiening of vervanging daarvan;
(g) NRS 047 – "National rationalized specification for electricity supply: Quality of Service", of enige hersiening of vervanging daarvan;
(h) NRS 048 – "National rationalized specification for electricity supply: Quality of Supply", of enige hersiening of vervanging daarvan; en
(i) NRS 057 – "Electricity metering: Minimum requirements", of enige hersiening of vervanging daarvan;

"tydelike verskaffing", tydelike elektrisiteitsvoorsiening deur 'n kliënt benodig vir 'n spesifieke periode, wat verskaf word in terme van die voorwaardes van 'n tydelike voorsieningooreenkoms;

"veiligheidstandaard", die "Code of Practice for the Wiring of Premises SANS 10142-1", of enige hersiening of vervang daarvan, soos vervat in die Beroepsgesondheid en Veiligheid Regulasies;

"vermoë van 'n motor", die maksimum aaneenlopende kilowatt (kW) uitset van 'n elektriese motor, soos aangedui op die vervaardiger se valuasieplaat;

"voorsieningstelsel", enige gedeelte van die munisipale elektriese netwerk;

"vooruitbetaalmeter", 'n meetinstrument, wat geprogrammeer kan word om die vloei van hoeveelhede vooruitbetaalde energie in 'n elektriese stroomkring toe te laat deur die meetinstrument, in proporsie met die hoeveelheid wat deur die verbruiker vooruit betaal is; en

"Wet op Elektrisiteitregulering", die Wet op Elektrisiteitregulering, 2006 (Wet No 4 van 2006), soos gewysig.

(2) alle ander definisies gebruik in hierdie verordening, sal behalwe as die konteks anders aandui, die betekenis hê wat daaraan toegeskryf word in die Wet op Elektrisiteitregulering, 2006 (Wet No 4 van 2006), soos gewysig, of die Wet op Beroepsgesondheid en Veiligheid, 1993 (Wet No 85 van 1993), soos gewysig;

HOOFSTUK 1:
ALGEMENE VOORWAARDES VAN VERSKAFFING

2. VOORSIENING VAN ELEKTRISITEITSDIENSTE

(1) Slegs die Munisipaliteit mag elektrisiteit voorsien of kontrakteer vir die verskaffing van grootmaat elektrisiteit in die gebied van jurisdiksie van die Munisipaliteit.

(2) Die Munisipaliteit mag die gebruik van die munisipale elektriese netwerk deur 'n ander gelisensieërde elektrisiteitverskaffer in terme van die Wet op Elektrisiteitregulering, vir die bulkvoorsiening of kleinhandel kringbeweging van elektrisiteit toelaat.

(3) Goedkeurings in terme van subartikel 2(2) van hierdie verordening, sal gereguleer word deur diensleweringooreenkomste, soos voorsien in artikel 80 van die Munisipale Stelselswet.

(4) Die Munisipaliteit mag die gesamentlike opwekking van elektriese krag deur kliënte van die Munisipaliteit toelaat, onderhewig aan –

(a) die aangaan van 'n opwekkingsooreenkoms tussen die betrokke opwekker van elektriese krag en die Munisipaliteit;
(b) voldoening aan al die relevante statutêre vereistes verbandhoudend tot die opwekking van elektriese krag en die veiligheids regulasies daarvoor;
(c) registrasie by die Munisipaliteit, van alle vaste installasies waar elektriese krag opgewek sal word; en
(d) voldoening aan die veiligheids- en kwaliteitvereistes wat deur die Munisipaliteit bepaal sal word, voordat die opgewekte elektriese krag in die munisipale elektriese netwerke toegelaat word.

(5) Die surplus opwekking van elektriese krag mag gereguleer word, en die Munisipaliteit mag voorwaardes bepaal met betrekking tot die tyd van opwekking en die hoeveelhede van sodanige surplus krag wat opgewek word.

3. VOORSIENING EN OPWEKKING VAN ELEKTRISITEIT PER OOREENKOMS

(1) Geen persoon mag elektrisiteit aan die Munisipaliteit voorsien vir gebruik, behalwe indien sodanige persoon 'n skriftelike ooreenkoms met die Munisipaliteit vir sodaninge voorsiening van elektrisiteit aangegaan het in terme van die "Guidelines for Embedded Generations" en die Beleid en Verordening insake Kredietbeheer en Skuldinvordering van die Munisipaliteit van Theewaterskloof, en sodanige ooreenkoms tesame met die bepalings van hierdie verordening sal alle aspekte van die voorsiening van elektrisiteit reguleer.

(2) Wanneer 'n persoon elektrisiteit gebruik sonder om 'n ooreenkoms met die Munisipaliteit aan te gaan, soos voorsien in subartikel 3(1) van hierdie verordening, sal hy of sy aanspreeklik wees vir die koste van alle elektrisiteit gebruik, soos in artikel 42 van hierdie verordening aangedui.

(3) Geen persoon mag elektrisiteit opwek by wyse van 'n vaste installasie en sodanig opgewekte elektriese krag in 'n munisipale elektriese netwerk voer, behalwe in terme van die "Guidelines for Embedded Generations" en die Beleid en Verordening insake Kredietbeheer en Skuldinvordering van die Munisipaliteit van Theewaterskloof, en sodanige ooreenkoms vir elektriese kragopwekking, tesame met die bepalings van hierdie verordening en alle ander wetgewing wat die lisensiëring van elektriese kragopwekkers reguleer, sal alle aspekte van sodanige opwekking van elektrisiteit reguleer.

4. BEDIENING VAN KENNISGEWING EN ANDER DOKUMENTE

(1) Die Munisipaliteit mag by wyse van 'n skriftelike kennisgewing, die eienaar of okkupeerder van 'n perseel, 'n kliënt of enige ander persoon, wat deur aksie of nalaat versuim om te voldoen aan die bepalings van hierdie verordening of enige voorwaarde opgelê deur 'n bepaling van hierdie verordening, opdrag gee om sy of haar versuim reg te stel binne 'n redelike periode soos in die betrokke kennisgewing voorsien.

(2) Enige kennisgewing, bevel, aanskrywing of ander dokument wat ingevolge hierdie verordening op 'n persoon bedien word, word 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 4(1)(a), 4(1)(b) of 4(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, 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 'n persoon 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) Enige prosesstuk word geag as effektief en voldoende bedien te wees op die Munisipaliteit, as dit afgelewer word by die Munisipale Bestuurder of 'n persoon by die kantoor van die Munisipale Bestuurder.

(5) '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.

(6) 'n Bevel, kennisgewing of ander dokument wat waarmerking vereis moet behoorlik deur die Munisipaliteit onderteken wees.

5. VOLDOENING AAN KENNISGEWINGS

Enige persoon op wie 'n kennisgewing in terme van hierdie verordening bedien word, sal binne die tydperk voorgeskryf in sodanige kennisgwing aan die terme en voorwaardes van die betrokke kennisgewing voldoen.

6. AANSOEKE VIR DIE VOORSIENING OF OPWEKKING VAN ELEKTRISITEIT

(1) Aansoeke vir die voorsiening of opwekking van elektrisiteit moet skriftelik deur 'n voornemende kliënt in die voorgeskrewe formaat gemaak word, en die verwagte elektrisiteitaanvraag van die beoogde installasie en / of die geraamde opwekkings-kapasiteit, moet verskaf word uitgedruk in kilovolt-ampere.

(2) Die aansoek soos voorsien in subartikel 6(1) van hierdie verordening vir die voorsiening of opwekking van elektrisiteit, moet so vroeg moontlik ingedien word, ten einde die Munisipaliteit geleentheid te gee om die vereiste konstruksiewerk in die minimum tyd benodig vir die konstruksie van elektrisiteit installasies, soos voorgeskryf in die NRS 047 dokument, of enige hersiening of vervanging daarvan, uit te voer.

(3) Wanneer 'n aansoek vir die voorsiening of opwekking van elektrisiteit ingedien word, moet dit vergesel wees van die volgende dokumentasie –

(a) bewys van die identiteit van 'n applikant, of in die geval van 'n besigheid of 'n instelling, 'n magtigingsbrief wat die applikant magtig om 'n aansoek in te dien, en

(b) in die geval van 'n huurder van 'n perseel, 'n geldige huurooreenkoms, of in die geval van 'n eienaar van 'n perseel, 'n bewys van eienaarskap van die perseel waarvoor elektrisiteitsvoorsiening of 'n ooreenkoms vir elektrisiteitopwekking benodig word, en die Munisipaliteit mag besluit om vir doeleindes van die voorsiening of opwekking van elektrisiteit, slegs te kontrakteer met die eienaar van 'n perseel en nie 'n huurder nie.

(4) 'n Aansoek vir 'n tydelike voorsiening van elektrisiteit, sal ingevolge die diskresie van die Munisipaliteit oorweeg word, en die Munisipaliteit mag enige voorwaarde bepaal, wat nagekom moet word.

7. PROSESERING VAN AANSOEKE VIR DIE VOORSIENING OF OPWEKKING VAN ELEKTRISITEIT

Aansoeke vir die voorsiening of opweking van elektrisiteit sal deur die Munisipaliteit in terme van die standaard bedryfprosedures daarvoor verwerk word, en elelektrisiteitsvoorsiening sal geskied binne die periodes voorgeskryf in die NRS 047-dokument, of enige hersiening of vervanging daarvan.

8. DEURGANGSREGTE

(1) Die Munisipaliteit mag die voorsiening of die konstruksie van 'n diensaansluiting weier, hetsy bo-op of ondergronds op enige deurgang nie in besit van die Munisipaliteit nie of op privaat eiendom, totdat die voornemende kliënt skriftelike toestemming van die betrokke grondeienaar of titelhouer van die deurgangsregte ontvang het, om sodanige elektriese installasie op of oor die betrokke eiendom of deurgang aan te bring of te konstrueer.

(2) 'n Deurgangsreg toegestaan in terme van subartikel 8(1) van hierdie verordening, sal bindend wees op die eienaar van 'n eiendom wat die deurgangsreg toegestaan het, of op enige opvolgers in titel van die betrokke eiendom, vir solank die betrokke elektrisiteitaansluiting operasioneel is en die sodanige deurgangsreg mag nie sonder die instemming van die Munisipaliteit gekanselleer word nie.

9. STATUTÊRE SERWITUTE

(1) Onderworpe aan die bepalings van subartikel 9(3) en subartikel 10(1) van hierdie verordening, mag die Munisipaliteit binne die gebied van jurisdiksie van die Munisipaliteit -

(a) elektrisiteit dienste reguleer, beheer, voorsien, vestig of in stand hou;
(b) elektrisiteit voorsieningstelsels verkry, konstrueer, uitbrei, vergroot, wysig, instandhou, herstel, op hou gebruik, uit diens stel of afbreek;
(c) elektrisiteit voorsieningstelsels op, oor of onder enige straat of onroerende eiendom konstrueer, oprig of installeer, waarvan die eienaarskap by die Munisipaliteit berus;
(d) enige ander aksie nodig, wenslik, gepaardgaande, addisioneel of ondergeskik tot enige van die aangeleenthede voorsien in subartikels 9(1)(a) tot (c) van hierdie verordening implementeer.

(2) Wanneer die Munisipaliteit enige elektrisiteit voorsieningstelsel konstrueer, oprig of installeer op, oor of onder enige straat of onroerende eiendom, wat nie deur die Munisipaliteit besit word of onder die beheer en bestuur van die Munisipaliteit is nie, sal die Munisipaliteit aan die eienaar van sodanige straat of eiendom kompensasie betaal, soos wedersyds ooreengekom of in die afwesigheid van 'n ooreenkoms, soos deur arbitrasie of 'n hof bepaal.

(3) Die Munisipaliteit moet alvorens enige werk anders as herstel- en onderhoudswerksaamhede onderneem word op, oor of onder enige straat of onroerende eiendom, wat nie deur die Munisipaliteit besit word of onder die beheer en bestuur van die Munisipaliteit is nie, behoorlike skriftelike kennisgewing aan die eienaar of die okkupeerder van sodanige eiendom verskaf, aangaande die werk wat onderneem gaan word en die datum wanneer werksaamhede in aanvang sal neem.

10. REG OP TOEGANG TOT PERSELE

(1) Die Munisipaliteit sal deur middel van gemagtigde beamptes en diensverskaffers, toegang tot of oor eiendom hê, vir doeleindes van –

(a) die implementering van die bepalings van hierdie verordening of ander statutêre bepalings;
(b) die inspeksie en ondersoek van enige elektriese diensstelsels en enigiets verbandhoudend daarmee;
(c) navrae, opnames en ondersoeke met betrekking tot die geskiktheid van persele vir toekomstige elektriese installasies en ander elektriese werke;
(d) bepaling of daar oortredings van die bepalings van hierdie verordening, of enige ander statutêre bepaling was; en
(e) afdwinging van die bepalings van hierdie verordening of enige ander statutêre bepaling.

(2) Die Munisipaliteit mag kompensasie betaal aan enige persoon wat skade gely het as gevolg van die Munisipaliteit se reg tot toegang, soos voorsien in subartikel 10(1) van hierdie verordening, soos en wanneer toepaslik, en soos ooreengekom tussen die geaffekteerde partye.

(3) Subartikel 10(2) van hierdie verordening sal nie van toepassing wees waar die Munisipaliteit gemagtig is om werk te onderneem op die koste van 'n kliënt of 'n ander persoon nie.

(4) In die afwesigheid van 'n ooreenkoms tussen die geaffekteerde partye, mag kompensasie bepaal word deur arbitrasie of 'n geregshof.

(5) 'n Gemagtigde beampte mag by wyse van skriftelike kennisgewing aan 'n eienaar of 'n okkupeerder van 'n perseel, vir enige doeleindes soos verwys na in subartikel 10(1) van hierdie verordening, toegang tot sodanige perseel vereis.

(6) Die Munisipaliteit mag in 'n noodgeval, enige perseel sonder vooraf kennisgewing binnegaan en mag enige aksie onderneem wat nodig of wenslik is om lewe of eiendom te beskerm.

(7) Gemagtigde beamptes en diensverskaffers van die Munisipaliteit wie toegang tot 'n privaat perseel wil verkry, moet op versoek hulle bewys van identifikasie kan toon.

11. WEIERING OF VERSUIM OM INLIGTING TE VERSKAF

(1) Geen persoon mag weier of versuim om sodanige inligting aan 'n gemagtigde beampte van die Munisipaliteit te verskaf, as wat binne redelike perke vereis word van hom of haar, of vals inligting verskaf aan sodanige gemagtigde beampte aangaande enige elektriese installasiewerk beoog of afgehandel.

(2) Die Munisipaliteit mag nie, onderhewig aan die bepalings van enige ander statutêre bepaling, enige inligting oor die voorsiening van elektrisiteit aan of die rekeningbesonderhede van enige kliënt, aan 'n derde party bekend maak, sonder die skriftelike instemming van sodanige kliënt.

12. INSPEKSIES EN DIE REG TOT TOEGANG

(1) Geen persoon mag doelbewus 'n gemagtigde beampte van die Munisipaliet in die uitvoering van sy of haar pligte in terme van hierdie verordening of ander relevante wetgewing, hinder, verhinder of toegang weier nie.

(2) 'n Gemagtigde beampte van die Munisipaliet, mag by skriftelike kennisgewing wat op die eienaar of die okkupeerder van enige perseel bedien word, van die eienaar of die okkupeerder van sodanige perseel vereis om te enige redelike tyd toegang tot die betrokke perseel aan 'n gemagtigde beampte vir doeleindes van inspeksie van die perseel te verleen.

(3) 'n Gemagtigde beampte van die Munisipaliteit mag te alle redelike tye, enige perseel of gedeeltes daarvan binnegaan, met die doel om enige inspeksies of toetse uit te voer om die huidige status of gebruik van elektriese installasies te bepaal of vir enige doeleindes wat verband hou met die implementeering of toepassing van hierdie verordening.

13. MISBRUIK VAN ELEKTRISITEIT

(1) Wanneer 'n kliënt elektrisiteit op sodanige wyse gebruik, dat die Munisipaliteit redelike gronde het om te glo dat sodanige gebruik op 'n onbehoorlike en 'n onveilige wyse inmeng of beplan is om op 'n onbehoorlike en 'n onveilige wyse in te meng met die doeltreffende voorsiening van elektrisiteit aan ander kliënte, mag die Munisipaliteit met

of sonder kennisgewing sodanige elektrisiteittoevoer na 'n kliënt afsluit, met dien verstande dat sodanige toevoer weer herstel moet word, sodra die oorsaak van die onbehoorlike gebruik van elektrisiteit reggestel of verwyder is, en die voorgeskrewe fooie, tariewe en boetes betaal is.

(2) Die kliënt betaal die fooie, tariewe en boetes, soos deur die Munisipaliteit voorgeskryf in terme van die Tariewe Verordening van die Theewaterskloof Munisipaliteit vir die afsluiting en aansluiting van elektrisiteitsvoorsiening, alvorens die toevoer van elektrisiteit herstel word, tensy dit bewys kan word dat sodanige kliënt nie die elektrisiteit misbruik het nie.

14. ELEKTRISITEIT TARIEWE

Kopieë van elektrisiteit tariewe, soos jaarliks bepaal in terme van die Tariewe Verordening van die Theewaterskloof Munisipaliteit, mag verkry word by die kantore van die Munisipaliteit.

15. DEPOSITO'S

(1) Die Munisipaliteit mag in terme van die Beleid en Verordening insake Kredietbeheer en Skuldinvordering van die Munisipaliteit van Theewaterskloof, van 'n kliënt vereis om 'n bedrag te betaal as sekuriteit vir die betaling van enige fooi of tarief vir elektrisiteit, wat verskuldig is aan die Munisipaliteit of verskuldig mag raak.

(2) Die bedrag van die deposito ten opsigte van elke elektriese installasie, sal jaarliks deur die Munisipaliteit in terme van die Tariewe Verordening van die Theewaterskloof Munisipaliteit bepaal word.

16. BETALING VAN FOOIE EN TARIEWE

'n Kliënt sal aanspreeklik wees vir alle fooie en tariewe vir elektrisiteitsdienste, soos jaarliks bepaal in terme van die Tariewe Verordening van die Theewaterskloof Munisipaliteit, en alle bedrae agterstallig sal ingevorder word in terme van die Beleid en Verordening insake Kredietbeheer en Skuldinvordering van die Munisipaliteit van Theewaterskloof

17. RENTE BETAALBAAR OP AGTERSTALLIGE REKENINGE

Die Munisipaliteit mag rente hef op rekeninge in terme van die Beleid en Verordening insake Kredietbeheer en Skuldinvordering van die Munisipaliteit van Theewaterskloof, wat nie teen die doeldatum betaal is nie.

18. BEGINSELS VIR DIE HERVERKOOP VAN ELEKTRISITEIT

(1) Tensy skriftelik deur die Munisipaliteit gemagtig, mag geen persoon elektrisiteit wat aan sy of haar perseel voorsien word of wat ingevolge 'n ooreenkoms met die Munisipaliteit deur hom of haar opgewek word, aan enige ander persoon of persone vir gebruik op ander persele verkoop of toelaat dat dit verkoop word of dat opgewekte elektrisiteit voorsien word vir verbruik op ander persele nie.

(2) Die herverkoop van elektrisiteit moet altyd voldoen aan die lisensiëring- en registrasievereistes, soos uiteengesit in die Wet op Elektrisiteitregulering.

(3) Wanneer elektrisiteit herverkoop word vir verbruik op dieselfde perseel, sal die herverkoop van elektrisiteit deur 'n submeter gemeet word, van 'n soort wat deur Suid-Afrikaanse Buro vir Standaarde gesertifiseer was en voorsien, geïnstalleer en geprogrammeer was ooreenkomstig die Munisipaliteit se standaarde.

(4) Die fooie en tariewe, en die voorwaardes vir verkoping in terme waarvan elektrisiteit herverkoop mag word, sal nie minder gunstiger vir die koper van sodanige elektrisiteit wees, as wat van toepassing sou wees indien die Munisipaliteit elektrisiteit direk aan die koper sou voorsien het nie.

(5) Wanneer elektrisiteit herverkoop word, sal die verkoper maandelikse state aan die koper verskaf, wat ten minste net soveel besonderhede bevat as die tersaaklike rekeninginligting wat die Munisipaliteit aan sy elektrisiteitverbruikers verskaf.

(6) Die Munisipaliteit mag ouditverslae van die herverkopers van elektrisiteit vereis, om te bevestig dat die voorwaardes vir die herverkoop van elektrisiteit, soos voorsien in subartikels 18(2) tot 18(5) van hierdie verordening nagekom word, en die kostes om sodanige ouditverslae te bekom sal die verantwoordelikheid van die herverkoper wees.

19. DIE REG OM DIE ELEKTRISITEITSVOORSIENING AAN 'n PERSEEL AF TE SLUIT OF TE VERWYDER

(1) Die Munisipaliteit het 'n reg om die elektrisiteitsvoorsiening aan enige perseel te beperk of af te sluit, in ooreenstemming met die Kredietbeheer en Skuldinvorderingbeleid van die Munisipaliteit –

(a) sonder kennisgewing, wanneer daar -
(i) 'n wesenlike gevaar vir persone of eiendom is; of
(ii) bewyse van peutering met 'n voorsieningsisteem is; en

(b) met skriftelike kennisgewing, wanneer -
(i) 'n kliënt versuim om enige bedrag aan die Munisipaliteit vir elektrisiteitsvoorsiening of enige ander munisipale dienste verskuldig te betaal;
(ii) enige bepaling van hierdie verordening oortree word en die kliënt versuim het om die oortreding te korrigeer na behoorlike kennisgewing op hom of haar bedien is; of
(iii) toegang om meettoerusting te inspekteer geweier word.

(2) Wanneer subartikel 18(1) van hierdie verordening met betrekking tot die herverkoop van elektrisiteit oortree word, mag die Munisipaliteit die voorsiening van elektrisiteit aan 'n perseel waarvandaan elektrisiteit verskaf of verkoop word, beperk tot twintig (20) ampere.

(3) Nadat elektrisiteitsvoorsiening aan 'n perseel afgesluit word, weens die nie-betaling van rekeninge, of die onbehoorlike of onveilige gebruik van elektrisiteit, moet die fooie en tariewe soos voorgeskryf deur die Munisipaliteit betaal word vir die heraansluiting van sodanige elektrisiteitsvoorsiening.

(4) Indien 'n elektriese installasie op 'n kliënt se perseel onwettig heraangesluit word, nadat dit voorheen regmatig deur die Munisipaliteit afgesluit was of indien daar met die Munisipaliteit se elektriese toerusting gepeuter word om te verhoed dat 'n meter die volle verbruik registreer, mag die elektriese toevoer na sodanige perseel fisiek deur die Munisipaliteit verwyder word.

20. AANSPREEKLIKHEID VAN DIE MUNISIPALITEIT

Die Munisipaliteit sal nie aanspreeklik wees vir enige verlies of skade, wat direk of gevolglik deur 'n kliënt gely of opgedoen word nie, weens of voortspruitend uit die staking, die onderbreking of enige ander abnormaliteit in die voorsiening van elektrisiteit, behalwe as gevolg van nalatigheid deur die Munisipaliteit.

21. LEK VAN ELEKTRISITEIT

Geen afslag sal toegestaan word op 'n rekening vir elektrisiteit verskaf en gemeter, met betreking tot elektrisiteitgebruik as gevolg van elektriese lekstrome of enige ander fout in 'n elektriese installasie van 'n kliënt nie.

22. ONDERBREKING IN ELEKTRISITEITSVOORSIENING

(1) Die Munisipaliteit sal nie aandag gee aan 'n elektrisiteitsvoorsiening onderbreking, wat as gevolg van 'n fout in die elektriese installasie van 'n kliënt ontstaan het nie, behalwe wanneer sodanige onderbreking in elektrisiteitsvoorsiening die resultaat is van die funksionering van die diensbeskermingtoestel, of enige ander toestel van die Munisipaliteit.

(2) Wanneer daar bevind word dat 'n elektrisiteitsvoorsiening onderbreking die gevolg is van 'n fout in die elektriese installasie van 'n kliënt of die resultaat is van 'n foutiewe elektriese apparaat gebruik in samehang daarmee, mag die Munisipaliteit van die betrokke kliënt vereis om die toepaslike fooie en tariewe vir 'n elektrisiteitsvoorsiening heraansluiting te betaal, addisioneel tot die kostes vir die herstel van skade veroorsaak aan 'n elektrisiteit voorsieningstelsel en elektriese meters, deur die fout in die elektriese installasie of die foutiewe funksionering van die betrokke apparaat.

23. MUNISIPALE SEëLS

(1) Alle elektrisiteitmeters, lasbeheertoestelle of diensbeskermingtoestelle, en alle ander elektriese apparate wat aan die Munisipaliteit behoort, sal verseël of gesluit word deur 'n gemagtigde beampte van die Munisipaliteit en geen ongemagtigde persoon mag op enige wyse of op enige manier of vir enige rede sodanige seëls of slotte verwyder of breek of daarmee peuter of daarmee inmeng nie.

(2) Die Munisipaliteit mag wanneer 'n seël of 'n slot deur 'n kliënt gebreek of verwyder word, die kostes verbonde aan die vervanging van sodanige seël of slot van die persoon betrokke verhaal.

24. PEUTERING MET DIENSAANSLUITINGS OF ONWETTIGE AANSLUITINGS AAN 'n ELEKTRISITEIT VOORSIENINGSTELSEL

(1) Geen persoon mag op enige wyse of vir enige rede hoegenaamd, met enige meter of meettoerusting of diensaansluiting of diensbeveiligingstoestel of 'n munisipale elektrisiteit voorsieningstelsel of enige ander elektriese toerusting van die Munisipaliteit peuter, daarmee inmeng, dit vandaliseer of advertensiemateriaal daarop aanbring of dit ontsier nie.

(2) Geen persoon mag op enige wyse of vir enige rede, 'n onwettige aansluiting maak op die elektriese installasie van enige ander kliënt van die Munisipaliteit nie.

(3) Waar *prima facie*-bewys bestaan dat 'n kliënt en / of enige persoon, subartikel 24(1) van hierdie verordening oortree het, mag die Munisipaliteit enige boetes of fooie soos voorsien in die Tariewe Verordening van die Theewaterskloof Munisipaliteit hef, enige kostes aangegaan vir die vervanging van 'n beskadigde meter verhaal, of die toevoer van elektrisiteit onmiddellik en sonder vooraf kennisgewing aan 'n kliënt afsluit, en soos toepaslik regsaksie implemteer en kriminele kagtes teen die betrokke kliënt instel.

(4) Waar 'n kliënt of enige persoon subartikel 24(1) van hierdie verordening oortree, en sodanige oortreding het daartoe gevolg dat 'n meter minder verbruik as die werklike verbruik registreer, het die Munisipaliteit die reg om die volle koste van die geraamde verbruik van die betrokke kliënt te verhaal.

25. BESKERMING VAN DIE MUNISIPALE ELEKTRISITEITSVOORSIENING STELSEL

(1) Geen persoon mag, behalwe met die Munisipaliteit se goedkeuring en onderworpe aan sodanige voorwaardes as wat deur die Munisipaliteit opgelê mag word -

(a) enige gebou, struktuur of ander voorwerp konstrueer, oprig of installeer, of toelaat dat dit gekonstrueer, gebou of geïnstalleer word, of die plant van bome of ander plantegroei, onder, oor of in sodanige posisie of op sodanige manier toelaat, wat sal inmeng met 'n elektrisiteit
voorsieningstelsel of dit bedreig nie;
(b) enige deel van 'n elektrisiteit voorsieningstelsel uitgrawe, oopmaak of die grond bo-op, langsaan, onder of naby dit verwyder nie;
(c) enige deel van 'n elektrisiteit voorsieningstelsel beskadig, bedreig, verwyder of vemietig nie, of enigiets doen wat in alle waarskynlikheid 'n elektrisiteit voorsieningstelsel sal beskadig, bedreig of enige deel daarvan sal vernietig nie; of
(d) enige ongemagtigde aansluiting aan enige deel van 'n elektrisiteit voorsieningstelsel maak of elektrisiteit daarvandaan aflei of veroorsaak dat dit afgelei word nie.

(2) Die eienaar of die okkupeerder van 'n perseel sal die hoogte beperk van bome en ander plantegroei, of die lengte van oorhangende takke van bome en ander plantegroei in die nabyheid van oorhoofse elektriese lyne, of 'n meganisme van beskerming implementeer om te verhoed dat die takke van sodanige bome of plantegroei aan elektriese lyne raak, wat na die mening van die Munisipaliteit genoegsaam sal wees om bome en plantegroei te verhoed om met elektriese geleiers of 'n elektrisiteit voorsieningstelsel in te meng.

(3) Wanneer die eienaar of die okkupeerder van 'n perseel versuim om te voldoen aan die bepalings van subartikel 25(2) van hierdie verordening, mag die Munisipaliteit deur middel van skriftelike kennisgewing aan sodanige eienaar of okkupeerder van 'n perseel, opdrag gee om 'n boom of plantegroei betrokke te snoei of te verwyder, om te voldoen aan die bepalings van subartikel 25(2) van hierdie verordening, of in 'n noodgeval self die betrokke boom of plantegroei te snoei of te verwyder.

(4) Die Munisipaliteit mag onderworpe aan die verkryging van 'n hofbevel, enige gebou, struktuur of enige ander voorwerp wat strydig met hierdie verordening gebou, opgerig of geïnstalleer word of 'n boom of plantegroei aangeplant, afbreek, verwyder, verander of op enige ander wyse daarmee handel, wat 'n elektriese installasie of 'n munisipale elektrisiteit voorsieningstelsel affekteer of beskadig.

(5) Die Munisipaliteit mag in 'n noodgeval of 'n ramp, enigiets verwyder wat enige deel van 'n elektrisiteit voorsieningstelsel beskadig, belemmer, bedreig of vernietig, of wat dit waarskynlik kan beskadig, belemmer, bedreig of vernietig.

26. VOORKOMING VAN PEUTERING MET DIENSAANSLUITINGS

Indien die Munisipaliteit dit nodig of wenslik vind om spesiale voorsorgmaatreëls te tref om te verhoed dat daar aan enige deel van 'n elektrisiteitsvoorsiening stelsel, diensaansluitings of diensbeveiligingtoestelle of elektrisiteitmeters of meettoerusting gepeuter word, moet 'n kliënt of die nodige toerusting vir beveiliging verskaf en installeer, of die betrokke kostes betaal waar sodanige beveiligingtoerusting deur die Munisipaliteit verskaf en installeer word.

27. ONGEMAGTIGDE AANSLUITINGS

Geen ongemagtigde persoon mag direk of indirek 'n elektriese installasie aan 'n elektrisiteit voorsieningstelsel of enige elektriese diensaansluiting koppel of poog om dit te koppel of toelaat dat dit gekoppel word nie.

28. ONGEMAGTIGDE HERAANSLUITINGS

(1) Geen ongemagtigde persoon mag 'n elektriese installasie, wat deur die Munisipaliteit ontkoppel is, aan 'n elektrisiteit voorsieningstelsel of enige elektriese diensaansluiting herkoppel of poog om dit te herkoppel of toelaat dat dit herkoppel word nie.

(2) Wanneer daar gevind word dat die toevoer van elektrisiteit aan 'n perseel wat voorheen deur die Munisipaliteit afgesluit was, weer aangesluit is, sal die kliënt wat sodanige toevoer van elektrisiteit verbruik vir die fooie en tariewe van die elektrisiteitsverbruik van die datum van afsluiting tot die datum, toe daar bevind is dat die toevoer heraangesluit is, aanspreeklik wees, asook enige ander kostes wat in die verband aangegaan was en boetes wat betaalbaar is.

(3) Die Munisipaliteit het die reg om enige of al die elektrisiteitsvoorsiening toerusting te verwyder, tot tyd en wyl die betaling soos voorsien in subartikel 28(2) van hierdie verordening, ten volle ontvang is, en die kliënt sal ook vir die kostes wat met die herinstallasie van sodanige elektriese toevoertoerusting gepaard gaan verantwoordelik wees.

29. TYDELIKE AFSLUITING EN HERAANSLUITING VAN DIE VOORSIENING VAN ELEKTRISITEIT

(1) Die Munisipaliteit moet op versoek van 'n kliënt, die voorsiening van elektrisiteit aan 'n kliënt tydelik afsluit en / of heraansluit, by betaling van die voorgeskrewe fooie en tariewe vir sodanige afsluiting en die daaropvolgende heraansluiting.

(2) Wanneer die Munisipaliteit 'n tydelike afsluiting en heraansluiting van die voorsiening van elektrisiteit aan 'n kliënt se elektriese installasie moet maak, weens instandhouding of noodherstelwerke, sal die betaling van enige fooie en tariewe nie van toepassing wees nie.

(3) Die Munisipaliteit mag slegs in uitsonderlike omstandighede vir noodherstelwerke of die dringende toetsing van elektriese koppelings, die verskaffing van elektrisiteit aan 'n perseel tydelik ontkoppel sonder dat daar vooraf kennis gegee is van die voorneme om die elektrisiteistoevoer te ontkoppel.

30. TYDELIKE ELEKTRISITEITSVOORSIENING

(1) Wanneer dit bevind word dat enige tydelike voorsiening van elektrisiteit inbreuk maak op die doeltreffende en ekonomiese verskaffing van elektrisiteit aan ander kliënte, mag die Munisipaliteit in terme van behoorlike vooraf skriftelike kennisgewing, of onder buitengewone omstandighede sonder enige vooraf kennisgewing, sodanige tydelike voorsiening aan 'n kliënt te eniger tyd te beëindig, en die Munisipaliteit sal nie aanspreeklik wees vir enige skade of verlies wat die betrokke kliënt as gevolg van die beëindiging mag ly nie.

(2) 'n Tydelike elektrisiteitsvoorsiening sal vir 'n periode van twaalf (12) maande toegelaat word en geldig wees, waarna 'n nuwe aansoek vir 'n tydelike elektrisiteitsvoorsiening vir verdere gebruik ingedien moet word.

(3) Die Munisipaliteit mag 'n tydelike eletrisiteitvoorsiening ontkoppel, as daar nie aan die voorwaardes vir sodanige voorsiening voldoen word nie.

31. TYDELIKE INSTALLASIEWERK

(1) Tydelike elektriese installasies wat 'n tydelike voorsiening van elektrisiteit benodig, mag nie direk of indirek aan 'n elektrisiteit voorsieningstelsel gekoppel word nie, behalwe met die toestemming van die Munisipaliteit.

(2) Volledige inligting oor die redes vir en die aard van die werk waarvoor 'n tydelike installasie benodig word, moet 'n aansoek vir goedkeuring vergesel en die Munisipaliteit mag sodanige aansoek afkeur of goedkeur.

(3) Indien toestemming geweier word, moet die redes vir die weiering aan die applikant verskaf word.

32. LASVERMINDERING

(1) Gedurende tye van spitslas, of in 'n noodgeval of wanneer dit na die mening van die Munisipaliteit vir enige rede nodig is om die las op die Munisipaliteit se elektrisiteit voorsieningstelsel te verminder, kan die Munisipaliteit die voorsiening van elektrisiteit sonder kennisgewing onderbreek vir sodanige tydperk as wat die Munisipaliteit nodig mag ag, deur die toevoer van elektrisiteit na 'n warmwatersilinder wat deur elektrisiteit verwarm word of na enige ander spesifieke toestel of die hele installasie van 'n gebruiker te beëindig.

(2) Die Munisipaliteit sal nie aanspreeklik wees vir enige verlies of skade wat regstreeks of as gevolg van, of voortspruitend uit sodanige onderbreking en beëindiging van die voorsiening van elektrisiteit ontstaan nie.

(3) Die Munisipaliteit sal waar moontlik en prakties uitvoerbaar, nie elektrisiteitsvoorsiening aan kliënte sonder kennisgewing onderbreek nie, behalwe in tye van oormatige piekgebruik of noodgevalle.

(4) Die Munisipaliteit mag sodanige apparaat en toerusting op die perseel van 'n kliënt installeer, as wat nodig geag word om uitvoering te gee aan die bepalings van subartikel 32(1) van hierdie verordening, en enige gemagtigde beampte van die Munisipaliteit kan op enige redelike tyd enige perseel betree met die doel om sodanige apparaat en toerusting te installeer, te inspekteer, te toets, te verstel of te verander.

(5) Nieteenstaande die bepalings van subartikel 32(2) van hierdie verordening, moet 'n kliënt of 'n eienaar van 'n perseel, na gelang van die geval, wanneer 'n elektriese warmwatersilinder installeer word die nodige akkommodasie en bedrading ooreenkomstig die Munisipaliteit se keuse verskaf, ten einde die latere installasie van die apparaat en die toerusting soos bedoel in subartikel 32(2) van hierdie verordening, te vergemaklik.

33. HOOG-, MEDIUM- EN LAAGSPANNING SKAKELTUIG EN TOERUSTING

(1) In die gevalle van hoog-, medium- of laagspanning elektrisiteitsvoorsiening, moet die kliënt betaal vir die verskaffing en die installasie van die skakeltuig, die kabels en die toerusting wat deel van die diensaansluiting uitmaak, tensy die Munisipaliteit anders bepaal.

(2) Alle toerusting wat op 'n kliënt se perseel geïnstalleer word, soos voorsien in subartikel 33(1) van hierdie verordening, moet voldoen aan die elektriese werkverrigting standaarde van die Munisipaliteit.

(3) Geen ongemagtigde persoon mag enige hoog of mediumspanning skakeltuig of toerusting oopmaak, toemaak, aaneenskakel, isoleer of aard, sonder deur genoegsame vooraf kennis te gee aan die Stelselkontrole Sentrum van die Munisipaliteit van sodanige voorneme nie.

(4) In die gevalle waar 'n kliënt hoogspanning of laagspanning skakeltuig laat installeer, sal daar aan die Munisipaliteit kennis gegee word in terme van die Regulasies, van die

bevoegde persoon wat vir die betrokke installasie aangestel word, en die Munisipaliteit sal in kennis gestel word indien daar enige wysiging aan sodanige aanstelling is.

(5) Waar elektrisiteit teen laagspanning voorsien word, moet 'n kliënt 'n laagspanning hoofskakelaar of enige ander toerusting soos deur die Munisipaliteit vereis, verskaf en installeer.

(6) Wanneer enige tipe opwekker op die perseel van 'n kliënt geïnstalleer word, moet sodanige kliënt toesien dat die nodige isolasietoerusting vir veiligheid, soos vereis deur munisipale veiligheidstandaarde, installeer word om enige terugvloei van elektrisiteit, nadat die munisipale elektrisiteit voorsieningstelsel geïsoleer is te voorkom.

34. VERSKAFFING VAN SPASIE OM 'n SUBSTASIE TE AKKOMMODEER

(1) Die Munisipaliteit mag van die eienaar van 'n perseel vereis om akkommodasie vir 'n substasie te verskaf en in stand te hou, wat uit 'n afsonderlike vertrek of vertrekke mag bestaan, wat uitsluitlik gebruik word om mediumspanning kabels en skakeltuig, transformators, laagspanning kabels en skakeltuig, en enige ander toerusting noodsaaklik vir die elektrisiteitsvoorsiening deur 'n kliënt versoek, te kan huisves.

(2) Die akkommodasie vir 'n substasie sal geskied by 'n punt waar vrye, voldoende en onbeperkte toegang te alle tye beskikbaar sal wees vir doeleindes wat met die bedryf en die instandhouding van die betrokke toerusting verband hou.

(3) Die Munisipaliteit behou die reg voor om die munisipale elektriese netwerke te voorsien met enige munisipale elektriese toerusting wat in enige sodanige substasie akkommodasie geïnstalleer word, en as die Munisipaliteit addisionele spasie verlang om enige elektriese toerusting uit te brei, moet sodanige addisionele spasie op die koste van die Munisipaliteit verskaf word.

35. BEDRADINGSDIAGRAMME EN SPESIFIKASIES

(1) Wanneer meer as een elektriese installasie of toevoer van elektrisiteit vanaf 'n gemeenskaplike elektrisiteit voorsieningstelsel verkry word, of meer as een verdeelbord of -meter nodig is vir enige gebou of blok geboue, moet die bedradingsdiagram en die spesifikasies van die stroomkringe vanaf die hoofskakelaar, op versoek aan die Munisipaliteit in duplikaat verskaf word vir goedkeuring, voordat daar met sodanige werk begin mag word.

(2) Waar 'n elektriese installasie vanaf 'n substasie op dieselfde perseel elektrisiteitstoevoer verkry, as waar die stroombaan vanaf hoogspanning getransformeer word, of elektrisiteitstoevoer van een van die Munisipaliteit se substasies deur 'n elektrisiteits voorsieningstelsel afsonderlik van die algemene elektrisiteit verspreidingstelsel voorsien word, moet 'n kliënt indien dit 'n vereiste is, volledige spesifikasies en tekeninge van die beoogde installasie wat deur die kliënt geïnstalleer moet word, aan die Munisipaliteit stuur vir goedkeuring, voordat enige vereiste materiaal bestel word.

36. GEREEDHEIDSTOEVOER VAN ELEKTRISITEIT

(1) Geen persoon sal geregtig wees op enige gereedheidstoevoer van elektrisiteit, vir enige perseel met 'n aparte bron van elektrisiteitsvoorsiening, behalwe met die skriftelike toestemming van die Munisipaliteit.

(2) Met die staking van die alternatiewe voorsiening van elektrisiteit aan 'n perseel, mag die Munisipaliteit elektrisiteit op gereedheidstoevoer op enige manier wat wenslik is aan sodanige kliënt voorsien.

37. ALTERNATIEWE ELEKTRISITEITSVOORSIENING TOERUSTING VAN KLIëNTE

(1) Geen alternatiewe elektrisiteitsvoorsiening toerusting wat deur 'n kliënt vir noodgereedheidstoevoer of operasionele vereistes voorsien word, ingevolge enige Regulasies of vir sy of haar eie bedryfsvereistes, mag by enige installasie aangesluit word, sonder die vooraf skriftelike goedkeuring van die Munisipaliteit nie.

(2) 'n Aansoek om sodanige goedkeuring, soos voorsien in subartikel 36(1) van hierdie verordening, moet skriftelik wees en moet gedetaileerde spesifikasie van die toerusting en 'n bedradingsdiagramme bevat.

(3) Die noodgereedheidstoevoer toerusting en alternatiewe voorsieningstoerusting moet so ontwerp en geïnstalleer wees, dat dit onmoontlik sal wees vir 'n munisipale elektrisiteit voorsieningstelsel om enige energie oordragte te ontvang, weens die terugvloei van elektrisiteit vanaf sodanige toerusting, nadat die munisipale elektrisiteit voorsieningstelsel isoleer is.

(4) Die kliënt sal verantwoordelik vir die voorsiening en installasie van alle veiligheidtoerusting vereis.

(5) Waar daar per spesiale ooreenkoms met die Munisipaliteit toegelaat word dat die kliënt se toerusting vir noodgereedheidstoevoer en alternatiewe voorsiening direk gekoppel word aan, en parallel loop met 'n munisipale elektrisiteit voorsieningstelsel, sal die kliënt verantwoordelik daarvoor wees om die vereiste sinchroniserings- en beveiligingstoerusting vir sodanige veilige parallelle werking te verskaf, te installeer en in stand te hou, tot die Munisipaliteit se bevrediging.

38. MUNISIPALE OMSENDBRIEWE OOR ELEKTRISITEITSDIENSTE

Die Munisipaliteit mag van tyd tot tyd munisipale omsendbriewe uitstuur, waarin besonderhede verskaf word oor die Munisipaliteit se vereistes en standaarde, met betrekking tot sake wat nie spesifiek in die Regulasies of in hierdie verordening bepaal word nie, maar wat nodig is vir die veilige en doeltreffende bedryf en bestuur van elektrisiteitsvoorsiening.

HOOFSTUK 2:
VERANTWOORDELIKHEDE VAN KLIëNTE

39. ELEKTRIESE INSTALLASIES MOET DEUR KLIëNTE OPGERIG EN IN STAND GEHOU WORD

Enige elektriese installasie wat by 'n munisipale elektrisiteitsvoorsiening stelsel aangesluit is of aangesluit gaan word, en enige byvoegings of wysigings aan sodanige installasies, moet deur die kliënt op sy of haar eie koste opgerig en in stand gehou word, ooreenkomstig die bepalings van hierdie verordening en die Regulasies.

40. FOUTE IN 'n ELEKTRIESE INSTALLASIE

(1) Indien daar enige fout in 'n elektriese installasie ontstaan, wat 'n gevaar vir mense, diere of eiendom mag inhou, moet 'n kliënt onmiddelik die elektrisiteitstoevoer afsluit en onverwyld die Munisipaliteit van die gevaar in kennis stel, en waar moontlik stappe implementeer om die fout reg te stel.

(2) Die Munisipaliteit mag van 'n kliënt die kostes van enige uitgawes aangegaan deur die Munisipaliteit ter korreksie van 'n fout by 'n elektriese installasie verhaal.

41. BEËINDIGING VAN DIE GEBRUIK VAN ELEKTRISITEIT

Wanneer 'n kliënt die gebruik van die munisipale toevoer van elektrisiteit wil beëindig, moet hy of sy ten minste twee (2) volle werksdae skriftelike kennis aan die Munisipaliteit gee van sodanige beoogde beëindig, by gebreke waarvan hy of sy aanspreeklik sal bly vir alle betalings verskuldig ingevolge

die fooie en tariewe vir die voorsiening van elektrisiteit, tot die datum van fisiese afsluiting.

42. VERANDERINGE IN DIE OKKUPASIE VAN 'n PERSEEL

(1) 'n Kliënt wat enige perseel ontruim, moet die Munisipaliteit nie minder as twee (2) werksdae skriftelike kennis gee, van sy of haar voorneme om die elektrisiteitsvoorsiening aan 'n perseel te laat beëindig, by gebreke waarvan hy of sy aanspreeklik sal bly vir die betaling van fooie en tariewe vir die voorsiening van elektrisiteitsdienste aan sodanige perseel.

(2) Indien die persoon wat die okkupasie van 'n perseel oorneem, wil voortgaan om die elektrisiteitsvoorsiening aan die perseel te gebruik, moet hy of sy ingevolge die bepalings van artikel 3(1) van hierdie verordening vir sodanige diens aansoek doen, en indien hy of sy versuim om binne tien (10) werksdae nadat hy of sy die nuwe okkupeerder van die perseel geword het, aansoek te doen vir die voortsetting van die elektrisiteitsvoorsiening, mag die toevoer van elektrisiteitsvoorsiening aan sodanige perseel permanent afgesluit word.

(3) Die persoon waarna verwys word in subartikel 42(2) van hierdie verordening, sal aanspreeklik wees vir die betaling van fooie en tariewe vir 'n ongemagtigde aansluiting aan 'n munisipale elektrisiteit voorsieningstelsel, asook enige gebruik vanaf die datum van okkupasie van 'n perseel, totdat die elektrisiteitsvoorsiening formeel deur die Munisipaliteit, soos voorsien in subartikel 42(2) van hierdie verordening, afgesluit is.

(4) Waar vooruitbetaalmeters op 'n perseel geïnstalleer word, word enige persoon wat op daardie tydstip die perseel okkupeer, geag die kliënt te wees.

(5) Tot tyd en wyl 'n aansoek soos voorsien in subartikel 3(1) van hierdie verordening ingedien word, sal die okkupeerder van 'n perseel aanspreeklik wees vir elektrisiteitgebruik by die meetpunt van 'n perseel, asook alle bedrae aan die Munisipaliteit verskuldig vir daardie meetpunt, ongeag of die gebruik en bedrae verskuldig die verantwoordelikheid van die betrokke okkupeerder was of nie.

(6) Die Munisipaliteit mag indien 'n vorige kliënt se rekening agterstallig was, voorwaardes oplê by die heraansluiting van 'n elektrisiteitsvoorsiening diens, wat die weerhouding van elektrisiteitsvoorsiening aan 'n perseel mag insluit.

(7) In die geval van 'n verandering van eienaarskap van 'n perseel, moet 'n nuwe voldoeningsertifikaat vir sodanige perseel deur 'n geakkrediteerde elektrisiën uitgereik word, behalwe indien die huidige sertifikaat binne die voorgaande vier-en-twintig maande uitgereik was, en geen veranderinge aan die elektriese installasies in die betrokke periode gemaak was nie.

43. ELEKTRISITEITSVOORSIENING DIENSTE APPARAAT

(1) Die kliënt sal aanspreeklik wees vir al die Munisipaliteit se kostes, voortspruitend uit skade aan of verlies van enige meettoerusting, diensbeveiligingtoestelle, diensaansluitings of ander apparate op 'n perseel, tensy daar bewys kan word dat sodanige skade of verlies veroorsaak is deur 'n natuurramp of 'n handeling of 'n versuim deur 'n werknemer van die Munisipaliteit of deur 'n abnormaliteit of 'n besondere fluktuasie in die toevoer van elektrisiteit na sodanige perseel.

(2) Wanneer 'n elektriese installasie vir 'n tydperk van 'n munisipale elektrisiteit voorsieningstelsel afgesluit word, en 'n elektrisiteit voorsieningstelsel, die diensaansluiting, die meettoerusting of enige ander diensapparaat wat aan die Munisipaliteit behoort, wat vir sodanige installasie gebruik was, word gedurende die tydperk dat die installasie

van 'n munisipale elektrisiteit voorsieningstelsel afgesluit was, sonder die Munisipaliteit se toestemming verwyder, misbruik of in so 'n mate beskadig dat 'n heraansluiting gevaarlik sal wees, sal die betrokke eienaar of die okkupeerder van sodanige perseel, na gelang van die geval, die koste dra van die herstel en / of vervanging van die betrokke toerusting, wanneer 'n heraansluiting van die elektriese installasie versoek word.

(3) Waar 'n gemeenskaplike meetpunt bestaan op 'n perseel, sal die eienaar van sodanige perseel aanspreeklik wees vir alle kostes, wat die gevolg is van skade aan of die verlies van meettoerusting.

(4) Die bedrag betaalbaar in terme van subartikel 43(1) van hierdie verordening, sal bevestig word deur 'n sertifikaat van die Munisipaliteit, wat finaal en bindend sal wees.

HOOFSTUK 3:
SPESIFIEKIEKE VOORWAARDES VAN VOORSIENING

44. DIENSAANSLUITINGS

(1) 'n Kliënt sal die koste dra van 'n diensaansluiting, onderhewig aan die goedgekeuring van die betrokke aansluiting deur die Munisipaliteit.

(2) Nieteenstaande die verantwoordelikheid van 'n kliënt vir die koste van 'n diensaansluiting, sal die eienaarskap van die diensaansluiting wat deur die Munisipaliteit geïnstalleer of gekonstrueer is, by die Munisipaliteit berus en die Munisipaliteit sal verantwoordelikheid aanvaar vir die instandhouding van sodanige diensaansluiting tot by die punt van voorsiening.

(3) 'n Kliënt sal onder geen omstandighede aanspraak kan maak op enige vergoeding van die Munisipaliteit, vir 'n diensaansluiting wat na 'n perseel gemaak word nie.

(4) Die omvang van die werksaamhede wat deur die Munisipaliteit uitgevoer moet word vir 'n diensaansluiting na die perseel van 'n kliënt, sal deur die Munisipaliteit bepaal word en die werk sal uitgevoer word vir die koste van die kliënt.

(5) 'n Diensaansluiting sal ondergronds geïnstalleer word, ongeag of 'n munisipale elektrisiteit voorsieningstelsel ondergronds aangelê of bogronds opgerig word, tensy 'n bogrondse diensaansluiting spesifiek deur die Munisipaliteit vereis word.

(6) Die Munisipaliteit mag van 'n kliënt vereis om 'n oorhoofse diensaansluiting te vervang met 'n ondergronse diensaansluiting, wanneer sodanige diensaansluiting na 'n perseel beskadig word of 'n gevaar inhou vir die elektrisiteit installasie.

(7) 'n Kliënt moet op sy of haar perseel sodanige pype, bedradingskanale, slote, hegstukke en bogrondse vryruimtes vir 'n munisipale elektrisiteit voorsieningstelsel voorsien of in stand hou, soos wat deur die Munisipaliteit vir die installasie van 'n diensaansluiting benodig word.

(8) Die geleier wat vir 'n diensaansluiting gebruik word, moet 'n deursnee oppervlakte ooreenkomstig die grootte van die elektriese toevoer hê, maar mag nie minder as tien (10) vierkante millimeter koper of 'n koper-ekwivalent wees nie, en al die geleiers moet dieselfde deursnee oppervlakte hê, behalwe indien 'n alternatiewe bepaling deur die Munisipaliteit goedgekeur word.

(9) Tensy andersins goedgekeur, sal die Munisipaliteit slegs een (1) diensaansluiting na elke geregistreerde erf toelaat en verskaf.

(10) Waar twee of meer aangrensende erwe wat aan een eienaar behoort, benut word as 'n gekonsolideerde eenheid, kan 'n enkele grootmaat diensaansluiting vir elektrisiteit voorsien word, met dien verstande dat die Munisipaliteit mag vereis dat die erwe gekonsolideer of notarieel verbind word.

(11) Voorsiening moet aan die bedekking van 'n bedradingskanaal gemaak word, wat die toevoerstroombaan van die voorsieningspunt na die meettoerusting huisves, vir plekke waar die seëls van die Munisipaliteit aangebring kan word.

(12) Die elektrisiteitgeleier of -kabel, na gelang van die geval, binne in 'n elektriese meterkas moet op 'n onopsigtelike posisie eindig, en die hele lengte van die geleiers moet sigbaar wees as die dekplate, indien dit installeer is, verwyder word.

(13) In die geval van blokke geboue wat deur 'n aantal individuele verbruikers geokkupeer word, moet afsonderlike bedradingskanale en geleiers of kabels van 'n gemeenskaplike meetvertrek of -vertrekke na elke individuele verbruiker in die blokke geboue geïnstalleer word of alternatiewelik as geleibane gebruik word, en die geleiers van die individuele stroombane duidelik geïdentifiseer moet wees en elke een punt vyf (1.5) meter vir hulle hele lengte saamgebind wees.

45. AKKOMMODASIE VAN METERS

(1) Indien so vereis deur die Munisipaliteit, moet 'n kliënt akkommodasie op 'n goedgekeurde plek op 'n perseel vir 'n meterbord en voldoende geleiers van die Munisipaliteit se meettoerusting, dienstoestelle en beveiligingstoebehore verskaf.

(2) Die beskermde akkommodasie vir enige meterborde, meettoerusting, dienstoestelle en beveiligingstoebehore, moet tot bevrediging van die Munisipaliteit op die verbruiker of die eienaar van 'n perseel se koste verskaf en in stand gehou word, en moet in die geval van kredietmeters op sodanige plek geleë wees, waartoe daar te alle redelike tye vrye en onbelemmerde toegang vir die lees van meters en vir doeleindes van die bedryf en instandhouding van die betrokke dienstoerusting sal wees.

(3) Waar sub-meettoerusting op 'n perseel geïnstalleer word, moet aparte akkommodasie weg van die ander meettoerusting van die Munisipaliteit, vir sodanige sub-meettoerusting voorsien word.

(4) Die verbruiker of in die geval van 'n gemeenskaplike meterposisie, die eienaar van 'n perseel, moet voldoende elektriese beligting verskaf in die ruimte waar meettoerusting en dienstoestelle geakkommodeer word.

(5) Wanneer die posisie van 'n meter, 'n diensaansluiting, 'n beveiligingstoestel of 'n hoofverspreidingbord nie meer maklik bereikbaar is nie of 'n gevaar inhou vir lewe of eiendom, of op enige wyse ongewens raak, moet die eienaar of die kliënt sodanige meter, diensaansluiting, beveiligingstoestel of hoofverspreidingbord na 'n nuwe posisie verskuif en die koste van sodanige verskuiwing sal deur die eienaar of die kliënt betaal word.

(6) Die akkommodasie vir munisipale meettoerusting en beveiligingstoestelle, kan indien goedgekeur die verbruiker se hoofskakelaar en hoof beveiligingstoestel insluit, maar geen ander apparaat behalwe dit wat in verband met die toevoer en verbruik van elektrisiteit benodig word, mag in sodanige meter akkommodasie geïnstalleer of geakkommodeer word nie.

HOOFSTUK 4:
TOEVOERSTELSELS

46. LASVEREISTES

Wisselstroomtoevoer sal aan kliënte voorsien word, soos voorgeskryf in die NRS 048-dokument, of enige wysiging of vervanging daarvan, en in die afwesigheid van 'n ooreenkoms vir gehalte van toevoer met 'n kliënt, sal 'n stroomtoevoer soos voorsien in die toepaslike standaard spesifikasie verskaf word.

47. LASBEPERKINGS

(1) Waar die geraamde las, bereken ingevolge veiligheidstandaarde, nie vyftien (15) kilovolt ampere oorskry nie, moet die elektriese installasie ingerig word vir 'n dubbeldraad-enkelfase-toevoer van elektrisiteit, behalwe indien 'n alternatiewe bepaling deur die Munisipaliteit goedgekeur word.

(2) Waar 'n driefase-vierdraad-toevoer van elektlisiteit verskaf word, moet die las min of meer gebalanseer word oor die drie (3) fases, met dien verstande dat die maksimum ongebalanseerde las, nie vyftien (15) kilovolt ampere mag oorskry nie, behalwe indien 'n alternatiewe bepaling deur die Munisipaliteit goedgekeur word.

(3) Geen toestel wat 'n stroom verbruik wat inherent enkelfase van aard is en 'n aanslag wat vyftien (15) kilovolt ampere oorskry, mag by 'n elektriese installasie aangesluit word nie, sonder die vooraf toestemming van die Munisipaliteit.

48. INMENGING MET DIE ELEKTRIESE TOERUSTING VAN ANDER PERSONE

(1) Niemand mag elektriese toerusting bedryf wat laseienskappe het, wat individueel of gesamentlik tot variasies in bo-frekwensiespanning, bo-frekwensiestrome of ongebalanseerde fase strome, wat buite die toepaslike standaard spesifikasies val, aanleiding kan gee nie.

(2) Die evaluering van inmenging met ander persone se elektriese toerusting, sal deur middel van metings by die algemene koppelpunt gedoen word.

(3) Indien daar vasgestel word dat onbehoorlike steuring wel plaasvind, moet die betrokke persoon op sy of haar eie koste, die nodige toerusting installeer om die steuring te filtreer en te verhoed dat die versteuring die elektriese voorsieningstelsel bereik.

49. ELEKTRISTEITVOORSIENING AAN ELEKTRIESE MOTORE

Tensy anders bepaal deur die Munisipaliteit, sal die geraamde vermoë van elektriese motors, as volg beperk word –

(1) Beperking van die grootte van laagspanningmotore - Die beraamde vermoë van 'n laagspanning-enkelfase motor word tot twee (2) kilowatt beperk en die aansitstroom van sodanige motor mag nie sewentig (70) ampere

oorskry nie, en alle laagspanning-enkelfase motore wat hierdie perke oorskry sal vir drie (3) fases teen lae spanning of sodanige hoër spanning as wat vereis mag word, oorgedoen word.

(2) Maksimum aansit- en versnelstrome van driefase-wisselstroom motore - Die aansitstrome van toegelate laagspanning-driefase motore, moet as volg met die kapasiteit van die verbruiker se diensaansluiting korreleer -

Grootte van geïnsoleerde dienskabel (koper ekwivalent)	Maksimum toegelate aansitstroom	Maksimum vermoë van motore		
mm^2	ampere (a)	Kilowatt (kW)		
		Direk op die lyn (6 x volle lasstroom)	Star/Delta (2.5 x volle lasstroom)	ander middele (1.5 x volle lasstroom)
		kW	kW	kW
16	72	6	13.5	23
25	95	7.5	18	30
35	115	9	22	36.5
50	135	10	25	45
70	165	13	31	55
95	200	16	38	67
120	230	18	46	77
150	260	20	52	87

(3) Verbruikers wat elektrisiteit teen mediumspanning voorsien word - Die aansitstroom van 'n laespanning motor, in gevalle waar elektrisiteit teen mediumspanning voorsien word in 'n elektriese installasie, word tot een punt vyf (1.5) keer die beraamde volle lasstroom van die transformaator wat sodanige motor voorsien beperk, onderworpe daaraan dat die aansitreëling vir mediumspanningmotore aan die goedkeuring van die Munisipaliteit onderhewig sal wees.

50. ARBEIDSFAKTOR

(1) Indien dit as sulks deur die Munisipaliteit vereis word, word die arbeidsfaktor van enige las binne die perke van nul punt agt-vyf (0.85) agterloop en nul punt nege (0.9) voorloop gehandhaaf.

(2) Arbeidsfaktor korrektiewe toestelle moet vir doeleindes van voldoening aan die bepalings van subartikel 50(1) van hierdie verordening installeer word, en sodanige korrektiewe toestelle moet aan die individuele verbruiksterminale gekoppel word, tensy die herstel van die arbeidsfaktor outomaties beheer kan word.

(3) Die verbruiker moet op sy of haar eie koste, enige sodanige korrektiewe toestelle installeer.

51. BEVEILIGING VIR ELEKTRIESE MOTORE

Elektriese beveiligingstoestelle vir elektriese motore moet op so 'n wyse ontwerp wees, dat dit op 'n doeltreffende wyse volgehoue oorlading kan voorkom, en maksimum aansitstrome en versnelstrome waar nodig kan beperk.

HOOFSTUK 5:
METING VAN ELEKTRISITEITGEBRUIK

52. MEETTOERUSTING

(1) Die Munisipaliteit sal meettoerusting van toepaslike vermoë verskaf, installeer en in standhou by die punt van meting van elektrisiteit voorsien aan 'n perseel, en die kliënt sal daarvoor betaal in die vorm van 'n direkte heffing of 'n voorgeskrewe fooi of 'n voorgeskrewe tarief.

(2) Die elektrisiteit wat deur 'n kliënt gedurende enige tydperk van meting verbruik word, sal deur die lees van die toepaslike meter of meters wat deur die Munisipaliteit verskaf en geïnstalleer is bepaal word, behalwe in die geval van vooruitbetaalmeters.

(3) Wanneer meettoerusting as defektief bevind word, sal gebruik vir die betrokke periode geskat word.

(4) Waar verskillende tariewe gehef word vir die elektrisiteit wat deur 'n kliënt verbruik word, moet die verbruik afsonderlik vir elke tarief gemeet word.

(5) Die Munisipaliteit het die reg om die voorsiening van elektrisiteit aan blokke winkels en woonstelle, huurbehuising en soortgelyke geboue, vir 'n gebou as geheel of vir individuele gebruikers of vir groepe van gebruikers, te meter.

(6) Geen veranderings, herstelwerk, of toevoegings tot elektriese toerusting, of elektriese verbindings van enige aard, mag aan die voorsieningskant van 'n meetpunt aangebring word nie, tensy dit spesifiek skriftelik deur die Munisipaliteit goedgekeur word.

(7) Die Munisipaliteit sal die reg hê om te besluit watter meettoerusting by 'n spesifieke punt van meting die mees geskikste sal wees, en die Munisipaliteit sal ook die reg hê om ter eniger tyd na alternatiewe meettoerusting oor te skakel.

53. AKKURAATHEID VAN METING

(1) Die lesings op 'n meter sal geag word om akkuraat te wees, wanneer daar tydens toetsing soos voorsien in subartikel 53(5) van hierdie verordening, bevind word dat die afwyking van lesings binne die fout tolleransie soos voorsien in die toepaslike standaard spesifikasies val.

(2) Die Munisipaliteit het die reg om munisipale meettoerusting gereeld te toets, en wanneer dit deur toetsing of op enige ander wyse vasgestel word dat meettoerusting defektief is, mag die Munisipaliteit soos voorsien in subartikel 53(6) van hierdie verordening –

(a) in die geval van 'n kredietmeter, die gelewerde rekening aanpas; en

(b) in die geval van 'n vooruitbetaalmeter –
  (i) 'n rekening lewer aan 'n kliënt in gevalle waar 'n meter te min geregistreer het; of
  (ii) 'n gratis betalingbewys uitreik in gevalle waar 'n meter te veel geregistreer het.

(3) 'n Kliënt sal geregtig wees om enige munisipale meettoerusting op sy of haar perseel deur die Munisipaliteit te laat toets, by betaling van die voorgeskrewe fooie en tariewe, en wanneer daar bevind word dat sodanige meettoerusting nie voldoen aan die betrokke stelsel akkuraatheidvereistes nie, soos voorsien in die toepaslike standaard spesifikasies, sal 'n aanpassing aan die betrokke rekening ingevolge die bepalings van subartikels 53(2) en 53(6) van hierdie verordening gemaak word.

(4) In die geval van 'n dispuut, sal die kliënt geregtig wees om die meettoerusting in dispuut deur 'n goedgekeurde onafhanklike toetsinstansie op sy of haar eie onkoste te laat toets, en die uitslag van sodanige toetsing sal finaal en bindend wees op beide partye.

(5) Meters sal getoets word op 'n wyse soos voorsien in die toepaslike standaard spesifikasies, wat deur 'n bevoegde owerheid voorgeskryf word.

(6) Wanneer 'n aanpassing aan 'n rekening gemaak moet word in terme van subartikels 53(2) of 53(3) van hierdie verordening, sal sodanige aanpassing of gebaseer wees op die persentasie fout op die betrokke meter, soos bepaal deur 'n metertoets soos voorsien in subartikel 53(5) van hierdie verordening, of op 'n berekening deur die Munisipaliteit gebaseer op beskikbare verbruiksdata, en waar toepaslik sal daar vir seisoenale en ander variasies, wat verbruik kan beïnvloed toegelaat word.

(7) Wanneer 'n aanpassing aan 'n rekening gemaak moet word in terme van subartikel 53(6) van hierdie verordening, mag die periode van aanpassing nie die ses (6) maande voorgaande die datum waarop daar bevind was dat die meettoerusting defektief is, oorskry nie, met dien verstande dat 'n kliënt uitbetaling vir 'n langer periode mag eis.

(8) Waar 'n kliënt se werklike elektriese las in so 'n mate van die aanvanklik geraamde elektriese las verskil, soos voorsien in subartikel 47(1) van hierdie verordening, dat die Munisipaliteit dit nodig ag om die geïnstalleerde munisipale elektriese meettoerusting te verander of te vervang, ten einde by die werklike elektriese las aan te pas, sal die verbruiker die koste van sodanige verandering of vervanging van meettoerusting betaal.

(9) Alvorens die Munisipaliteit 'n opwaartse aanpassing aan 'n rekening in terme van subartikel 53(6) van hierdie verordening maak, sal die Munisipaliteit -

(a) die kliënt skriftelik in kennis stel wat die monitêre waarde van die regstelling is en wat die redes vir die regstelling is;
(b) genoegsame inligting in sodanige kennisgewing verskaf, dat dit die kliënt in staat stel om vertoë te rig oor die betrokke kennisgewing; en
(c) die kliënt in sodanige kennisgewing versoek om soos toepaslik, skriftelike redes te verskaf binne een-en-twintig (21) dae of sodanig langer periode as wat die Munisipaliteit mag toelaat, waarom die betrokke rekening nie aangepas moet word soos in die kennisgewing aangedui.

(10) Wanneer 'n kliënt, soos voorsien in subartikel 53(9)(c) van hierdie verordening, versuim om enige vertoë te rig of die geleentheid om insette te lewer van die hand wys, sal die Munisipaliteit daarop geregtig wees om die betrokke rekening aan te pas.

(11) Die Munisipaliteit moet enige rede deur 'n kliënt aangevoer in terme van subartikel 53(9)(c) van hierdie verordening oorweeg, en moet wanneer die bewyse en / of argumente aanpassings regverdig, die betrokke rekening soos toepaslik aanpas.

(12) Wanneer die Munisipaliteit, nadat die vertoë van 'n kliënt aangehoor is, besluit dat die betrokke vertoë nie enige aanpassing van die monitêre waarde van die betrokke rekening regverdig nie, sal die rekening gelewer in terme van subartikel 53(9)(a) van hierdie verordening betaalbaar word, onderhewig aan die reg op appèl van die kliënt in terme van artikel 62 van hierdie verordening.

54. LEES VAN KREDIETMETERS

(1) Kredietmeters sal normaalweg in intervalle van een (1) maand gelees word, behalwe indien anders voorgeskryf, en die bedrag betaalbaar vir sodanige rekening sal dienooreenkomstig bereken word.

(2) Wanneer 'n kredietmeter vir enige rede nie gelees kan word nie, mag die Munisipaliteit 'n geraamde rekening lewer, op voorwaarde dat die elektrisiteit verbruik in daaropvolgende rekening aangepas sal word in ooreenstemming met die fisiese gebruik.

(3) Wanneer 'n kliënt 'n perseel ontruim, en dit nie moontlik is om 'n finale lesing van elektriese verbruik te neem nie, mag 'n beraming van gebruik gemaak word en 'n finale rekening mag gelewer word gebaseer op sodanige beraming.

(4) Wanneer 'n spesiale meterlesing deur 'n kliënt versoek word, moet sodanige lesing binne 'n periode van twee (2) dae deur die Munisipaliteit verskaf word, by betaling van die voorgeskrewe fooie en tariewe.

(5) Wanneer enige berekening-, lesing- of meterfout begaan was ten opsigte van enige rekening wat gelewer was aan 'n kliënt, moet die fout gekorrigeer word in daaropvolgende rekeninge, en enige sodanige korreksies sal slegs van toepassing wees op rekeninge vir 'n periode van drie (3) jaar voorafgaande die datum waarop die betrokke fout geïdentifiseer was, en die aanpassings op die betrokke rekening sal gebaseer wees op die tariewe wat vir sodanige periodes van toepassing was.

(6) Die toepassing van subartikel 54(5) van hierdie verordening, verhinder nie 'n kliënt om 'n eis vir terugbetaling van oorbetalings vir enige langer periode, soos voorsien in toepaslike statutêre bepalings, in te dien nie.

55. VOORUITBETAALMETERS

(1) Geen terugbetaling van die bedrag aangebied vir die koop van elektrisiteit krediete, sal by 'n verkooppunt toegestaan word nadat die proses van generering van 'n vooruitbetaalmeter betalingbewys in aanvang geneem het nie.

(2) Duplikate van betalingsbewyse voorheen uitgereik vir die oordrag van ekektrisiteit krediete na 'n vooruitbetaalmeter, mag op versoek van 'n kliënt uitgereik word.

(3) Wanneer 'n kliënt enige perseel ontruim waar 'n vooruitbetaalmeter geïnstalleer is, sal geen terugbetaling van die krediet wat op die betrokke vooruitbetaalmeter is, toegestaan word aan sodanige kliënt nie.

(4) Die Munisipaliteit sal nie aanspreeklik wees vir die vervanging van enige verlore krediete op 'n vooruitbetaalmeter nie, wanneer sodanige krediete verlore gegaan het weens peutering met die betrokke meter of die foutiewe gebruik of misbruik van 'n vooruitbetaalmeter of betalingsbewyse.

(5) Wanneer 'n kliënt geld aan die Munisipaliteit verskuldig is vir elektrisiteit verbruik of vir enige ander munisipale dienste deur die Muniisipaliteit verskaf of vir eiendomsbelasting of vir enige ander munisipale heffing, mag die Munisipaliteit 'n persentasie van die bedrag aangebied vir die koop van elektrisiteitkrediete aanwend vir die gedeeltelike betaling van verskuldigde bedrae aan die Munisipalitet vir die verskaffing van elektrisiteit, soos voorsien

in die Verordening insake Kredietbeheer en Skuldinvordering en die Beleid van die Munisipaliteit van Theewaterskloof.

(6) Die Munisipaliteit mag ingevolge eie diskresie, verkopers aanstel vir die verkoping van elektrisiteit krediete vir vooruitbetaalmeters, in terme van verkrygingskanaal prosedures, en die voortgesette bedryf van enige verkoper vir sodanige verkoping, sal nie op enige stadium gewaarborg word nie.

HOOFSTUK 6:
ELEKTRIESE KONTRAKTEURS

56. ADDISIONELE VEREISTES VIR ELEKTRIESE KONTRKTEURS

Die volgende vereistes sal addisioneel tot die vereistes vir elektriese kontrakteurs soos vervat in die Regulasies, van toepassing wees op elektriese kontrakteurs in die gebied van jurisdiksie van die Munisipaliteit –

(a) in die geval waar daar om 'n nuwe of 'n verhoogde toevoer van elektrisiteit by die Munisipaliteit aansoek gedoen word, kan enige behoorlik gemagtigde beampte van die Munisipaliteit na sy of haar goeddunke 'n kennisgewing van voltooiing aanvaar van enige gedeelte van 'n elektriese installasie, waarvan die kringontwerp toelaat dat 'n elektriese installasie in duidelik afgebakende afsonderlike gedeeltes verdeel kan word, en enige sodanige gedeelte van die elektriese installasie kan na goeddunke van die betrokke gemagtigde beampe van die Munisipaliteit geïnspekteer, getoets en mag dan aan 'n munisipale elektrisiteit voorsieningstelsel gekoppel word, asof dit 'n volledige installasie is;

(b) die ondersoek, die toetsing en die inspeksie van enige elektriese installasie, wat volgens die diskresie van die Munisipaliteit uitgevoer kan word, onthef nie die elektriese kontrakteur of die geakkrediteerde persoon of die eienaar of die okkupeerder of die gebruiker of die huurder van 'n perseel, van sy of haar verantwoordelikheid vir 'n defek in sodanige installasie nie; en

(c) enige ondersoek, toetsing of inspeksie van 'n elektriese installasie, sal nie op enige wyse beskou kan word as 'n indikasie of 'n waarborg dat die installasie van 'n elektriese installasie korrek uitgevoer was met die mees geskikste materiaal vir die doel gebruik of dat die installasie in ooreenstemming met die bepalings van hierdie verordening uitgevoer was of dat daar aan alle veiligheidstandaarde voldoen was nie, en die Munisipaliteit sal nie aanspreeklik wees vir enige defek of fout in sodanige elektriese installasie nie, selfs al word sodanige elektriese installasie aan die munisipale elektriese voorsieningstelsel gekoppel.

57. AANSPREEKLIKHEID VIR DIE WERK VAN KONTRAKTEURS

Die Munisipaliteit sal nie aanspreeklik wees vir die werk uitgevoer deur 'n elektriese kontrakteur of enige ander geakkrediteerde persoon op die perseel van 'n kliënt nie, en sal nie op enige wyse aanspreeklik gehou kan word vir enige verlies of skade wat veroorsaak mag word deur 'n brand of enige ongeluk as gevolg van die toestand van die elektriese bedrading op 'n perseel nie.

HOOFSTUK 7:
KOSTE VAN WERK

58. KOSTE VAN WERK UITGEVOER DEUR DIE MUNISIPALITEIT

Die Munisipaliteit mag enige skade wat aangerig word as gevolg van 'n oortreding van hierdie verordening of wat ontstaan het weens 'n oortreding van hierdie verordening, herstel en die kostes van sodanige herstelwerk deur die Munisipaliteit onderneem van die persoon wat verantwoordelik was vir die oortreding verhaal.

HOOFSTUK 8:
ENERGIE BESPARENDE MAATREëLS EN DIE VERMINDERDE GEBRUIK VAN ELEKTRISITEIT

59. NORME, STANDAARDE EN RIGLYNE VIR ENERGIEBESTUUR

(1) Die Munisipaliteit mag norme, standaarde en riglyne vir energiebestuur bepaal en bekend maak, wat toepaslike maatreëls om energie te bespaar of elektrisiteitverbruik te verminder mag voorskryf, en sodanige norme, standaarde en riglyne sal in die vorm van 'n operasionele handleiding bygehou word.

(2) Die norme, standaarde en riglyne voorsien in subartikel 59(1) van hierdie verordening, mag differensieer tussen gemeenskappe, geografiese gebiede en verskillende tipes persele.

HOOFSTUK 9:
ALGEMENE BEPALINGS

60. VRYSTELLINGS

(1) Enige persoon mag skriftelik aansoek doen by die Munisipaliteit vir vrystelling van enige bepaling van hierdie verordening.

(2) Die Munisipaliteit mag -

(a) skriftelik 'n vrystelling toestaan, waarin die voorwaardes vir die vrystelling en die periode waarvoor sodanige vrystelling geldig is aangedui word;

(b) enige vrystelling of voorwaarde vir 'n vrystelling wysig of kanselleer; of

(c) weier om 'n vrystelling toe te staan, in welke geval die redes vir die weiering skriftelik aan die aansoeker verskaf sal word.

(3) 'n Vrystelling tree nie in werking nie, alvorens 'n applikant skriftelik onderneem het om te voldoen aan al die voorwaardes bepaal deur die Munisipaliteit, en indien enige aksie of handeling deur 'n applikant onderneem word wat verband hou met die vrystelling, alvorens sodanige skriftelike instemming van die applikant ontvang is, sal die vrystelling verval.

(4) Indien enige voorwaarde van 'n vrystelling nie nagekom word nie, sal die vrystelling onmiddelik verval.

61. GEMEENSKAPSKAKELFORUMS

(1) Die Munisipaliteit mag een of meer skakelforums in 'n gemeenskap vir doeleindes van die verkryging van gemeenskapsdeelname in sake wat verband hou met aangeleenthede vervat in hierdie verordening instel.

(2) 'n Skakelforum mag bestaan uit –

(a) 'n lid of lede van 'n belangegroep, of geaffekteerde persone;
(b) 'n lid of lede van die gemeenskap; en
(c) 'n aangewese beampte of beamptes van die Munisipaliteit, of ander owerheidsinstellings.

(3) (a) Die Munisipaliteit mag wanneer 'n aansoek om toestemming of 'n vrystelling oorweeg word, ingevolge hierdie verordening die insette van 'n skakelforum versoek.

(b) 'n Skakelforum of enige persoon of persone beoog in subartikel 61(2) van hierdie verordening, mag op eie inisiatief, 'n inset aan die Munisipaliteit vir oorweging verskaf.

62. 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, Munisipale Stelselswet, teen sodanige besluit appèlleer, binne een-en-twintig (21) dae vanaf datum van kennisgewing van die besluit, skriftelik kennis aan die Munisipale Bestuurder te gee van die appèl, en redes vir die appèl te verstrek.

63. STRAFBEPALINGS

Enige persoon wat –

(a) enige gemagtigde beampte van die Munisipaliteit belemmer of verhinder om toegang tot 'n perseel te verkry in die uitoefening van sy of haar bevoegdhede of die uitvoering van sy of haar funksies of pligte in terme van die bepalings van hierdie verordening;

(b) enige gemagtigde beampte belemmer om die nodige onderhoudswerk of wysigings aan meetinstrumente te doen, of krediet- of vooruitbetaalmeters te installeer;

(c) versuim om te voldoen aan die instruksies van 'n gemagtigde beampte in terme van hierdie verordening of 'n kennisgewing aangebring op 'n kennisgewingbord;

(d) met enige meetinstrumente, munisipale elektriese installasies, munisipale elektriese dienste aansluitings of die munisipale elektriese voorsieningstelsel peuter of inmeng;

(e) met die elektriese toerusting van ander persone inmeng;

(f) onwettig of ongemagtig 'n aansluiting tot die munisipale elektriese voorsieningstelsel koppel, of onwettig 'n elektriese dienste aansluiting aan die munisipale elektriese voorsieningstelsel wat deur die Munisipaliteit ontkoppel is, herkoppel of herstel;

(g) elektrisiteit onbehoorlik of onveilig gebruik of misbruik;

(h) 'n munisipale elektrisiteit voorsieningstelsel deur onwettige of onveilige aksies in gevaar stel, deur alternatiewe elektriese voorsieningtoerusting, of medium of hoogspanning elektriese toerusting sonder vooraf magtiging aan die munisipale elektrisiteit voorsieningstelsel te koppel;

(i) elektrisiteit onwettig en ongemagtig herverkoop;

(j) weier of versuim om inligting te verskaf;

(k) munisipale seëls op elektriese voorsieningtoerusting en meters breek; of

(l) enige bepaling van hierdie verordening oortree of versuim om daaraan te voldoen,

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 'n bykomende termyn gevangenisstraf of sodanige bykomende gevangenisstraf sonder die keuse van 'n boete, of 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 kostes en /of uitgawes wat die Hof bevind deur die Munisipaliteit aangaan was, as gevolg van sodanige oortreding.

64. 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.

65. HERROEPING VAN VERORDENINGE

(1) Die bepalings van enige ander verordeninge, voorheen uitgevaardig deur die Munisipaliteit of deur enigeen van die afgeskafte munisipaliteite wat nou in die Munisipaliteit geïnkorporeer is, word hiermee herroep insoverre dit betrekking het op aangeleenthede waarvoor daar in hierdie verordening voorsiening gemaak word.

(2) Die volgende verordening van die Munisipaliteit van Theewaterskloof word hiermee spesifiek herroep -

Naam van verordening	Datum van publikasie	In die geheel of gedeeltelik
Elektrisiteitsvoorsieningverordening	PK 6234 gedateer 8 Maart 2005	In die geheel

66. KORT TITEL

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

67. INWERKINGTREDING

Hierdie verordening tree op datum van publikasie daarvan in werking.

THEEWATERSKLOOF MUNICIPALITY

FENCING AND WALLS 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 is aware of the responsibility of the institution, to ensure a safe and healthy environment for the residents of and visitors to the area of jurisdiction of the Municipaliity, and the purpose of this by-law is to regulate fencing, fences and walls for purpose of the protection of residents and visitors.

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Schedule A: Application to erect a fence

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 –

"agent", means a person who acts on behalf of the owner of a property, and who is authorized -
(a) to collect rent or other payments due, with regard to the property; or
(b) make payment on behalf of the owner with regard to the property;

"alter", means to cause, allow or permit something to be altered or changed from its original design;

"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;

"boundary", means the real or notional geographical line marking the limits of a premises;

"erect", means to cause, allow or permit something to be erected;

"fence", which include **"wall", "buttress"**and **"fencing"**, means all regular fences made of wire, metal, cement, stone, concrete, wood, brick or similar material, electrified fences, barbed wire fences and razor blade fences, and further refer to -

(a) any fence, including any gate or any other structure forming part of such a fence, which is erected as a boundary between two portions of land, buildings or premises in the municipal area;
(b) a fence not erected on a boundary, such as a garden fence or a detached wall on an erf, piece of land or premises; or
(c) a buttress erected on the boundary between two privately owned premises, or a private property and a public place or a public road;

"ground level", means the unmodified natural level of the ground, except where such level has been disturbed by excavation or filling, in which case the median of the excavated ground levels connecting evenly with the existing levels of a butting land units, shall be the assumed new ground level;

"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;

"occupant", means a person who occupies and control land or a premises, and includes a resident;

"owner of property", means with regard to the ownership of any land, any person who resides on a premises or a portion of land, or use or utilize it for whatever purpose, or who as agent of the owner exercise control over it;

"property" means –

(a) immovable property registered in the name of a person, including in the case of a sectional title scheme, a sectional title unit registered in the name of a person;
(b) a right registered against immovable property in the name of a person, excluding a mortgage bond registered against the property;
(c) a land tenure right registered in the name of a person or granted to a person in terms of legislation; and
(d) public service infrastructure;

"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;

"repair", has the meaning assigned to it in the Fencing Act, 1963 (Act No 31 of 1963), as amended;

"responsible authority", means the Theewaterskloof Municipality, or any other national or provincial department or institution, who on account of their functions and responsibilities may impose restrictions or conditions for fences and walls;

"rural settlements", means a grouping of residential premises located outside the urban boundary of urban areas, which are utilized for residential occupation, and includes, but are not restricted to, agri-villages, Transnet properties, and settlements previously administered in terms of the Rural Areas Act, 1987 (Act No 9 of 1987), as amended;

"SANS code", means a South African National Standard as contemplated in section 2 of the Standards Act, 2008 (Act No 8 of 2008), as amended, and the use of the abbreviation "SANS" followed by any series of numbers, means a reference to a SANS code of practices, specifications or standards, published under the corresponding number;

"town areas", means premises which form part of formally proclamated towns;

"transgressor", means a person who is transgressing the provisions of a national or provincial act or regulation, or the provisions of any by-law of the Theewaterskloof Municipality;

"urban areas", has a similar meaning as **"'town areas**";

"urban boundary", means the geographical boundary of urban areas as determined from time to time by the responsible authority, which indicate the dividing line between the urban and agricultural use of land.

2. APPLICATION OF THE BY-LAW

Subject to the provisions of the Fencing Act, 1963 (Act No 31 of 1963), as amended, and the provisions of the applicable Zoning Scheme Regulations of the Municipality, this by-law shall –

(a) be applicable on all regular fences made of wire, metal, cement, stone, concrete, wood, brick or similar material, electrified fences, barbed wire fences and razor blade fences, or buttresses, located within the urban boundaries of urban areas and rural settlements; and

(b) not be applicable on fencing on land zoned for agricultural usage, except where an electrified fence, barbed wire fence or razor blade fence forms the boundary between land zoned for agricultural use and public places or public roads or residential premises, which are part of any urban area or rural settlement, or where it hold a potential danger for pedestrians or a right of way.

3. FENCES

(1) No one may, without the prior approval of the Municipality and in line with any applicable law or regulations –

(a) erect a fence higher than one point eight (1.8) meters above ground level, or as otherwise stipulated in the applicable Integrated Zoning Scheme or associated overlay schemes;

(b) alter or add to an excisting fence, which is higher than one point eight (1.8) meters from ground level, or as otherwise stipulated in the applicable Integrated Zoning Scheme or associated overlay schemes;

(c) erect or install a fence, electrified fence, electrified railing or any other electrified barricade on a boundary, except –
(i) when it is mounted on a wall which shall be at least one point eight (1.8) meter in height, build with bricks, cement, concrete or a similar material; and
(ii) when the proposed structure comply to legislative provisions;

(d) erect a buttress as boundary between a premises and a public place or a public road, which is more than one (1) meter in height; and

(e) erect a barbed wire fence or razor blade fence, railing or any other barricade with long nails or other hardend and sharpened projections, except when it is mounted on a wall, which shall be at least one point eight (1.8) meters in height, excluding palisade fences,

on the boundary of any premises in an urban area or rural settlement.

(2) A person who wishes to obtain permission from the Municipality for the erection of a fence, as contemplated in section 3(1) of this by-law, shall apply for the erection of such a fence, on the application form included as Annexure A in this by-law

(3) The Municipality shall consider the application contemplated in section 3(2) of this by-law, and approve or decline the application, and when an application is declined, shall the applicant be provided with written reasons by the Municipality why the application has been declined.

(4) When approval has been granted by the Municipality for the erection of a fence, or for additions or alterations to fences, any conditions, requirements or specifications may be imposed by the Municipality, as deemed proper for each individual case, which shall include, without being limited thereto, compliance to the SANS codes for fencing, on condition that -

(a) the approval granted, be noted on the application form contemplated in subsection 3(2) of this by-law; and

(b) the approval being granted immediately be presented, when requested by any authorized official.

(5) A person who recieved an approval for the erection of a fence, or an addition or alteration to a fence, shall ensure in terms of subsections 3(2) en 3(4) of this by-law that the constructed fence comply to the required conditions and that the fence be properly maintained.

(6) No one shall –

(a) without the prior written approval of the Municipality demolish or alter a fence, which was approved in terms of subsections 3(2) and 3(4);

(b) erect a fence within one point five (1.5) meter from any public road, or such other distance as may be determined by the Municipality for a specific area, which is covered with –

(i) canvas, grass, or other combustible material, excluding poles or split poles or any natural wood or any other approved wood used to cover fences or used as fences, or any hedge; or

(ii) corrugated metal sheeting or roof sheeting;

(c) erect a fence on a common boundary between two premises, without the consent of the owner of the adjoining property, which may not be unreasonably withheld;

(d) allow any fence to fall in disrepair; and

(e) allow that any placards or similar notices or advertising signs or name plates, are affixed or allow them to be affixed on any fence, or that any drawing, painting or grafitti are painted on any fence, except when authorized and approved in terms of the Outdoor Advertising and Signage By-law of the Theewaterskloof Municipality.

(7) The Municipality may, whenever it shall be in the interest of public safety, the general public and the environment,decide that -

(a) a fence needs to be erected or repaired, instruct the owner or occupant of the premises concerned, where the fence needs to be erected or repaired, in writing to undertake such steps as dictated; or

(b) the height of a fence on a street corner needs to be reduced or be amended, instruct the owner or occupant of the premises concerned, where such fence needs to be reduced or amended, in writing to implement the necessary actions as required to reduce the height of the fence or amend the fence.

4. COMPLIANCE NOTICES

(1) When the owner of a property or an occupant of a premises, contravenes any provision of this by-law, the Municipality may issue a compliance notice to the transgressor, and demand that the person concerned implement remedial actions.

(2) A compliance notice shall contain the following information –

(a) the name and residential or postal address of the person concerned;

(b) the requirements which were not been complied with;

(c) the measures required to remedy the situation;

(d) the prescribed period within which compliance shall be attained and a spesified date of completion; and

(e) the right to appeal, as contemplated in section 10 of this by-law.

(3) The Municipality may take such further measures as it deems necessary to remedy a situation of non-compliance, including obtaining a demolition order for the demolition of a fence, and the cost of such demolition shall be recovered from the transgressor concerned.

5. DEMOLITION ORDER

(1) When a person fails to comply to the provisions of sections 3 and 4 of this by-law, the Municipality may obtain a demolition order in terms of the prescribed procedures, and may serve a compliance notice or the demolition order as such on the involved transgressor.

(2) A person on who a demolition order has been served, shall demolish the concerned fence and remove the material and / or building rubble.

(3) When the circumstances require that the Municipality has to demolish any fence, the material of such demolished fence may be removed and be disposed of, subject to the provisions of the demolition order, by means of a public auction or a public tender or by depositing such material at a waste disposal facility, and the costs of demolition of such fence, the removal of waste and for obtaining a demolition order, may be deducted from the proceeds of the material disposed of and the balance shall be paid over to the owner of the fence which was removed or demolished.

6. COSTS

(1) When a transgressor fails to implement the required corrections, which he or she have been ordered to implement by a compliance notice, the Municipality may subject to subsection 6(3) of this by-law, recover all costs incurred for the correction of the situation or transgression from –

(a) the involved person; or

(b) the owner of the property, building or premises concerned; or

(c) the person or occupant in charge of the property, building or premises concerned; or

(c) any person who obtained a right to use the property, building or premises concerned, or possessed the right when the transgression occurred.

(2) The cost recovered shall be reasonable and fair, and may include, without being limited to, costs relating to labour, material, transport, equipment, administrative and overhead costs, and the costs for obtaining a demolition order, incurred by the Municipality.

(3) When more than one person may be liable for the costs incurred, the liability shall be apportioned as agreed among the persons concerned, and those persons liable shall be collectively and separately responsible for the costs.

7. 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 7(2)(a), 7(2)(b) or 7(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 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.

8. TRANSITIONAL PROVISIONS

(1) An owner or occupant of a premises, whose premises at the date of commencement of this by-law, does not comply with the provisions of this by-law, shall within a period of six (6) months, after proper notice of non-compliance has been given by the Municipality to such owner or occupant of a premises, ensure that his or her premises comply with the provisions of this by-law.

(2) Fences erected in terms of previous provisions, requirements, instructions and conditions, may on specific application by the owner or occupant of a premises to the Municipality, be exempted from the provisions of this by-law, or a person may exercise his or her right of appeal or both.

9. EXEMPTIONS

(1) The owner or occupier of a premise may apply in writing to the Municipality to be exempted from any provision of this by-law.

(2) The Municipality may –

(a) grant any exemption in writing, and determine the conditions, extend and period for which such exemption has been granted, or determined;

(b) alter or cancel any exemption or condition in an exemption; or

(d) refuse to grant any exemption, or only approve it in part.

(3) An exemption does not take effect before the applicant has undertaken in writing to comply with the condititions imposed by the Municipality, and when an activity is commenced with before such undertaking has been submitted to the Municipality, such exemption granted shall lapse.

(4) When any conditions of an exemption is not complied to, the exemption shall lapse immediately.

10. 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.

11. OFFENCES AND PENALTIES

Any person who -

(a) fails to comply with any notice served in terms of this by-law;

(b) contravenes any provision of this by-law;

(c) fails to comply to the instructions of an authorized official issued in terms of this by-law;

(d) fails to comply to any instruction posted on a notice board; or

(e) deliberately obstruct 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.

12. COMPETENCIES OF AUTHORIZED OFFICIALS

(1) The authorized officials appointed by the Municipality to monitor and enforce this by-law, may investigate any action or omission, which are considered to be a transgression or non-compliance to the provisions of this by-law, when reasonable suspision excist that an offence occured.

(2) Authorized officials may not be refused access to any premises, in the execution of their duties.

13. COMMUNITY LIAISON FORUMS

(1) The Municipality may establish liaison forums 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;

(b) a member or members of the 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 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 13(2) of this by-law, may on their own initiative provide input to the Municipality for consideration.

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. SCHEDULE FORM PART OF THE BY-LAW

Schedules A of this by-law, form part of this by-law for all practical purposes.

17. SHORT TITLE

This by-law shall be called the Fencing and Walls By-law of the Theewaterskloof Municipality.

18. OPERATIVE DATE

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

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SCHEDULE A

APPLICATION TO ERECT A FENCE

A. OWNER OR OCCUPANT

Surname and name of person

……

Identity number:.....

Adress: Postal address:

……

……

……

Residential address:

…… ……

……

……

……

Telephone number: Work .....

Home …….....

B. PARTICULARS OF PREMISES AND FENCE

Erf number.....

Address where premises is located

……

TYPE OF FENCE TO BE ERECTED / ALTERED

……

……

……

C. ISSUING LOCAL AUTHORITY

Approval is hereby granted in terms of section 3(4) of the Fencing and Walls By-law of the Theewaterskloof Municipality, for the erection of the indicated fence on the indicated premises.

Conditions, requirements or specifications in terms of section 3(4):

……

……

……

……

……

SIGNATURE OF INSPECTOR **DATE**

…… ……

Name of Inspector:

……

Capacity:

……

MUNISIPALITEIT VAN THEEWATERSKLOOF

VERORDENING INSAKE OMHEININGS EN MURE

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 is bewus van die verpligting wat op die instelling berus, om 'n veilige en gesonde omgewing te voorsien aan die inwoners van en besoekers aan die gebied van jurisdiksie van die Munisipaliteit, en het ten doel om met hierdie verordening omheinings, heinings en mure te reguleer, met die oogmerk om inwoners en besoekers te beskerm.

INHOUDSOPGAWE

1. Interpretasie
2. Toepassing van die verordening
3. Heinings
4. Nakomingskennisgewings
5. Slopingsbevel
6. Kostes
7. Bediening van kennisgewing en ander dokumente
8. Oorgangsbepalings
9. Vrystellings
10. Appèlle
11 Strafbepalings
12. Bevoegdhede van gemagtigde beamptes
13. Gemeenskapskakelforums
14. Teenstrydighede met ander wetgewing
15. Herroeping van verordeninge
16. Bylae vorm deel van die verordening
17. Kort titel
18. Inwerkingtreding

Bylae A: Aansoek om 'n heining op te rig

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:

"agent", 'n persoon wat namens die eienaar van 'n eiendom -
(a) huurgeld of ander betalings ten opsigte van die betrokke eiendom ontvang; of
(b) betalings ten opsigte van die betrokke eiendom doen;

"dorpsgebiede", persele wat deel is van formeel geproklameerde dorpe;

"*eienaar van eiendom*", met betrekking tot die eienaarskap van enige grond, enige persoon, wat as eienaar 'n perseel of 'n gedeelte grond bewoon, of dit gebruik of benut vir watter doeleindes ook al, of as agent namens die eienaar beheer daaroor uitoefen;

"eiendom", sluit in enige grond, gebou of perseel, en is –
(a) onroerende eiendom geregistreer in die naam van 'n persoon, insluitend in die geval van 'n deeltitelskema, 'n deeltiteleenheid wat in die naam van 'n persoon geregistreer is;
(b) 'n reg geregistreer teen onroerende eiendom in die naam van 'n persoon, met uitsluiting van 'n verbandlening wat teen die eiendom geregistreer is;
(c) 'n grondbesitreg in die naam van 'n persoon geregistreer ingevolge wetgewing; of
(d) openbare dienste infrastruktuur;

"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;

"grens", die werklike of denkbeeldige geografiese lyn wat die limiete van 'n perseel aandui;

"grondvlak", die onveranderde natuurlike vlak van die grond op 'n perseel, behalwe waar die grondvlak uitgegrawe of opgevul is, in welke geval die die mediaan van grondvlakhoogtes van uitgrawings wat eweredig by grondvlakke van aanliggende grondstukke aansluit, as die nuwe aangenome grondvlak beskou sal word;

"heining", wat die begrip **"muur"**, **"stutmuur"** en **"omheining"** insluit, alle gewone heinings van draad, metaal, sement, klip, beton, hout, steen of soortgelyke materiaal, geëlektrifiseerde heinings, doringdraad heinings en skeermeslemdraad heinings, en verwys verder na -
(a) enige heining, asook enige hek of enige ander struktuur wat deel is van sodanige heining, wat opgerig word as 'n grens tussen stukke grond, geboue of persele binne die munisipale gebied;
(b) 'n heining wat nie op 'n grens opgerig word nie, soos 'n tuinheining of 'n muur wat losstaande op 'n erf, 'n stuk grond of 'n perseel is; of
(c) 'n stutmuur wat op die grens tussen twee twee privaat persele opgerig is, of tussen 'n privaat eiendom en 'n openbare plek of openbare pad;

"herstel", die betekenis wat ingevolge die Wet op Omheining, 1963 (Wet No 31 van 1963), soos gewysig, daarin toegeskryf word;

"landelike nedersettings", 'n groepering van residensiële persele geleë buite die stedelike grens van stedelike gebiede, wat vir residensiële bewoning aangewend word en wat insluit, maar nie beperk is tot, agri-dorpe, Transnet eiendom, en dorpsgebiede waarop die Wet op Landelike Gebiede, 1987 (Wet No 9 van 1987), soos gewysig, van toepassing was;

"M**unisipaliteit",** 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;

"okkupeerder", 'n persoon wat grond of 'n perseel okkupeer en beheer daaroor het, wat insluit 'n bewoner;

"oortreder", 'n persoon wat die bepalings van 'n nasionale of provinsiale wet of regulasie oortree, of die bepalings van enige verordening van die Munisipaliteit van Theewaterskloof;

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

"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, waaaroor die Munisipaliteit van Theewaterskloof jurisdiksie het;

"**oprig",** om te veroorsaak, toe te laat of toe te sien dat iets opgerig word;

"SANS-kode", 'n Suid-Afrikaanse Nasionale Standaard, soos voorsien in die Wet op Standaarde, 2008 (Wet No. 8 van 2008), soos gewysig, en die gebruik van die afkorting "SANS", gevolg deur 'n reeks van nommers, verwys na 'n spesifieke SANS-kode van praktyke, spesifikasies of standaarde, wat onder die spesifieke nommer gepubliseer is;

"stedelike gebiede", het 'n ooreenstemmende betekenis as **"dorpsgebiede**";

"stedelike grense", die geografiese grense van stedelike gebiede, wat die skeidslyn tussen stedelike en landbou gebruik van grond aandui, soos van tyd tot tyd deur die verantwoordelike owerheid bepaal;

"verantwoordelike owerheid", die Munisipaliteit van Theewaterskloof, of enige nasionale of provinsiale department of instelling, wat uit hoofde van hul funksies en bevoegdhede, beperking of voorwaardes mag oplê wat betrekking het op omheinings en mure ; en

"wysig", om te veroorsaak, toe te laat of toe te stem dat iets gewysig of vanaf 'n oorspronklike ontwerp verander word.

2. TOEPASSING VAN DIE VERORDENING

Onderworpe aan die bepalings van die Wet op Omheining, 1963 (Wet No 31 van 1963), soos gewysig, en die bepalings van die toepaslike Soneringskemaregulasies van die Munisipaliteit, is hierdie verordening –

(a) van toepassing op alle gewone heinings van draad, metaal, sement, klip, beton, hout, steen of soortgelyke materiaal, geëlektrifiseerde heinings, doringdraad heinings en skeermeslemdraad heinings, of stutmure, wat binne die stedelike grense van dorpsgebiede of landelike nedersettings geleë is; en

(b) nie van toepassing op heinings op grond wat vir landboudoeleindes gesoneer is nie, behalwe indien 'n geëlektrifiseerde heining, of 'n doringdraad- of skeermeslemdraad heining as sodanig die grens vorm tussen landbougesoneerde grond en openbare plekke of openbare paaie of residensiële persele wat deel uitmaak van enige dorpsgebied of landelike nedersettings, of waar dit 'n potensiële gevaar kan inhou vir voetgangers of by 'n reg van weg.

3. HEININGS

(1) Niemand mag op die grens van enige perseel in 'n dorpsgebied of 'n landelike nedersetting, sonder die vooraf toestemming van die Munisipaliteit en in lyn met enige toepaslike wet of regulasies –

(a) 'n heining oprig wat hoër as een punt agt (1.8) meter in hoogte, bokant die grondvlak is nie, of soos bepaal in die toepaslike Geïntegreerde Sonering Skema of ge-assosieerde oorlegskema;

(b) 'n bestaande heining wat hoër as een punt agt (1.8) meter vanaf die grondvlak is, wysig of daaraan aanbou nie, of soos bepaal in die toepaslike Geïntegreerde Sonering Skema of ge-assosieerde oorlegskema;

(c) 'n heining, geëlektrifiseerde heining, geëlektrifiseerde reling of enige ander geëlektrifiseerde versperring oprig of op 'n grens aanbring, tensy –

(i) dit opgerig is bo-op 'n muur wat nie minder as een punt agt (1,8) meter hoog is nie, en wat van baksteen, sement, beton of 'n soortgelyke materiaal gebou is nie; en

(ii) die beoogde struktuur voldoen aan wetlike bepalings;

(d) 'n stutmuur wat meer as een (1) meter in hoogte sal wees, as grens tussen 'n perseel en openbare plek of openbare pad oprig nie; en

(e) 'n doringdraad- of skeermeslemdraadheining of -reling, of ander versperring met lang spykers of ander versterkte of gepunte uitsteekstels oprig nie, tensy dit opgerig word op 'n muur van nie minder as een punt agt (1.8) meter in hoogte is nie, met uitsluiting van pallisade heinings.

(2) 'n Persoon wat toestemming van die Munisipaliteit wil verkry vir die oprigting van 'n heining soos voorsien in subartikel 3(1) van hierdie verordening, moet 'n aansoek vir sodanige heining by die Munisipaliteit indien, op 'n aansoekvorm soos vervat in Sekedule A van hierdie verordening.

(3) Die Munisipaliteit moet die aansoek soos bedoel in subartikel 3(2) van hierdie verordening oorweeg, en toestemming daarvoor verleen of weier, en indien die Munisipaliteit toestemming weier, moet die aansoeker skriftelik van die redes vir die weiering voorsien word.

(4) Indien toestemming deur die Munisipaliteit verleen word vir die oprigting van 'n heining, of aanbouings of wysiging aan heinings, mag die Munisipaliteit enige voorwaardes, vereistes of spesifikasies na gelang van elke afsonderlike geval voorskryf, wat sal insluit, maar nie beperk is tot, voldoening aan die bepalings van die toepaslike SANS-kodes vir omheinings, met dien verstande dat –

(a) die toestemming verleen, aangeteken moet word op die aansoekvorm vermeld in subartikel 3(2) van hierdie verordening; en

(b) sodanige toestemming wat verkry is, onmiddelik op versoek van 'n gemagtigde beampte getoon moet word.

(5) 'n Persoon wat toestemming ingevolge subartikels 3(2) en 3(4) van hierdie verordening verkry het vir die oprigting van 'n heining of vir aanbouings of wysiging aan 'n heining, moet verseker dat die heining aldus gekonstrueer aan al die gestelde vereistes voldoen en in 'n goeie toestand onderhou word.

(6) Niemand mag –

(a) sonder die voorafverkreë skriftelike toestemming van die Munisipaliteit 'n heining waarvoor toestemming ingevolge subartikel 3(2) en 3(4) van hierdie verordening verleen is, afbreek of dit verander nie;

(b) 'n heining oprig binne een punt vyf (1.5) meter van enige openbare pad, of sodanig ander afstand wat deur die Munisipaliteit vir 'n spesifieke area bepaal word, wat bedek is met –

(i) seil, gras of ander vlambare materiaal, uitgesluit heinings van houtpale
of verdeelde pale of enige natuurlike hout of enige ander goedgekeurde hout, of 'n plantheining; of

(ii) gegolfde metaalplaat of dakplate;

(c) 'n heining op 'n gemeenskaplike grens tussen twee persele oprig, sonder die instemming van die eienaar van die aanliggende eiendom nie, wat nie onredelik weerhou sal word nie;

(d) toelaat dat enige heining in 'n swak toestand verval nie; en

(e) enige plakkate of soortgelyke kennisgewings of advertensietekens of naamborde op 'n heining aanbring, oprig of toelaat dat dit daarop aangebring of opgerig word, of enigiets op 'n heining teken of verf of grafitti daarop toelaat, behalwe indien dit as sodanige ingevolge die Verordening insake Buitereklame en Advertensietekens van die Munisipaliteit van Theewaterskloof, gemagtig en goedgekeur word nie.

(7) Die Munisipaliteit mag, indien dit in die belang van publieke veiligheid, die algemene publiek en die omgewing is –

(a) met betrekking tot enige heining wat opgerig of herstel moet word, die eienaar of okkupeerder van die betrokke perseel waar sodanige heining opgerig of herstel moet word, skriftelik opdrag gee om sodanige stappe vir oprigting of herstel te onderneem, soos voorgeskryf; of

(b) vereis dat die hoogte van 'n heining op 'n straathoek verlaag of gewysig moet word, en die eienaar of okkupeerder van die betrokke perseel waar sodanige heining verlaag of gewysig moet word, skriftelik opdrag gee om sodanige stappe soos voorgeskryf, vir die verlaging of wysiging van die hoogte te onderneem.

4. NAKOMINGSKENNISGEWINGS

(1) Wanneer die eienaar van 'n eiendom of 'n okkupeerder van 'n perseel enige bepaling van hierdie verordening oortree, kan die Munisipaliteit 'n nakomingskennisgewing op die betrokke oortreder laat dien, om regstellende stappe te vereis.

(2) 'n Nakomingskennisgewing moet die volgende gewens bevat –

(a) die naam en woon- of posadres van die betrokke persoon;

(b) die vereistes waaraan nie voldoen word nie;

(c) die maatreëls wat vereis word om die situasie reg te stel;

(d) die voorgeskrewe tydperk waarbinne voldoening moet geskied en 'n gespesifiseerde datum van voltooiing; en

(e) die reg om appèl aan te teken, soos na verwys in artikel 10 van hierdie verordening.

(3) Die Munisipaliteit mag sodanige verdere maatreëls tref as wat nodig geag mag wees om 'n situasie waar 'n oortreding voorkom reg te stel, met inbegrip van die verkryging van 'n slopingsbevel vir die sloping van 'n heining, en mag die koste verbonde aan sodanige sloping van die betrokke oortreder verhaal.

5. SLOPINGSBEVEL

(1) Indien 'n persoon versuim om te voldoen aan die bepalings van artikels 3 en 4 van hierdie verordening, mag die Munisipaliteit 'n slopingsbevel bekom, ingevolge die voorgeskrewe prosedures en 'n kennisgewing van nakoming of die slopingsbevel as sulks, op die betrokke oortreder laat beteken.

(2) 'n Persoon aan wie 'n slopingsbevel beteken is, moet die betrokke heining sloop en die materiaal en / of bourommel verwyder.

(3) Indien die Munisipaliteit noodgedwonge self enige heining moet sloop, mag die materiaal van sodanig gesloopte heining verwyder word en kan daarmee wegdoen word, nagelang die bepalings van die slopingsbevel, by wyse van 'n openbare veiling of 'n openbare tender of deur dit te stort op 'n afvalstortingfasiliteit, met dien verstande dat die kostes van sloping van sodanige heining, die wegdoening van enige materiaal en die verkryging van 'n slopingsbevel, afgetrek kan word van die opbrengs verkry uit die wegdoening van materiaal en dat die oorblywende bedrag daarna aan die eienaar van die heining wat verwyder of gesloop is, betaal sal word.

6. KOSTES

(1) Indien 'n oortreder versuim om die vereiste maatreëls te tref waartoe hy of sy gelas was deur middel van 'n nakomingskennisgewing, mag die Munisipaliteit, onderhewig aan subartikel 6(3) van hierdie verordening, alle koste wat aangegaan word vir die regstel van die situasie of oortreding, verhaal van –

(a) die betrokke persoon; of

(b) die eienaar van die betrokke eiendom, gebou of perseel; of

(c) die persoon of okkupeerder in beheer van die eiendom, gebou of perseel;

(d) 'n gemagtigde agent van die eienaar van die betrokke eiendom, gebou of perseel; of

(d) enige persoon wat die reg gehad het om die eiendom, gebou of perseel te gebruik of die reg daartoe gehad het op die tydstip toe die oortreding ontstaan het.

(2) Die koste wat verhaal mag word, moet redelik en billik wees en mag die volgende kostes insluit wat deur die Munisipaliteit aangegaan was, maar is nie beperk tot, kostes verbonde aan arbeid, materiaal, vervoer, toerusting, administratiewe en oorhoofse kostes, en die kostes verbonde aan die verkryging van 'n slopingsbevel.

(3) Indien meer as een persoon aanspreeklik is vir die kostes wat aangegaan word, moet die aanspreeklikheid onder die betrokke persone verdeel word, en die betrokkenes bly gesamentlik en afsonderlik aanspreeklik vir kostes.

7. 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 7(1)(a), 7(1)(b) of 7(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.

8. OORGANGSBEPALINGS

(1) 'n Eienaar of okkupeerder van 'n perseel, wat op die datum van inwerktreding van hierdie verordening, nie aan die bepalings van hierdie verordening voldoen nie, moet binne ses (6) maande, na behoorlike kennisgewing van nie-nakoming deur die Munisipaliteit aan sodanige eienaar of okkupeerder van 'n perseel, verseker dat sy of haar perseel aan die bepalings van die verordening voldoen.

(2) Dié heinings wat ingevolge vorige bepalings, vereistes,voorskrifte en voorwaardes opgerig gewees het, kan by wyse van 'n spesifieke aansoek vir vrystelling, deur die eienaar of okkupeerder van 'n perseel aan die Munisipaliteit, vrygestel word van die bepalings van hierdie verordening, of die betrokke persoon kan sy of haar reg tot appèl uitoefen, of beide.

9. VRYSTELLINGS

(1) Die eienaar of okkupeerder van 'n perseel mag skriftelik by die Munisipaliteit aansoek doen om vrystelling van enige bepaling van hierdie verordening.

(2) Die Munisipaliteit mag –

(a) skriftelik vrystelling verleen aan sodanige aansoeker, en die aard, omvang en tydperk waarvoor sodanige vrystelling verleen en vasgestel word;

(b) enige vrystelling of voorwaarde in 'n vrystelling wysig of kanselleer; of

(c) weier om enige vrystelling toe te staan of dit slegs gedeeltelik toestaan.

(3) 'n Vrystelling tree nie in werking, alvorens 'n aansoeker skriftelik onderneem het om te voldoen aan die voorwaardes wat deur die Munisipaliteit opgelê word, en indien 'n aansoeker met die betrokke aktiwiteit begin voordat sodanige onderneming aan die Munisipaliteit voorgelê word, sal die vrystelling verleen verval.

(4) Indien daar nie aan 'n voorwaarde van 'n vrystelling voldoen word nie, verval die vrystelling verleen onmiddellik.

10. 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.

11. STRAFBEPALINGS

Enige persoon wat –

(a) in gebreke bly om aan enige kennisgewing uitgereik ingevolge hierdie verordening te voldoen;

(b) enige bepaling van hierdie verordering oortree;

(c) enige instruksies uitgereik deur 'n gemagtigde beampte ingevolge hierdie verordeninge verontagsaam;

(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.

12. BEVOEGDHEDE VAN GEMAGTIGDE BEAMPTES

(1) Die gemagtigde beamptes wat deur die Munisipaliteit aangestel word om hierdie verordening te moniteer en af te dwing, mag enige handeling of versuim ondersoek, indien redelikerwys vermoed word dat dit 'n oortreding ingevolge hierdie verordening kan wees.

(2) Gemagtigde beamptes mag nie in die uitvoering van hulle pligte, toegang tot enige perseel verhinder word nie.

13. GEMEENSKAPSKAKELFORUMS

(1) Die Munisipaliteit mag skakelforums in 'n gemeenskap instel met die doel om –

(a) geleenthede vir die plaaslike gemeenskap te skep om deel te neem aan die aangeleenthede van die Munisipaliteit;

(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;

(b) 'n lid of lede van die gemeenskap; en

(d) 'n aangewese beampte of beamptes van die Munisipaliteit of ander owerheidsinstellings.

(3) (a) Die Munisipaliteit mag wanneer 'n aansoek om 'n toestemming of 'n vrystelling oorweeg word, ingevolge hierdie verordening, 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. 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 VERORDENINGE

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 hiermee herroep insoverre hulle betrekking het op aangeleenthede waarvoor in hierdie verordening voorsiening gemaak word.

16. BYLAE VORM DEEL VAN DIE VERORDENING

Bylae A tot hierdie verordening, word vir alle praktiese doeleindes geag om deel van hierdie verordening te wees.

17. KORT TITEL

Hierdie verordening staan bekend as die Verordening insake Omheinings en Mure van die Munisipaliteit van Theewaterskloof.

18. INWERKINGTREDING

Hierdie verordening tree op datum van publikasie daarvan in werking.

SKEDULE A

AANSOEK OM 'n HEINING OP TE RIG

A. EIENAAR OF OKKUPEERDER

Van en voorname van persoon

……

Identiteitsnommer: ……..

Adres: Posadres:

……

……

……

Woonadres:

…… ……

……

……

……

Telefoonnommer: Werk …….. ……..

Huis .....……

B. BESONDERHEDE VAN PERSEEL EN HEINING

Erfnommer ……..……

Adres waar die perseel geleë is

……

AARD VAN HEINING WAT OPGERIG/GEWYSIG SAL WORD

……

……

……

C. UITREIKENDE PLAASLIKE OWERHEID

Toestemming word hiermee ingevolge artikel 3(4) van die Verordeninge insake Omheinings en Mure van die Munisipaliteit van Theewaterskloof verleen, dat die gemelde heining op die gemelde perseel opgerig mag word.

Voorwaardes, vereistes of spesifikasies ingevolge artikel 3(4):

……

……

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……

……

HANDTEKENING VAN INSPEKTEUR **DATUM**

…… ……...

Naam van inspekteur:

…….....

Ampstitel:

…….....

THEEWATERSKLOOF MUNICIPALITY

INFORMAL TRADING 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 regulate informal trading in the area of jurisdiction of the Theewaterskloof Municipality, and to provide for matters related thereto.

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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 any word or expression to which a meaning has been assigned in the Businesses Act, 1991 (Act No 71 of 1991), as amended, shall have the same meaning in this by-law, and unless the context indicates otherwise -

"Court", means a Magistrates Court, as referred to in section 166(d) of the Constitution of the Republic of South Africa, 1996, with jurisdiction in the area of the Theewaterskloof Municipality;

"informal trade", which for purpose of this by-law also include reference to **"trading activity",** means the trade in goods and services in the informal business sector by informal traders, in different ways and at different demarcated units, sites and localities, which include, but is not limited to -

(a) street trading;
(b) trading in or at shopping centers;
(c) trading at markets;
(d) trading at road crossings;
(e) trading at public amenities and public places of the Theewaterskloof Municipality, as contemplated in the Public Amenities By-law of the Theewaterskloof Municipality;
(f) mobile trading from caravans, trailers or light commercial vehicles;
(g) traveling traders;
(h) trading at special events; and
(i) trading on specific reserved premises designated by the Theewaterskloof Municipality;

"informal trader", means any person or enterprise, that is not registered or incorporated in terms of any corporate legislation of the Republic of South Africa, who trade informally, and includes any reference to a **"hawker"** or a **"street vendor"**;

"informal trading area", means an area, a place, a center or infrastructure provided by the Theewaterskloof Municipality, or in association with any other institution or organization for the purpose of informal trading;

"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;

"official", means -

(a) a traffic official appointed in terms of section 3A of the National Road Traffic Act, 1996 (Act No 93 of 1996), as amended;
(b) a member of the South Afican Police Service as contemplated in terms of section 1 of the South African Police Services Act, 1995 (Act No 69 van 1995), as amended,
(c) a peace officer, as authorized in terms of section 334 of the Criminal Procedures Act, 1977 (Act No 51 of 1977), as amended, or
(d) any employee of the Theewaterskloof Municipality, who is authorized by the Theewaterskloof Municipality to enforce the provisions of this by-law;

"prohibited area", means any place or area, where street trading is prohibited or restricted per resolution of the Municipality;

"property", means with regard to the property of an informal trader, any goods, merchandise, articles, stock, equipment, containers, vehicles or removable structures, which are used or are intended for use by such trader for business;

"public nuisance", means any action, omission or condition, on or at any premises or a public place or a public road, including any reference to any building or structure on such premises, public place, or public road, which can put the safety of persons or property in jeopardy or which is unsightly, annoying, offensive or a disturbance for other persons, and includes a **"nuisance"**;

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; sports ground; open space; recreational area; 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;

"road verge", means the portion of a road, a street, an alley or a corridor not used as road surface by vehicles;

"sidewalk", means the portion of a street between the outer boundary of the paved surface of a road and the boundaries of the adjacent premises or buildings;

"site", has a similar meaning as **"unit";**

"the Act", means the Businesses Act, 1991 (Act No 71 of 1991), as amended, read together with the schedules thereto;

"unit", means the space from where an informal trader may trade from, with dimensions as determined from time to time by the Theewaterskloof Municipality;

"waste", any trash, containers, waste material or any other object or waste left or discarded by an informal trader and / or his or her clients;

2. PURPOSE OF BY-LAW

The Municipality acting in terms of the provisions of section 6A(1)(a)(i) of the Businesses Act, 1991 (Act No 71 of 1991), as amended, and taking in consideration -

(a) the principles as stipulated in the Act and other statutory stipulations;

(b) the need of the residents of the area of jurisdiction of the Municipality to be actively involved in economic activities; and

(c) the objectives of the Municipality to ensure a clean, healthy and safe environment for the residents of the area of jurisdiction of the Municipality,

intent to provide with this by-law mechanisms, procedures and rules, to manage informal trading in the area of jurisdiction of the Municipality.

3. GENERAL CONDUCT

(1) A person who operate a business as an informal trader –

(a) may not display his or her goods or services on a public road or a public place for the purpose of trading, except on such places which are specifically designated by the Municipality for informal trading;

(b) shall insure that his or her property do not occupy an area on a public road or a public place or at any other informal trading area, which is bigger than the allocated area for a unit or site for informal trading, as determined from time to time by the Municipality;

(c) may not obstruct access to a fire hydrant, or any other purpose specific equipment, facility or area, provided or demarcated exclusively for use by emergency vehicles or emergency services;

(d) may not trade as an informal trader on a road verge or a sidewalk within a distance, determined by the Municipality for each site or unit concerned, from the boundary of –
(i) a church, mosque or any other place of worship;
(ii) any cemetery; or
(iii) a building, terrain or area which has been declared a national heritage site in terms of the National Heritage Resources Act, 1999 (Act No 25 of 1999), as amended,
except where such informal trading are specifically allowed in terms of this by-law on such road verge or sidewalk;

(e) may not trade on a public road or a public place, adjacent to premises used for residential purposes in a residential area, when the owners or occupants of such residential premises submitted objections against the area being used for informal trading, until the merit of such objections have been considered by the Municipality;

(f) may not trade on a place, where the trading activity shall obstruct the use of a sidewalk by pedestrians;

(g) may not trade on a place, where the trading activity shall obstruct vehicular traffic;

(h) may not trade on a place, where the trading activity shall obstruct the entrance and exit of a building or a premises;

(i) may not trade on any place, without being in possession of written proof that he or she has been leased the site or unit concerned by the Municipality, or that such site or unit has been allocated to such trader by the Municipality or the institution who act as the lessor thereof;

(j) may not trade with a product, within a distance determined by the Municipality for each site or unit concerned, from a formal business on a business premises who sells a similar product;

(k) may not prepare or gut any fish, or prepare any meat or any other perishable product on a unit or site used for trading activities; and

(l) may not trade in conflict with -
(i) the stipulations and conditions of a rental contract and / or the conditions
of an allocation for a unit or a site; or
(ii) any policy of the Municipality for the management of an informal trading area.

(2) A person may not trade as an informal trader in an area, which has been declared by the Municipality as a prohibited area.

(3) A person may not trade as an informal trader on a national road, a provincial road, a subordinate road or any other road reserve over which the Municipality does not have jurisdiction, without the approval of the road authority concerned to trade from a specific site.

4. RENTAL

The Municipality shall annually in terms of the Tariff By-law of the Theewaterskloof Municipality determine, the rental payable for the lease of sites or units for informal trading by informal traders, hawkers or street vendors, within demarcated areas on public roads and public places under the control of the Municipality or in informal trading areas under the control of the Municipality or any other institution in terms of any service delivery agreements for the management of such informal trading areas on behalf of the Municipality.

5. GENERAL RESTRICTIONS

A person who is trading as an informal trader may not –

(a) where an informal trading business is operated in a designated informal trading area, or where special permission has been granted by the Municipality for trading on a public road or a public place -
   (i) overnight on such place of business; or
   (ii) erect any structure for cover,
   without the prior approval of the Municipality;

(b) operate his or her business in such a way that –
   (i) the surface of a public road or a public place or any public or private property is damaged or defaced;
   (ii) a danger is created for pedestrian and vehicular traffic; or
   (iii) a public nuisance is created;

(c) collect, dispose, stock-pile or place any litter or perishable products on any unit or site used for trading activities, or allows that such litter or perishable products are collected, disposed, stock-piled or placed there;

(d) restrict the access to any municipal service or service infrastructure of the Municipality;

(e) restrict the access to a pedestrian arcade or any premises;

(f) restrict the access to pedestrian crossings, parking, loading zones or other facilities for vehicular and pedestrian traffic;

(g) restrict or prevent the access to or use of street accessories and furniture, provided for use by the general public;

(h) block any road sign or road marking from view, which have been installed in terms of the Road Traffic Act, 1996 (Act No 93 of 1996), as amended, and the

regulations promulgated in terms thereof, or obstruct any sign or notice posted terms of the provisions of this by-law;

(i) fasten or affix any object or structure, to any building, structure, sidewalk, street tree, parking meter, lamp post, electricity pole, telephone cubicle, post box, street bench, traffic sign or any other street accessories and furniture, in or on a public road or a public place;

(j) make a fire on a public road or a public place, except where specific facilities for open fires have been provided;

(k) refuse or fail to move or remove his or her property and goods, from in front of a telecommunication facility, when requested to do so by an authorized official who require access to such facility; and

(l) block the visibility of an exhibition window or an advertising sign of a business premises.

6. CLEANLINESS AND THE PROTECTION OF PUBLIC HEALTH AND SAFETY

(1) Every informal trader shall –

(a) operate his or her business in such a way, that it cause no hazard or threat for public health or public safety;

(b) on request of an official, move his or her property from the unit or site used by him or her for trading activities, to allow for the surface of such unit or site to be cleaned for the sake of tidiness and public health;

(c) keep the unit or site used by him or her for trading activities, as well as his or her property used for trading, clean, neat and litter free, and dispose of all waste in a manner prescribed by the Municipality;

(d) subject to the nature of services rendered, and / or the goods and products offered for sale, implement the necessary fire safety measures at the unit or site used for trading, and shall provide proof of such fire safety measure on request of an authorized official;

(e) when the trading activities of an informal trader include the cooking, preparation and sale of food, such informal trader shall have an applicable license from the responsible authority for the preparation and sale of food, and shall comply to the statutory conditions and requirements for food preparation, food packaging and the sale of food; and

(f) when the trading activities of an informal trader include the cooking, preparation and sale of food, such informal trader shall implement steps to

ensure that no fat or cooking oil or any other ingredient, are dropped or spilled on any surface of any public road or public place or are splashed against any adjacent building or structure.

(2) The Municipality shall -

(a) ensure that the units and sites used by informal traders for trading, are regularly cleaned;

(b) waste bins are provided in the area near units or sites for informal trading, and assist with the removal of litter and waste; and

(c) ensure that waste bins are cleaned regularly, to ensure cleanliness and hygiene.

7. DELIMITED AREAS

The Municipality may from time to time per resolution, designate delimited areas for the purpose of informal training.

8. PROHIBITED AREAS

(1) Subject to any policy and / or other directives determined by the Municipality, no informal trader may trade in a declared prohibited area.

(2) A Municipality may from time to time per resolution, decide to declare prohibited areas for informal trading or lift the prohibition on informal trading in a prohibited area or allow restricted informal trading in a prohibited area.

9. INFORMAL TRADING IN PUBLIC GARDENS, PUBLIC PARKS AND OPEN SPACES

No informal trader may trade in a public garden or a public park or a public open space, to which the general public has a right of access, except with the prior written approval of the Municipality and subject to such conditions as the Municipality may impose, which approval shall not be unreasonably withheld.

10. EQUIPMENT USED FOR THE EXHIBITION OF GOODS

(1) An informal trader shall ensure that all structures, containers, surfaces or other equipment, used for the preparation, storage, exhibition, stockpiling or transport of goods, are kept in a good, clean and hygienic condition.

(2) Goods for informal trading shall be stowed or stockpiled for storage or exhibition in such a way, that it do not pose a danger to persons or can cause injury to any person.

11. REMOVAL AND THE IMPOUNDING OF THE PROPERTY OF AN INFORMAL TRADER

(1) When a person who is an informal trader, fails or refuse to comply to a lawful request of an authorized official in terms of the provisions of this by-law, to move or remove his or her property and / or goods, as a result of –

(i) the non-payment of the applicable rental fees for a unit or site;
(ii) illegal trading in a place where informal trading are in terms of the provisions of this by-law restricted or forbidden;
(iii) the continuous transgression of any of the provisions of this by-law; or
(iv) leaving his or her property and / or goods unattended on a unit or site without supervision, for more than eight (8) hours,

an official may remove and impound such property and / or goods of the informal trader concerned, or arrange for the removal and impoundment of such property and / or goods -

(a) after the content of the instruction for the moving or removing of property and / or goods, have been explained to the informal trader;

(b) after the official concerned ensured that the property and / or goods to be removed and impounded, have been within reason used or were intended to be used for the business operation of the specific informal trader; and

(c) found by the official concerned at the place where such informal trading was restricted or prohibited.

(2) An authorized official who acts in terms of subsection 11(1) of this by-law, shall –

(a) be properly authorized in writing;

(b) except where property and / or goods which have been abandoned are removed and impounded, immediately provide the transgressor concerned with a detailed receipt of the property and / or goods removed and impounded, which receipt shall contain comprehensive information where the impounded property and / or goods shall be stored and the procedures for the reclaiming of such property and / or goods; and

(c) the property and / or goods impounded, shall immediately be handed over to the Municipality for safekeeping.

(3) Any property and / or goods impounded in terms of subsection 11(2) of this by-law –

(a) shall be kept by the Municipality at a place of safekeeping and in the case of perishable products be stored in cold storage, and a proper register shall be kept of all property and / or goods which are stored as such;

(b) may in the case of perishable products impounded by the Municipality, be destroyed within twenty one (21) days, after written notice has been given to the owner of the products concerned, where the contact particulars of such owner is known, and on condition that subject to the provision of subsection 11(4) of this by-law, the property and / or goods may be reclaimed by the owner of such products before the disposal thereof –
(i) when requested by such owner;
(ii) on submission of proof of ownership; and
(iii) on payment of the penalties and costs incurred by the Municipality for the removal, impounding, storage and safekeeping of such perishable products,
and such products shall then be handed over to the owner thereof; and

(c) in the case of any property and / or goods other than perishable products impounded by the Municipality, after written notice has been given to the owner of the products concerned, where the contact particulars of such owner are known, the property and / or goods shall be returned to the owner thereof within a period of thirty (30) days after the date of impoundment of such property and / or goods, subject to the provisions of subsection 11(4) of this by-law, and on condition that the property and / or goods shall only be returned to the owner, on submission of proof of ownership, and on payment of the penalties and the costs incurred by the Municipality for the removal, impounding, storage and safekeeping of such property and / or goods, and such property and / or goods shall only then be handed over to the owner thereof.

(4) The Municipality shall be entitled to retain the property and / or goods impounded in terms of subsection 11(2) of this by-law, until all the penalties involved and the reasonable costs incurred by the Municipality have been paid, and by failure thereof the Municipality may sold the involved property and / or goods per public auction, or in the case of perishable products destroy it.

(5) The Municipality shall when non-perishable products and other property and / or goods, have not been claimed by the owner thereof within thirty (30) days of written notice of the impoundment thereof to such owner, or by failure of the owner of such property and / or goods to pay the required penalties and the costs owed to the Municipality for the impoundment of such property and / or goods, or when the owner cannot be traced, apply to the Court to sell the

property and / or goods concerned by means of public auction, to recover costs, and the Municipality shall -

(a) provide proof to the Court in such application, that a calculation of costs as contemplated in sub-section 11(3)(c) of this by-law, has been provided to the owner of the property and / or goods, where the contact particulars of the owner has been known; and

(b) bring an application to the Court to sell the property and / or goods concerned in terms of the provisions of this by-law, which shall comply to the procedures contained in Rule 55 of the Magistrate's Court Act, 1944 (Act No 32 of 1944), as amended, on condition that the application concerned may be brought *ex parte,* when the Municipality can provide proof that in spite of all reasonable efforts, the owner of the property and / or goods could not be found.

(6) When the Court is satisfied that the provision of this by-law with regard to the impoundment of the goods concerned has been complied with, the Court may order the sale of the involved property per auction, as provided for in this by-law.

(7) The Court shall, irrespective whether the calculation of costs as contemplated in subsection 11(3)(c) of this by-law, is in dispute or not –

(a) summarily investigate the matter;

(b) where the particulars of the owner of the property and / or goods concerned are known, determine whether the Municipality has given the owner concerned proper notice of the costs associated with the impoundment and the safe keeping of the property and / or goods; and

(c) make an order as it considers just and equitable, including an order –
(i) as to costs; and
(ii) on the process to be followed by the Municipality in the sale of the goods concerned.

(8) At each such authorized auction of property and / or goods that has been impounded -

(a) only property and / or goods ordered by the Court to be sold, may be offered for sale;

(b) property and / or goods shall be sold for cash; and

(c) the total proceeds of the fees and monies contemplated in section 11 of this by-law, shall be deposited in the municipal revenue fund,

(9) The Municipality shall -

(a) give notice in a newspaper published in the area of jurisdiction of the Municipality, when approval has been granted by the Court for the sale of such impounded property, of the intended sale of the impounded property and / or goods at a public auction, and such notice shall specify the date, time and place of the auction;

(b) provide particulars in the notice of the property and / or goods that is available for public auction; and

(c) recover the costs for the notice contemplated in subsection 11(9)(a) of this by-law from the owner of the property and / or goods impounded, or recoup such costs from the proceeds of the public auction of the property and / or goods concerned.

(10) The Municipality shall pay the remainder of the proceeds of an auction to the owner of the impounded property and / or goods, after all penalties and costs of the Municipality have been subtracted, and when such owner fail to claim the money involved within three (3) months after the date of the auction, or cannot be traced, the proceeds shall be forfeit to the Municipality.

(11) When the costs of the Municipality cannot be recovered from the proceeds of an auction, the owner of such property and / or goods shall remain liable for the payment thereof.

12. EXEMPTIONS

(1) The owner or occupier of a premise may apply in writing to the Municipality to be exempted from any provision of this by-law.

(2) The Municipality may –

(a) grant any exemption in writing, and determine the conditions, extend and period for which such exemption has been granted, or determined;

(b) alter or cancel any exemption or condition in an exemption; or

(c) refuse to grant any exemption, or only approve it in part.

(3) An exemption does not take effect before the applicant has undertaken in writing to comply with the condititions imposed by the Municipality, and when an activity is commenced with before such undertaking has been submitted to the Municipality, such exemption granted shall lapse.

(4) When any conditions of an exemption is not complied to, the exemption shall lapse immediately.

13. 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 such a 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.

14. OFFENCES AND PENALTIES

Any person who contravenes or fails to comply with any provision of this by-law, or fails to comply with an instruction of an authorized officer or an instruction posted on a notice board, or fails to comply with any notice served in terms of this by-law or 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 –

(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.

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. COMMUNITY LIAISON FORUMS

(1) The Municipality may establish liaison forums in a community for the purpose of –

(a) creating opportunities for the community to participate in the affairs of the Municipality, with regard to the matters related to this by-law;

(b) to advise the Municipality on matters, referred to a liaison forum by the Municipality;

(c) the promotion of a safe and healthy environment for informal trading; and

(d) promoting the achievement of properly controlled and administered informal trading.

(2) A liaison forum may consist of –

(a) a member or members of an interested group, or affected persons;

(b) a member or members of the 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 or a permit 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 16(2) of this by-law, may on their own initiative provide input to the Municipality for consideration.

(c) The Municipality may institute specific liaison forums for informal traders, to assist the Municipality with the regulating of informal traders.

17. 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.

18. 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 6234 dated 8 March 2005	Street Trading By-law	As a whole

19. SHORT TITLE

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

20. OPERATIVE DATE

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

MUNISIPALITEIT VAN THEEWATERSKLOOF

VERORDENING INSAKE INFORMELE HANDEL

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 informele handel in die gebied van jurisdiksie van die Munisipaliteit van Theewaterskloof te reguleer en voorsiening te maak vir aangeleenthede wat daarmee verband hou.

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4. Huurgelde
5. Algemene beperkings
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17. Teenstrydighede met ander wetgewing
18. Herroeping van verordeninge
19. Kort titel
20. Inwerkingtreding

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 het ’n woord of uitdrukking waaraan daar ’n betekenis in die Wet op Besighede, 1991 (Wet No 71 van 1991), soos gewysig, geheg word, dieselfde betekenis in hierdie verordening en beteken –

‘‘afval’’, enige rommel, houer, afvalmateriaal of ander voorwerp of afval wat agtergelaat of weggegooi word deur ’n informele handelaar en / of sy of haar kliënte.

‘‘beampte’’, -

(a) ’n verkeersbeampte aangestel ingevolge artikel 3A van die Wet op Nasionale Padverkeer, 1996 (Wet No 93 van 1996), soos gewysig;
(b) ’n lid van die Suid-Afrikaanse Polisiediens, soos omskryf in artikel 1 van die Wet op die Suid-Afrikaanse Polisiediens, 1995 (Wet No 68 van 1995), soos gewysig;
(c) ’n vredesbeampte, gemagtig ingevolge artikel 334 van die Strafproseswet, 1977 (Wet No 51 van 1977), soos gewysig; of
(d) enige beampte van die Munisipaliteit van Theewaterskloof wat deur die Munisipaliteit van Theewaterskloof gemagtig is om die bepalings van hierdie verordening af te dwing;

‘‘die Wet’’, die Wet op Besighede, 1991 (Wet No 71 van 1991), soos gewysig, saamgelees met die skedules daartoe;

‘‘eenheid’’, die ruimte vanwaar ’n informele handelaar sy of haar besigheid mag bedryf, met afmetings soos van tyd tot tyd deur die Munisipaliteit van Theewaterskloof bepaal;

“eiendom’’, met betrekking tot die eiendom van ’n informele handelaar, enige goedere, handelsware, artikels, voorraad, toerusting, houers, voertuie of verwyderbare strukture, wat gebruik word of bestem is om gebruik te word in die bedryf van sodanige handelaar se besigheid;

“Hof”, ’n Landdroshof soos verwys na in artikel 166(d) van die Grondwet van die Republiek van Suid-Afrika , 1996, met jurisdiksie in die gebied van die Munisipaliteit van Theewaterskloof;

‘‘informele handel’’, wat vir doeleindes van hierdie verordening ook die begrip **“handeldryf”** insluit, die handel in goedere of dienste in die informele besigheid sektor, onderneem deur informele handelaars op verskillende wyses en by verskillende afgebakende eenhede, staanplekke en lokaliteite, wat insluit, maar nie beperk is tot -

(a) straathandel;
(b) handel in of by winkelsentrums;

(c) handel by markte;
(d) handel by padkruisings;
(e) handel in of by openbare geriewe en openbare plekke van die Munisipalitet van Theewaterskloof, soos omskryf in die Verordening insake Openbare Geriewe van die Munisipaliteit van Theewaterskloof;
(f) mobiele handel vanuit karavane, sleepwaens of ligte handelsvoertuie;
(g) reisende handelaars;
(h) handel by spesiale geleenthede; en
(i) handel op spesifiek geserveerde persele soos deur die Munisipaliteit van Theewaterskloof aangewys;

''informele handelaar'', enige persoon of onderneming wat nie geregistreer of ingelyf is in terme van enige korporatiewe wetgewing van die Republiek van Suid-Afrika nie, en wat informele handel bedryf, en sluit enige verwysing na 'n **"smous"** of 'n **"venter"** in;

"informele handelsarea", 'n gebied, 'n plek, 'n sentrum of infrastruktuur wat deur die Munisipaliteit van Theewaterskloof, of in samewerking met enige ander instansie of organisasie, beskikbaar gestel word vir doeleindes van informele handel;

"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;

''openbare oorlas'', wat die begrip **"oorlas"** insluit, enige handeling, versuim of toestand op of by enige perseel of 'n openbare plek of 'n openbare pad, met inbegrip van enige verwysing na enige gebou of struktuur op sodanige perseel of openbare plek of openbare pad, wat die veiligheid van persone of eiendom in gevaar kan stel of wat onooglik, hinderlik, aanstootlik of rusversteurend vir ander mense kan wees;

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

''openbare plek'', enige perseel of eiendom of grond waartoe die publiek toegang het, wat insluit, maar nie beperk is tot: enige plein; gebou; park; sportgronde, oop ruimte; ontspanningsgebied; 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;

''padsoom'', die gedeelte van 'n pad, 'n straat, 'n steeg of 'n deurgang wat nie as ryvlak van voertuie aangewend word nie;

''sypaadjie'', die gedeelte van 'n straat tussen die buitegrens van die ryvlak van 'n pad en die grenslyne van aanliggende persele of geboue;

"staanplek", het 'n ooreenstemmende betekenis as **"eenheid"**; en

"verbode gebied", enige plek of area wat ingevolge 'n besluit van die Munisipaliteit van Theewaterskloof, as 'n gebied waarin straathandel verbied of beperk word, verklaar is;

2. DOEL VAN VERORDENING

Die Munisipaliteit, handelende ingevolge die bepalings van artikel 6A(1)(a)(i) van die Wet op Besighede, 1991 (Wet No 71 van 1991), soos gewysig, en met inagneming van –

(a) die beginsels soos uiteengesit in die Wet en ander statutêre bepalings;

(b) die behoefte van inwoners van die gebied van jurisdiksie van die Munisipaliteit, om aktief deel te neem aan ekonomiese aktiwiteite; en

(c) die oogmerke van die Munisipaliteit om 'n skoon, gesonde en veilige omgewing te verseker vir die inwoners van die gebied van jurisdiksie van die Munisipaliteit,

be-oog om met hierdie verordening voorsiening te maak vir meganismes, prosedures en reëls, om informele handel in die gebied van jurisdiksie van die Munisipaliteit te bestuur.

3. ALGEMENE GEDRAG

(1) 'n Persoon wat as informele handelaar 'n besigheid bedryf –

(a) mag nie sy of haar goedere en dienste op 'n openbare pad of op 'n openbare plek vertoon met die doel om handel te dryf nie, behalwe op sodanige plekke as wat spesifiek vir die doel van informele handel, deur die Munisipaliteit aangewys word;

(b) moet verseker dat sy of haar eiendom nie 'n oppervlak van 'n openbare pad of 'n openbare plek of by enige ander informele handelsarea beset, wat groter is as die grootte van 'n eenheid of staanplek wat van tyd tot tyd deur die Munisipaliteit vir informele handel bepaal word nie;

(c) mag nie toegang tot 'n brandkraan, of enige ander doelspesifieke toerusting, fasiliteit of gebied versper nie, wat uitsluitlik vir die gebruik van noodvoertuie of nooddienste beskikbaar gestel of afgebaken word;

(d) mag nie die besigheid van informele handelaar bedryf op ’n padsoom of sypaadjie binne `n afstand soos deur die Munisipaliteit bepaal vir elke betrokke eenheid of staanplek, van die grens van -
(i) ’n kerk, moskee of enige ander plek van aanbidding nie;
(ii) enige begraafplaas nie; of
(iii) ’n gebou, terrein of area wat kragtens die Wet op Nasionale Erfenishulpbronne, 1999 (Wet No 25 van 1999), soos gewysig, tot nasionale gedenkwaardigheid verklaar is nie,
behalwe in soverre die bedryf van sodanige handel spesifiek ingevolge hierdie verordening by of op sodanige padsoom of sypaadjie toegelaat word;

(e) mag nie handeldryf op ’n openbare pad of ’n openbare plek, aangrensend tot persele wat vir residensiële doeleindes gebruik word in ’n residensiële area nie, indien die eienaars of okkupeerders van sodanige residensiële persele beswaar gemaak het teen die gebruik van die area vir informele handel, totdat die meriete van sodanige besware deur die Munisipaliteit oorweeg is;

(f) mag nie handeldryf op ’n plek, waar die dryf van handel voetgangers se gebruik van ’n sypaadjie sal verhinder nie;

(g) mag nie handeldryf op ’n plek, waar die dryf van handel voertuigverkeer sal kan versper nie;

(h) mag nie handeldryf op ’n plek, waar die dryf van handel ’n versperring sal veroorsaak voor ’n ingang of uitgang van ’n gebou of ’n perseel nie;

(i) mag nie handeldryf op enige plek, sonder om in besit te wees van ’n skriftelike bewys, dat hy of sy sodanige staanplek of eenheid gehuur het van die Munisipaliteit, of dat dit andersins aan hom of haar toegewys was deur die Munisipaliteit of die instansie wat as verhuurder optree;

(j) mag nie handeldryf met ’n produk binne ’n afstand soos deur die Munisipaliteit bepaal vir elke betrokke eenheid of staanplek van ’n formele besigheid op ’n besigheidsperseel, wat ’n soortgelyke produk verkoop nie;

(k) mag nie enige vis vlek, of enige vleis of enige ander bederfbare produkte voorberei, op ’n eenheid of staanplek gebruik vir die dryf van handel nie, en

(l) mag nie handeldryf in stryd met -
(i) die bedinge en voorwaardes van ’n huurkontrak en / of die voorwaardes vir die toewysing van ’n eenheid of ’n staanplek nie; of
(ii) enige beleid van die Munisipaliteit vir die bedryf van ’n informele handelsarea nie.

(2) ’n Persoon mag nie die besigheid van informele handelaar bedryf in ’n gebied wat deur die Munisipaliteit as verbode gebied verklaar is nie.

(3) ’n Persoon mag nie die besigheid van informele handelaar bedryf op `n nasionale pad, ’n provinsiale pad, ’n ondergeskikte pad of enige ander padreserwe waaroor die Munisipaliteit nie jurisdiksie het nie, sonder die nodige magtiging van die betrokke padowerheid om op ’n spesifieke staanplek handel te dryf nie.

4. HUURGELDE

Die Munisipaliteit stel jaarliks in terme van die Tariewe Verordeninge van die Munisipaliteit van Theewaterskloof, die huurgelde wat betaalbaar is vir die verhuring van staanplekke of eenhede vir informele handel vas, binne afgebakende gebiede op openbare paaie en openbare plekke of by informele handelsareas onder die beheer van die Munisipaliteit of onder beheer van enige ander instansies, wat sodanige fasiliteite vir informele handel ingevolge enige diensleweringooreenkomste namens die Munisipaliteit bedryf, van waar die bedryf van die besigheid van informele handelaar, venter of smous toelaatbaar is.

5. ALGEMENE BEPERKINGS

’n Persoon wat as informele handelaar ’n besigheid bedryf, mag nie –

(a) in die geval waar ’n besigheid vir informele handel in ’n toegewysde informele handelsarea bedryf word, of in die geval waar spesiale toestemming deur die Munisipaliteit verleen word om handel te dryf op ’n openbare pad of ’n openbare plek -
   (i) oornag op sodanige plek van besigheid nie; of
   (ii) enige struktuur oprig met die doel om beskutting te verskaf,
   sonder die vooraf spesifieke toestemming van die Munisipaliteit nie;

(b) sy of haar besigheid op so ’n wyse bedryf dat -
   (i) die oppervlak van ’n openbare pad of ’n openbare plek of enige openbare of privaat eiendom beskadig of ontsier word nie;
   (ii) ’n gevaar vir voetganger- en voertuigverkeer veroorsaak word nie; of
   (iii) ’n openbare oorlas veroorsaak word nie;

(c) rommel of bederfbare produkte op enige eenheid of staanplek gebruik vir die dryf van handel, opgaar, stort, opberg of plaas of toelaat dat sodanige rommel of bederfbare produkte daar opgegaar, gestort, opgeberg of geplaas word nie;

(d) die toegang tot enige munisipale diens of dienswerke van die Munisipaliteit versper nie;

(e) die toegang tot ’n voetgangerarkade of enige perseel versper nie;

(f) die toegang tot voetoorgange, parkering, laaisones of ander fasiliteite vir voertuig- of voetgangerverkeer versper nie;

(g) die toegang tot of die gebruik van straattoebehore en -meubelment, wat vir die gebruik van die algemene publiek beskikbaar gestel word, versper of verhinder nie;

(h) enige padteken of padmerk, wat in terme van die Wet op Nasionale Padverkeer, 1996 (Wet No 93 van 1996), soos gewysig, en die regulasies daarkragtens uitvaardig, aangebring word, van sig blokkeer of enige teken of kennisgewing wat ingevolge hierdie verordening vertoon word versper nie;

(i) enige voorwerp of struktuur aan enige gebou, struktuur, sypaadjie, straatboom, parkeermeter, lamppaal, elektrisiteitspaal, telefoonhokkie, posbus, straatbank, verkeersteken, of enige ander straattoebehore en –meubelment, in of op 'n openbare pad of 'n openbare plek vasmaak of heg nie;

(j) 'n vuur maak op 'n openbare pad of openbare plek nie, behalwe waar spesifieke fasiliteite vir die maak van oop vure voorsien word;

(k) weier of versuim om sy of haar eiendom en goedere te verskuif of te verwyder op versoek van 'n gemagtige beampte van 'n telekommunikasiediens wat toegang tot sodanige fasiliteit benodig; en

(l) die sigbaarheid van 'n vertoonvenster of 'n advertensieteken van 'n besigheidsperseel versper nie.

6. SINDELIKHEID EN DIE BESKERMING VAN OPENBARE GESONDHEID EN VEILIGHEID

(1) Elke informele handelaar moet –

(a) op so 'n wyse handeldryf, dat dit nie 'n gevaar of bedreiging vir openbare gesondheid of openbare veiligheid inhou nie;

(b) op versoek van 'n beampte sy of haar eiendom verskuif van die eenheid of staanplek gebruik vir die dryf van handel, om ter wille van sindelikheid en openbare gesondheid, toe te laat dat die oppervlak van sodanige eenheid of staanplek skoongemaak kan word;

(c) die eenheid of staanplek wat hy of sy vir die doel van die dryf van handel gebruik, asook sy of haar eiendom wat gebruik word vir die dryf van handel, skoon, netjies en rommelvry hou, en met alle afval wegdoen op die wyse voorgeskryf deur die Munisipaliteit;

(d) nagelang die aard van dienste gelewer, en / of die goedere en produkte te koop aangebied, die nodige brandveiligheidmaatrëels tref by die eenheid of staanplek vanwaar hy of sy handeldryf, en moet op versoek van 'n gemagtigde beampte bewys kan lewer van sodanige brandveiligheidmaatrëels;

(e) wanneer 'n informele handelaar se handelsbedrywighede die gaarmaak, voorbereiding en verkoop van voedsel insluit, moet sodanige informele handelaar oor die toepaslike lisensie van die verantwoordelike owerheid beskik om voedsel voor te berei en te verkoop, en moet as sodanig voldoen aan die algemene statutêre vereistes en riglyne, vir voedselvoorbereiding, -verpakking en -verkoping; en

(f) wanneer 'n informele handelaar se handelsbedrywighede die gaarmaak of voorbereiding van voedsel insluit, moet sodanige informele handelaar stappe doen om te verseker dat geen vet of kookolie of enige ander bestanddeel op die oppervlak van enige openbare pad of openbare plek, drup of mors, of teen enige aanliggende gebou of struktuur spat nie.

(2) Die Munisipaliteit moet –

(a) toesien dat die eenhede en staanplekke vanwaar informele handelaars handeldryf, gereeld skoongemaak word;

(b) afvalhouers in die area naby die eenhede en staanplekke vir informele handel voorsien, en assisteer met die verwydering van rommel en afval; en

(c) toesien dat afvalhouers gereeld leeggemaak word ten einde sindelikheid en higiëne te verseker.

7. AFGEBAKENDE GEBIEDE

Die Munisipaliteit mag van tyd tot tyd per besluit, afgebakende gebiede verklaar, met die oogmerk om dit aan te wend vir informele handel.

8. VERBODE GEBIEDE

(1) Onderworpe aan enige beleid en / of riglyne bepaal deur die Munisipaliteit, mag geen persoon in 'n verklaarde verbode gebied informeel handeldryf nie.

(2) 'n Munisipaliteit kan van tyd tot tyd per besluit, verbode gebiede verklaar of die verbod op informele handeldryf in 'n verbode gebied ophef of beperkte informele handel toelaat in 'n verbode gebied.

9. INFORMELE HANDEL IN OPENBARE TUINE, OPENBARE PARKE EN PUBLIEKE OOPRUIMTES

Geen informele handelaar mag handeldryf in 'n openbare tuin of 'n openbare park of 'n publieke oop ruimte, waartoe die algemene publiek 'n reg op toegang het, behalwe met die voorafverkreë skriftelike toestemming van die Munisipaliteit, welke toestemming nie onredelik geweier mag word nie, en onderworpe aan voorwaardes soos deur die Munisipaliteit bepaal.

10. TOERUSTING GEBRUIK VIR DIE VERTONING VAN GOEDERE

(1) 'n Informele handelaar moet toesien dat alle strukture, houers, oppervlaktes of ander toerusting, gebruik vir die voorbereiding, stoor, vertoning, opstappeling of vervoer van goedere, in 'n goeie, skoon en higiëniese toestand onderhou word.

(2) Goedere vir informele handel moet op so 'n wyse gepak of opgestapel word vir stoor of vertoning, dat dit nie 'n gevaar vir persone inhou of moontlik 'n persoon kan beseer nie.

11. VERWYDERING EN SKUT VAN DIE EIENDOM VAN 'n INFORMELE HANDELAAR

(1) Wanneer 'n persoon wat as informele handelaar handeldryf, versuim of weier om te voldoen aan 'n wettige versoek van 'n gemagtigde beampte ingevolge die bepalings van hierdie verordening, om sy of haar eiendom en / of goedere te verskuif of te verwyder, weens –

(i) die nie-betaling van die toepaslike huurgelde vir 'n eenheid of 'n staanplek;

(ii) die dryf van handel op 'n plek waar informele handel ingevolge bepalings van hierdie verordening beperk of verbied word;

(iii) die aanhoudende oortreding van enige bepaling van hierdie verordening; of

(iv) die verlating van sy of haar eiendom en / of goedere sonder toesig op 'n eenheid of 'n staanplek vir 'n tydperk van meer as agt (8) uur,

kan 'n beampte die eiendom en / of goedere van die betrokke informele handelaar onmiddelik verwyder en skut, of sodanige eiendom en / of goedere laat verwyder en skut –

(a) nadat die inhoud van die instruksie aangaande die verskuiwing of verwydering van eiendom en / of goedere, aan die informele handelaar verduidelik was;

(b) nadat die betrokke beampte verseker het dat die eiendom en / of goedere wat verwyder en geskut word, redelikerwys gebruik was of bestem was om gebruik te word in verband met die bedryf van die besigheid van die spesifieke informele handelaar; en

(c) wat die betrokke beampte op die plek vind waar die bedryf van sodanige informele handel beperk of verbied word.

(2) 'n Gemagtigde beampte wat ingevolge subartikel 11(1) van hierdie verordening optree, moet –

(a) behoorlik skriftelik gemagtig wees;

(b) behalwe in die geval van eiendom en / of goedere wat agtergelaat was verwyder en geskut word, onverwyld 'n gedetaileerde kwitansie van die eiendom en / of goedere wat verwyder en geskut word, aan die betrokke oortreder uitreik, welke kwitansie voldoende inligting moet bevat oor waar die eiendom en / of goedere gestoor sal word en wat die prosedure vir die opeis van sodanige eiendom en / of goedere sal wees, en

(c) die eiendom en / of goedere sodanig geskut, sonder versuim aan die Munisipaliteit oorhandig vir veilige bewaring.

(3) Enige eiendom en / of goedere wat verwyder of geskut word, ingevolge subartikel 11(2) van hierdie verordening –

(a) moet deur die Munisipaliteit in 'n plek van veilige bewaring geberg word en in die geval van bederfbare produkte in verkoelingsgeriewe gestoor word, en in alle gevalle moet 'n behoorlike register van alle eiendom en / of goedere wat as sodanig geberg word, bygehou word;

(b) mag in geval van bederfbare produkte wat deur die Munisipaliteit geskut is, binne een-en-twintig (21) dae vernietig word, nadat skriftelike kennisgewing aan die eienaar van die betrokke produkte gegee was, indien die kontakgegewens van sodanige eienaar bekend is, en op voorwaarde dat die betrokke eiendom en / of goedere, onderhewig aan die bepalings van subartikel 11(4) van hierdie verordening, voordat daaroor beskik word –

(i) op versoek van die betrokke eienaar;

(ii) na bewyslewering van eienaarskap; en

(iii) by betaling van die betrokke boetes en kostes van verwydering, skut, stoor en veilige bewaring van die eiendom en / of goedere deur die Munisipaliteit aangegaan,

aan die eienaar daarvan terugbesorg sal word, en

(c) in die geval van enige eiendom en / of goedere anders as bederfbare produkte wat deur die Munisipaliteit geskut word, nadat daar skriftelike kennisgewing aan die eienaar van die betrokke eiendom en / of goedere gegee was, indien die kontakgegewens van sodanige eienaar bekend is, moet die betrokke eiendom en / of goedere binne 'n tydperk van dertig (30) dae vanaf die datum van die skut van sodanige eiendom en / of goedere, onderhewig aan die bepalings van subartikel 11(4) van hierdie verordening, aan die eienaar daarvan terugbesorg word, met dien verstande dat sodanige eiendom en / of goedere slegs na bewyslewering van eienaarskap, en by betaling van die betrokke boetes en kostes van verwydering, skut, stoor en veilige bewaring van die eiendom en / of goedere deur die Munisipaliteit aangegaan, aan die eienaar daarvan terugbesorg sal word.

(4) Die Munisipaliteit sal geregtig daarop wees om die eiendom en / of goedere wat ingevolge subartikel 11(2) van hierdie verordening geskut word te behou, totdat alle boetes en die redelike uitgawes aan die Munisipaliteit betaal is, en by gebreke daarvan, kan die betrokke eiendom en / of goedere per publieke veiling verkoop word, of in die geval van bederfbare produkte, deur die Munisipaliteit vernietig word.

(5) Die Munisipaliteit moet wanneer enige nie-bederfbare produkte en ander eiendom en / of goedere wat geskut is, nie binne dertig (30) dae na kennisgewing van die skut daarvan aan die eienaar daarvan opgeëis word nie, of by die versuim van die eienaar van sodanige eiendom en / of goedere om die verskuldigde bedrae vir die skut en bewaring van die betrokke eiendom te betaal, of in die geval waar sodanige eiendom en / of goedere se eienaar nie opgespoor kan word nie, by die Hof aansoek doen om die eiendom en / of goedere per publieke veiling te mag verkoop, om kostes te verhaal en die Munisipaliteit moet –

(a) in sodanige aansoek, bewys lewer aan die Hof, dat 'n kosteberekening van uitgawes soos beoog in subartikel 11(3)(c) van hierdie verordening aan die eienaar van die betrokke eiendom verskaf was, in die geval waar die besonderhede van sodanige eienaar bekend was; en

(b) 'n aansoek bring aan die Hof, om die betrokke eiendom en / of goedere ingevolge hierdie verordening te verkoop, wat voldoen aan die prosedures soos vervat in Reël 55 van die Wet op Landdroshowe, 1944 (Wet No 32 van 1944), soos gewysig, met dien verstande dat die betrokke aansoek *ex parte* gebring mag word, waar die Munisipaliteit kan bewys dat ondanks redelike pogings, die eienaar van die eiendom en / of goedere nie opgespoor kan word nie

(6) Indien die Hof tevrede is dat daar aan die bepalings van hierdie verordening met betrekking tot die skut van die betrokke eiendom en / of goedere voldoen is, kan die Hof gelas dat die betrokke eiendom en / of goedere per publieke veiling, soos voorsien in die verordening, verkoop word.

(7) Die Hof moet, ongeag of die bedrae in die kosteberekening in subartikel 11(3)(c) van die verordening genoem, betwis word al dan nie –

(a) onmiddelik die saak ondersoek;

(b) waar die gegewens van die eienaar van die betrokke eiendom bekend is, ondersoek instel of die Munisipaliteit wel die betrokke eienaar van die eiendom behoorlik kennis gegee het van die kostes verbonde aan die skut en die bewaring van die eiendom; en

(b) 'n bevel maak wat as billik en regverdig beskou word, wat sal insluit 'n bevel, aangaande:
(i) kostes; en
(ii) die prosedures wat gevolg moet word deur die Munisipaliteit om die betrokke goedere te verkoop.

(8) By elke sodanige gemagtigde verkoping van eiendom en / of goedere wat geskut is -

(a) mag geen eiendom en / of goedere te koop aangebied word nie, tensy dit deur die Hof gelas is nie;

(b) moet eiendom en / of goedere vir kontant verkoop word; en

(c) moet die totale opbrengs van die gelde en kostes bedoel in artikel 11 van hierdie verordening, in die munisipale inkomstefonds gestort word.

(9) Die Munisipaliteit moet –

(a) wanneer magtiging deur ’n Hof verleen is vir die verkoping van sodanige eiendom wat geskut is, kennis gee in ’n nuusblad wat in die area uitgegee word, dat sodanige eiendom en / of goedere op ’n openbare veiling verkoop sal word en die datum, tyd en plek van die verkoping bekend maak;

(b) in die kennisgewing besonderhede aangaande die betrokke eiendom en / of goedere wat per openbare veiling verkoop moet word, verstrek; en

(c) die koste van ’n kennisgewing soos bedoel in subartikel 11(9)(a) van

hierdie verordening, van die eienaar van die betrokke eiendom en goedere wat geskut was, verhaal of uit die opbrengs van die publieke veiling van die betrokke eiendom en goedere verhaal.

(10) Die Munisipaliteit moet die opbrengs van die veiling aan die eienaar van die die geskutte eiendom en / of goedere uitbetaal, minus die boetes en kostes vir uitgawes deur die Munisipaliteit aangegaan, en indien die eienaar versuim om die betrokke opbrengs binne drie (3) maande na die datum van die veiling op te eis, of indien die eienaar onopspoorbaar is, word sodanige opbrengs aan die Munisipaliteit verbeur.

(11) Indien die opbrengs van die verkoop van die eiendom en / of goedere nie voldoende is om die uitgawes soos deur die Munisipaliteit aangegaan te verhaal nie, sal die eienaar van die betrokke eiendom en / of goedere steeds aanspreeklik bly vir die uitstaande kostes.

12. VRYSTELLINGS

(1) 'n Informele handelaar mag skriftelik by die Munisipaliteit aansoek doen om vrystelling van enige bepaling van hierdie verordening.

(2) Die Munisipaliteit mag –

(a) skriftelik vrystelling verleen aan sodanige aansoeker, en die aard, omvang en tydperk waarvoor sodanige vrystelling verleen en vasgestel word;

(b) enige vrystelling of voorwaarde in 'n vrystelling wysig of kanselleer; of

(c) weier om enige vrystelling toe te staan of dit slegs gedeeltelik toestaan.

(3) 'n Vrystelling tree nie in werking, alvorens 'n aansoeker skriftelik onderneem het om te voldoen aan die voorwaardes wat deur die Munisipaliteit opgelê word, en indien 'n aansoeker met die betrokke aktiwiteit begin voordat sodanige onderneming aan die Munisipaliteit voorgelê word, sal die vrystelling verleen verval.

(4) Indien daar nie aan 'n voorwaarde van 'n vrystelling voldoen word nie, verval die vrystelling verleen onmiddellik.

13. 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

die datum van kennisgewing van die besluit, skriftelike kennis aan die Munisipale Bestuurder te gee van die appèl en redes vir die appèl te verstrek.

14. 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 op 'n kennisgewingbord aangebring, of versuim om aan enige kennisgewing uitgereik in terme van hierdie verordening te voldoen of 'n gemagtigde beampte in die uitvoering van sy of haar pligte in terme van hierdie verordening verhinder, begaan 'n oortreding en kan by skuldigbevinding –

(a) 'n boete of gevangenisstraf opgelê word, of gevangenisstraf sonder die keuse van 'n boete, of beide sodanige boete en sodanige gevangenisstraf opgelê word;

(b) in die geval van 'n voortgesette misdryf, 'n bykomende boete of 'n 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 aangegaan was, as gevolg van sodanige oortreding.

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, 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. GEMEENSKAPSKAKELFORUMS

(1) Die Munisipaliteit mag skakelforums in 'n gemeenskap instel met die doel om -

(a) geleenthede vir die gemeenskap te skep om deel te neem aan die sake van die Munisipaliteit, wat met hierdie verordening verband hou;

(b) advies oor aangeleenthede te lewer, wanneer 'n skakelforum deur die Munisipaliteit versoek word om advies te lewer;

(c) 'n veilige en gesonde omgewing vir informele handel te bevorder; en

(d) behoorlik gekontroleerde en geadministreerde informele handel, te bevorder.

(2) 'n Skakelforum mag bestaan uit —

(a) 'n lid of lede van 'n belangegroep, of geaffekteerde persone;

(b) 'n lid of lede van die gemeenskap; of

(c) 'n aangewese beampte of beamptes van die Munisipaliteit of ander owerheidsinstellings.

(3) (a) Die Munisipaliteit mag, wanneer 'n aansoek om toestemming of 'n permit ingevolge hierdie verordening oorweeg word, die insette van 'n skakelforum versoek.

(b) 'n Skakelforum of enige persoon of persone bedoel in subartikel 16(2) van hierdie verordening mag op eie inisiatief, 'n inset aan die Munisipaliteit vir oorweging verskaf.

(c) Die Munisipaliteit mag spesifieke skakelforums vir informele handelaars instel, om die Munisipaliteit behulpsaam te wees met die regulering van informele handelaars.

17. 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.

18. HERROEPING VAN VERORDENINGE

(1) Die bepalings van enige ander verordeninge, voorheen uitgevaardig deur die Munisipaliteit of deur enigeen van die afgeskafte munisipaliteite wat nou in die Munisipaliteit geïnkorporeer is, word hiermee herroep, insoverre dit betrekking het op aangeleenthede waarvoor daar in hierdie verordening voorsiening gemaak word.

(2) Die volgende verordening van die Munisipaliteit van Theewaterskloof word hiermee spesifiek herroep –

Datum gepubliseer	Naam van verordening	In die geheel of gedeeltelik
PK 6234 gedateer 8 Maart 2005	Verordening vir Straathandel	In die geheel

19. KORT TITEL

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

20. INWERKINGTREDING

Hierdie verordening tree op datum van publikasie daarvan in werking.

THEEWATERSKLOOF MUNICIPALITY

IRRIGATION WATER 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 –

(i) to regulate the provision of irrigation water in the area of jurisdiction of the Theewaterskloof Municipality and to provide for matters related thereto;
(ii) to provide for procedures, practices and methods for the provision of irrigation water in the area of jurisdiction of the Theewaterskloof Municipality; and
(iii) to promote the achievement of environmental conservation objectives for the benefit of residents in the area of jurisdiction of the Theewaterskloof Municipality.

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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 –

"allocated irrigation water", means available water from a water resource, which are allocated by the Theewaterskloof Municipality for use as irrigation water;

"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;

"available water", means water from a water resource, available for use or for allocation to an end user;

"bulk water charges", means the cost of water before the purification thereof to be used as potable water, and include, but is not limited to, the fees of catchment management agencies, the costs of bulk water, contributions to national water works, water user charges and licensing fees;

"civil engineering and construction specifications and standards", means the civil engineering and construction specifications and standards determined for all civil engineering construction work, to be carried out in the area of jurisdiction of the Theewaterskloof Municipality;

"culverts", means a channel or a conduit carrying water across or under a road;

"dry erf", means a premises which has no permissible use of water or any entitlement to the use of water;

"entitlement", means a vested and registered right to the use of water from a specific water resource;

"irrigation water distribution system", means a network of dams, retention dams, structures for the diverting of irrigation water, water courses, channels, culverts, side furrows and furrows, located on public places, public roads, the municipal commonage or private land, used exclusively for the distribution of irrigation water to specific premises;

"irrigation water schedule", means the time schedule, expressed as days and hours, in terms of which irrigation water are allocated to individual premises, serviced by an irrigation water distribution system;

"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 servitude", means a registered right over a premises, with the purpose of utilizing the reserved portion of the erf for the installation of municipal services;

"occupant", means a person who occupies and control land or a premises, and includes a resident;

"owner of a premises", means in relation to the ownership of any property, any person, who as owner, legal lessee or occupant resides on a premises or a portion of land, or use and / or utilize it for whatever purpose, or who as agent of the owner exercise control over such premises;

"premises", means any portion of land situated within the area of jurisdiction of the Theewaterskloof Municipality, of which the outer boundaries are demarcated on a general plan or diagram or sectional title plan, registered in accordance with applicable legislation;

"permissible water use", has the meaning given to it in Schedule 1 of the National Water Act, 1998 (Act No 36 of 1998), as amended;

"potable water", means water purified and cleansed in terms of SANS specifications and requirements, to be used as drinking water;

"service provider", means any institution or entity or group of people, with whom the Theewaterskloof Municipality has a service level agreement to deliver a specific service;

"sluice", means a sliding gate or other contrivance for controlling the volume or flow of water;

"the service", means an irrigation water supply service;

"water" means water for irrigation purposes which is distributed through the irrigation water distribution system to premises;

"water resource", means a natural water resource, such as a fountain, aquifer, lake or river from where water can be withdrawn; and

"water users association", means an association established in terms of Chapter 8 of the National Water Act, 1998 (Act No 36 of 1998), as amended.

2. ALLOCATION OF IRRIGATION WATER

(1) The Municipality as distributor of potable and other water, may allocate available water as irrigation water from any specific water resource within the area of jurisdiction of the Municipality, when such water is not allocated and / or used –

(a) for human consumption;

(b) for industrial and / or commercial consumption;

(c) for permissible water use by owners and / or occupiers of premises directly bordering on the water resource, or where the water resource is situated on the land owned or occupied;

(d) by property owners holding an entitlement to use water from a specific water resource; and

(e) in terms of a water use license, authorizing a specific water use by the licensee from a water resource.

(2) Irrigation water shall only be supplied to areas, where an irrigation water distribution system is available and operational for irrigation water distribution, and only owners and occupants of premises with access to such irrigation water distribution system, may apply for an allocation of irrigation water.

(3) All owners or occupants of premises, with access to an irrigation water distribution system, or to whom irrigation water can be supplied for irrigation purposes, shall apply annually to the Municipality during the months of April and May of every year, for an irrigation water allocation for a period of a year.

(4) The allocation of irrigation water to applicants shall be conditional, and shall be subject to the following conditions –

(a) the availability of surplus water for use as irrigation water, shall be based on the order of preferred users from a water resource, as contemplated in subsection 2(1) of this by-law, and when no surplus water for irrigation purposes is available, the Municipality may terminate an irrigation water distribution service;

(b) premises with an entitlement for irrigation water, shall receive first preference for all allocations;

(c) all premises which are "dry erven", shall only receive an irrigation water allocation, after irrigation water have been allocated to premises in terms of the entitlements of the premises concerned, as contemplated in subsection 2(4)(b) of this by-law;

(d) the Municipality may from time to time determine the conditions for the supply of irrigation water; and

(e) the Municipality may stop the supply of irrigation water for periods, to effect urgent repairs to an irrigation water distribution system.

(5) Every premises allocated an irrigation water supply, shall be supplied with irrigation water on a specified day and hour according to the size of a premises, the allocation for the premises concerned, and the location thereof in the irrigation water distribution system.

3. FEES AND TARIFFS

(1) The Municipality shall be entitled to levy fees and tariffs in accordance with the Tariff By-law of the Theewaterskloof Municipality, for the supply and use of irrigation water by consumers thereof.

(2) The fees and tariffs for irrigation water may be structured as such, to recover the costs for bulk water charges, the costs for the maintenance of the irrigation water distribution system located on or in public places, public roads, the municipal commonage or private land, used primarily for the distribution of irrigation water to specific premises, and the costs for the supply of irrigation water to a premises.

(3) When the owner or occupant of a premises with an entitlement for irrigation water, decline the use thereof in spite of the availability of the irrigation water, such owner or occupant of a premises with an entitlement for irrigation water, shall remain liable to pay the applicable fee or tariff, or any other availability fee or tariff, as determined by the Municipality.

4. TRANSFER OF IRRIGATION WATER ALLOCATIONS

No person may transfer his or her allocation of irrigation water, received in terms of an entitlement and / or a permissible use and / or as an ordinary allocation as a result of an application for irrigation water, to any other person or take or sell irrigation water or allow irrigation water to be taken or be sold, without the explicit consent of the Municipality, which shall not unreasonably be withheld.

5. DISTRIBUTION OF IRRIGATION WATER AND THE CONTROL OF IRRIGATION WATER BY SLUICE SYSTEMS

(1) Irrigation water shall be distributed to premises by the Municipality or a service provider through a system of irrigation dams, irrigation water retention dams, structures for the diverting of irrigation water, water courses, irrigation channels, culverts, sluices, irrigation water side furrows and irrigation water furrows.

(2) An irrigation water distribution system shall consist out of a network of dams, retention dams, structures for the diverting of irrigation water, water courses, channels, culverts, sluices, side furrows and furrows, located on or in public places, public roads, the municipal commonage or private land, used for the distribution of irrigation water to specific premises.

(3) Where any portion of an irrigation water distribution system is located on private land, the Municipality may register a municipal servitude over such property for the irrigation water distribution system.

(4) The owner or occupant of a premises, to whom water for irrigation purposes, has been allocated, shall direct or avert the irrigation water from an irrigation channel or furrow nearest to his or her premises, by means of a sluice system approved by the Municipality, and when the owner or occupant of a premises fails to construct and maintain such sluice system, the Municipality may construct and maintain such sluice system at the expense of the person in default, or alternatively refuse the supply of irrigation water to a premises.

(5) The Municipality shall determine the number of sluices allowable for a premises to divert irrigation water, which an owner or occupant of a premises then may construct.

(6) The Municipality may enter into an agreement with any water users association or other institution or entity or a group of land owners, to manage and maintain any irrigation water distribution system.

6. RENDERING OF NOTICES AND ACCOUNTS

(1) The Municipality shall supply each owner or occupant of a premises, with a notice and an account, indicating the amount payable for the supply of irrigation water, the day and hour in each week when the premises concerned shall be entitled to irrigation water, and the volume of irrigation water allocated to a premises, expressed in a preferred indicator for measurement for a specific irrigation water distribution scheme.

(2) The notice and account contemplated in subsection 6(1) of this by-law may be rendered as a combined document, or a separate notice and account, or any other variation thereof.

7. UNAUTHORIZED USE OF IRRIGATION WATER OR INTERFERENCE WITH THE IRRIGATION WATER DISTRIBUTION SYSTEMS

(1) Any unauthorised person who opens or tamper or interfere with any municipal or private water sluice, or in any way obstructs the flow of irrigation water or illegally divert irrigation water, or hinders any authorized official or other person, charged with the care and maintenance of water sluices or the irrigation water distribution system, shall be guilty of an offence.

(2) A person who has not obtained a right of use for irrigation water or has not been allocated irrigation water, may not divert water from an irrigation water distribution system, or in any way obstruct or diminish the flow of water in any water course, irrigation channel or irrigation furrow.

(3) An authorized official shall have the right of access to a premise, to inspect sluices and the irrigation water distribution system, to establish the legality of water use and / or to investigate any possible transgressions.

8. MAINTENANCE OF IRRIGATION WATER DISTRIBUTION SYSTEMS

(1) The Municipality shall within the constraints of budgetary provisions –

(a) keep the dams, retention dams, water courses, structures for the diverting of irrigation water, channels, side furrows, culverts and furrows of irrigation water distribution systems on public places and public roads in the area of jurisdiction of the Municipality, and managed as such by the Municipality, in a proper state of repair; and

(b) endeavour to supply irrigation water to premises, in terms of a pre-arranged irrigation water schedule and planned quantities, by means of the available irrigation water distribution systems, subject to the availability of the water.

(2) The owner or occupant of a premises supplied with irrigation water shall be responsible and liable for –

(a) keeping all sluices, furrows and culverts used for irrigation water on his or her premises in good repair, and shall have no claim against the Municipality for not receiving irrigation water, because of his or her neglect of sluices, furrows or culverts;

(b) any damages to sluices, furrows and culverts used for irrigation water on his or her premises;

(c) any wastage of irrigation water;

(d) properly closing off sluices, but shall not be allowed to close sluices off with soil or similar materials; and

(e) keeping irrigation furrows that pass through his or her premises, including the retaining wall or retaining bank of such an irrigation furrow, free from obstructions or shrubs, weeds or vegetation.

(3) The owner or occupant of a premise shall be allowed with the written consent of the Municipality –

(a) to provide irrigation furrows that form part of an irrigation water distribution water system, located on such premises, with a cement lining, on condition that the construction work shall be carried out in accordance with the Municipality's civil engineering and construction specifications and standards;

(b) to construct on such premises, a building or stoep over an irrigation furrow, enclose an irrigation furrow, or to construct a dam in an irrigation furrow; and

(c) to construct vehicular or pedestrian bridges over an irrigation furrow on such premises, in accordance with specification provided by the Municipality, when access over an irrigation furrow is required.

(4) The owner or occupant of a premise who fails to comply with the provisions of subsections 8(2) of this by-law, shall be guilty of an offence and shall be liable for any costs incurred by the Municipality to rectify any non-compliance.

9. ILLEGAL EXTRACTION OF WATER

When the owner or occupant of a premises, extracts any irrigation water from an irrigation furrow, irrigation channel or water course not allocated to such premises, or withdraw irrigation water at a time of withdrawal not allocated to such premises, by means of a pump or other apparatus for diverting water or a pipe installed in an irrigation furrow, channel or water course, the owner or occupant of such premises may be ordered to remove such pump, apparatus or pipe forthwith, and shall deemed to be in contravention of the provisions of this by-law

10. 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.

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 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 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. OFFENCES AND PENALTIES

(1) 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, 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.

(2) The Municipality shall have the right to discontinue the irrigation water supply to any premises, when any contravention of provisions of this by-law has occurred, for a period not exceeding one (1) calendar year.

13. IRRIGATION MONITORING COMMITTEES

(1) The Municipality may establish one or more irrigation monitoring committees in a community for the purposes of –

(a) creating opportunities for the local community to participate in the affairs of the Municipality, with regard to matters referred to in this by-law;

(b) to advise the Municipality on matters, referred to an irrigation monitoring committee by the Municipality, and

(c) promoting the achievement of a properly controlled and administered irrigation water system.

(2) An irrigation monitoring committee may consist of –

(a) a member or members of an interested group or affected persons;

(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 matters pertaining to irrigation water in terms of this by-law, request the input of an irrigation monitoring committee.

(b) An irrigation monitoring committee 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.

(c) Community members who serve as a member of an irrigation monitoring committee, shall participate in meetings of an irrigation monitoring committee without any remuneration.

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

(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 repealed -

Name of by-law	Date published	As a whole or partially
Bylaw relating to irrigation water in the township of Greyton	PG 6234 dated 8 March 2005	As a whole

16. SHORT TITLE

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

17. OPERATIVE DATE

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

MUNISIPALITEIT VAN THEEWATERSKLOOF

VERORDENING INSAKE BESPROEIINGSWATER

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 –

(i) die voorsiening van besproeiingswater in die gebied van jurisdiksie van die Munisipaliteit van Theewaterskloof te reguleer en vir aangeleenthede wat daarmee verband hou voorsiening te maak;
(ii) om vir prosedures, praktyke en metodes vir die verskaffing van besproeiingswater in die gebied van jurisdiksie van die Munisipaliteit van Theewaterskloof voorsiening te maak; en
(iii) om die bereiking van omgewingsbewaringdoelwitte, tot voordeel van die inwoners in die gebied van jurisdiksie van Munisipaliteit van Theewaterskloof te bevorder.

INHOUDSOPGAWE

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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 beteken –

"beskikbare water", water wat beskikbaar word uit 'n waterbron, vir gebruik of toekenning aan 'n eindgebruiker;

"besproeiingswater skedule", die tydskedules, uitgedruk in dae en ure, in terme waarvan besproeiingswater toegeken word aan individuele persele, wat deur 'n besproeiingswater verspreidingstelsel gediens word;

"besproeiingswater verspreidingstelsel", die netwerk van damme, retensiedamme, uitkeerstrukture vir besproeiingswater, waterlope, kanale, duikslote, syslote en slote, wat op openbare plekke, openbare paaie, die munisipale meent of privaat grond geleë is, wat eksklusief vir die verspreiding van besproeiingswater na spesifieke persele gebruik word;

"bulkwater kostes", die koste van water voor die suiwering daarvan vir gebruik as drinkwater, en sluit in, maar is nie beperk tot, die fooie vir opvangbestuursgebied agentskappe, die kostes van bulkwater, bydraes tot nasionale waterwerke, watergebruikerheffings en lisensiefooie;

"die diens", 'n besproeiingswaterdiens;

"diensverskaffer", enige instelling of entiteit of groepering van persone, met wie die Munisipaliteit van Theewaterskloof 'n diensleweringooreenkoms aangegaan het, om 'n spesifieke diens te lewer;

"drinkbare water", water wat gesuiwer en skoongemaak word in terme van SANS-spesifikasies en vereistes, om as drinkwater gebruik te kan word;

"droë erf", 'n perseel wat oor geen toegelate gebruik van water of oor enige waterregte beskik nie;

"duiksloot", 'n kanaal of 'n geleikanaal wat water oor of onderdeur 'n pad neem;

"eienaar van 'n perseel", met betrekking tot die eienaarskap van enige perseel, enige persoon, wat as eienaar, wettige huurder of okkupeerder 'n perseel of 'n gedeelte grond bewoon, of gebruik en / of benut vir watter doeleindes ook al, of as agent namens die eienaar oor sodanige perseel beheer uitoefen;

"ge-allokeerde besproeiingswater", beskikbare water vanuit 'n waterbron, wat deur die Munisipaliteit van Theewaterskloof toegeken word om as besproeiingswater gebruik te word;

"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 gemagtig is deur die Munisipaliteit van Theewaterskloof, om die bepalings van hierdie verordening af te dwing;

"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 serwituut", 'n geregistreerde reg oor 'n perseel, met die doel om die gereserveerde gedeelte aan te wend vir die installasie van munisipale dienste;

"perseel", enige gedeelte grond geleë binne die gebied van jurisdiksie van die Munisipaliteit van Theewaterskloof, waarvan die buitegrense afgebaken is op 'n algemene plan of diagram of deeltitelplan, en wat ingevolge die toepaslike wetgewing geregistreer is;

"okkupeerder", 'n persoon wat grond of 'n perseel okkupeer en beheer daaroor het, wat insluit 'n bewoner;

"siviele ingenieurs- en konstruksiespesifikasies en standaarde", die siviele ingenieurs en konstruksiespesifikasies en –standaarde, wat vasgestel word vir alle siviele ingenieurs konstruksiewerk in die gebied van jurisdiksie van die Munisipaliteit van Theewaterskloof;

"sluis", 'n skuifsluis of ander toestel, wat gebruik word om die volume of vloei van water te beheer;

"toegelate watergebruik", soos bedoel in Skedule 1 van die Nasionale Waterwet, 1998 (Wet No 36 van 1998), soos gewysig;

"water", water wat vir besproeiingsdoeleindes deur 'n besproeiingswater verspreidingstelsel na persele versprei word;

"waterbron", 'n natuurlike waterbron, soos 'n fontein, akwafeer, meer of rivier, vanwaar water onttrek kan word;

"watergebruikersvereniging", 'n vereniging ingestel ingevolge Hoofstuk 8 van die Nasionale Waterwet, 1998 (Wet No 36 van 1998), soos gewysig; en

"waterregte", 'n gevestigde en geregistreerde reg tot die gebruik van water vanuit 'n spesifieke waterbron.

2. TOEKENNING VAN BESPROEIINGSWATER

(1) Die Munisipaliteit as verspreider van drinkwater en ander water, mag beskikbare water van enige spesifieke waterbron binne die gebied van jurisdiksie van die Munisipaliteit, vir gebruik as besproeiingswater toeken, indien sodanige water nie toegeken is en / of gebruik word –

(a) vir menslike gebruik nie;

(b) vir industriële en kommersiële gebruik nie;

(c) as toegelate watergebruik deur eienaars en / of okkupeerders van persele wat grens aan 'n waterbron, of waar die waterbron op die betrokke eiendom geleë is nie;

(d) deur grondeienaars wat oor waterregte vir die gebruik van water uit 'n spesifieke waterbron beskik; en

(e) in terme van 'n watergebruiklisensie, wat spesifieke watergebruik deur die lisensiehouer uit 'n waterbron magtig.

(2) Besproeiingswater sal slegs voorsien word aan areas, waar 'n besproeiingswater verspreidingstelsel beskikbaar en operasioneel is vir die verspreiding van besproeiingswater, en slegs eienaars en okkupeerders van persele met toegang tot sodanige besproeiingswater verspreidingstelsel, mag aansoek doen vir 'n besproeiingswatertoekenning.

(3) Alle eienaars of okkupeerders van persele, wat toegang tot 'n besproeiingswater verspreidingstelsel het, of aan wie besproeiingswater verskaf kan word vir doeleindes van besproeiing, sal jaarliks gedurende die maande van April en Mei, vir 'n besproeiingswatertoekenning vir 'n jaarperiode aansoek kan doen.

(4) Die toekenning van besproeiingswater aan applikante sal voorwaardelik wees, en sal onderhewig wees aan die volgende voorwaardes –

(a) die beskikbaarheid van surplus water vir gebruik as besproeiingswater, word gebaseer op die rangorde van voorkeurgebruikers vanuit 'n waterbron, soos voorsien in subartikel 2(1) van hierdie verordening, en wanneer geen surplus water vir besproeiingsdoeleindes beskikbaar is nie, kan die Munisipaliteit 'n diens vir die voorsiening van besproeiingswater staak;

(b) persele met waterregte, sal met enige toekennings eerste voorkeur geniet;

(c) alle persele wat “droë erwe” is, sal slegs ’n bespoeiingswater toekenning ontvang, nadat besproeiingswater aan die betrokke persele met waterregte, soos voorsien in subartikel 2(4)(b) van hierdie verordening, toegeken is;

(d) die Munisipaliteit mag van tyd tot tyd die voorwaardes bepaal vir die voorsiening van besproeiingswater; en

(e) die Munisipaliteit mag die voorsiening van besproeiingswater vir periodes stop, om dringende herstelwerke aan ’n besproeiingswater verspreidingstelsel uit te voer.

(5) Elk perseel waaraan besproeiingswater ge-allokeer word, sal besproeiingswater ontvang op ’n gespesifiseerde dag en uur, in ooreenstemming met die grootte van ’n perseel, die besproeiingswater allokasie aan die betrokke perseel en die ligging daarvan in die besproeiingswater verspreidingstelsel.

3. FOOIE EN TARIEWE

(1) Die Munisipaliteit sal gemagtig wees om fooie en tariewe vir die verskaffing aan en gebruik van besproeiingswater deur die gebruikers van sodanige besproeiingswater, ingevolge die Tariewe Verordening van die Munisipaliteit van Theewaterskloof, te hef.

(2) Die fooie en tariewe mag sodanig gestruktureer wees, dat dit die kostes vir bulkwater heffings, die kostes vir die instandhouding van ’n besproeiingswater verspreidingstelsel wat primêr vir die verspreiding van besproeiingswater gebruik word, geleë op of in openbare plekke, openbare paaie, die munisipale meent of privaat grond, en die kostes vir die verskaffing van besproeiingswater aan ’n perseel dek.

(3) Indien die eienaar of okkupeerder van ’n perseel met waterregte vir besproeiingswater, die ontvangs van beskikbare besproeiingswater vir sodanige perseel van die hand wys, sal die eienaar of okkupeerder van sodanige perseel nog steeds aanspreeklik wees vir die betaling van die toepaslike fooie en tariewe, of enige ander beskikbaarheidsfooi of –tarief, soos wat deur die Munisipaliteit vasgestel word.

4. OORDRAG VAN BESPROEIINGSWATER TOEKENNINGS

Geen persoon mag sy of haar toekenning van besproeiingswater, wat ingevolge ’n waterreg en / of ’n toelaatbare gebruik en / of ’n gewone toekenning na aanleiding van ’n aansoek vir besproeiingswater, vanaf die Munisipaliteit verkry word, aan ’n ander persoon oordra of verkoop of toelaat dat dit verkoop of gebruik word, sonder die spesifieke toestemming van die Munisipaliteit nie, wat nie onredelik weerhou sal word nie.

5. VERSPREIDING VAN BESPROEIIGSWATER EN DIE BEHEER VAN BESPROEIINGSWATER DEUR SLUISSTELSELS

(1) Besproeiingswater sal deur die Munisipaliteit of 'n diensverskaffer, deur middel van 'n stelsel van besproeiingsdamme, besproeiingswater retensiedamme, strukture vir die uitkeer van besproeiingswater, waterlope, besproeiingskanale, duikslote, sluise, besproeiingswater syslote en besproeiingswaterslote, versprei word aan persele.

(2) 'n Besproeiingswater verspreidingstelsel sal bestaan uit 'n netwerk van damme, retensiedamme, strukture vir die uitkeer van besproeiingswater, waterlope, besproeiingskanale, duikslote, sluise, syslote en slote, wat vir die verspreiding van besproeiingswater gebruik word, geleë op of in openbare plekke, openbare paaie, die munisipale meent of privaat grond,

(3) Indien enige gedeelte van 'n besproeiingswater verspreidingstelsel op privaat grond geleë is, mag die Munisipaliteit vir doeleindes van die besproeiingswater verspreidingstelsel, 'n munisipale serwituut oor sodanige eiendom registreer.

(4) Die eienaar of okkupeerder van 'n perseel, wat 'n toekenning vir besproeiingswater ontvang het, sal besproeiingswater deur middel van 'n sluisstelsel, wat deur die Munisipaliteit goedgekeur moet wees, van 'n besproeiingskanaal of –sloot naaste aan die betrokke perseel uitkeer, en die Munisipaliteit mag by versuim van 'n eienaar of okkupeerder om 'n behoorlike sluisstelsel te konstrueer en te onderhou, sodanige sluisstelsel namens en op koste van die betrokke persoon konstrueer en onderhou, of mag alternatiewelik die verskaffing van besproeiingswater aan sodanige perseel weier.

(5) Die Munisipaliteit sal die aantal toelaatbare uitkeersluise vir 'n perseel bepaal, wat die eienaar of okkupeerder van 'n perseel dan mag konstrueer.

(6) Die Munisipaliteit mag 'n ooreenkoms aangaan met enige watergebruikersvereniging of enige ander instelling of 'n groep grondeienaars, om enige besproeiingswater verspreidingstelsel te bestuur en in stand te hou.

6. VERSKAFFING VAN KENNISGEWINGS EN REKENINGE

(1) Die Munisipaliteit sal aan elke eienaar of okkupeerder van 'n perseel, 'n kennisgewing en rekening verskaf, wat die verskuldigde bedrag vir besproeiingswater, die dag en uur in elke week wat besproeiingswater vir die betrokke perseel uit die besproeiingswater verspreidingstelsel onttrek kan word, en die volume water wat onttrek mag word aandui, uitgedruk in die verkose indikator van meting vir 'n spesifieke besproeiingswater verspreidingskema.

(2) Die kennisgewing en rekening soos voorsien in subartikel 6(1) van hierdie verordening, mag as 'n gesamentlike dokument, of as 'n aparte kennisgewing en rekening gelewer word, of enige variasie daarvan.

7. ONGEMAGTIGDE GEBRUIK VAN BESPROEIINGSWATER OF INMENGING IN DIE BESPROEIINGSWATER VERSPREIDINGSTELSELS

(1) Enige ongemagtigde persoon wat met enige munisipale of privaat watersluis peuter of inmeng, of op enige wyse die vloei van besproeiingswater verhinder, of besproeiingswater onwettig afkeer, of wat 'n gemagtigde beampte of ander persoon wat getaak is met die toesig en instandhouding van watersluise en die besproeiingswater verspreidingstelsels verhinder in sy of haar pligte, begaan 'n oortreding.

(2) 'n Persoon wat nie die reg tot gebruik van besproeiingswater verkry het nie, of aan wie nie 'n toekenning vir besproeiingswater ge-allokeer was nie, mag nie enige water uitkeer van 'n besproeiingswater verspreidingstelsel nie, of op enige wyse die vloei van water in enige waterloop, besproeiingskanaal of besproeiingsloot verhoed of verminder nie.

(3) 'n Gemagtigde beampte sal die reg van toegang tot 'n perseel hê, om sluise en die besproeiingswater verspreidingstelsel te inspekteer, om die wettigheid van watergebruik te bepaal en / of om enige moontlike oortredings te ondersoek.

8. INSTANDHOUDING VAN BESPROEIINGSWATER VERSPREIDINGSTELSELS

(1) Die Munisipaliteit sal binne die beperking van begrotingvoorsienings -

(a) die damme, retensiedamme, uitkeerstrukture vir besproeiingswater, waterlope, kanale, duikslote, syslote en slote, wat op openbare plekke, openbare paaie, die munisipale meent of privaat grond in die area van jurisdiksie van die Munisipaliteit geleë is, en wat deur die Munisipaliteit bestuur word, in stand hou; en

(b) poog om onderworpe aan die beskikbaarheid van water, ingevolge 'n voorafbepaalde besproeiingswaterskedule, besproeiingswater in terme van die beplande hoeveelhede, deur middel van die beskikbare besproeiingswater verspreidingstelsel aan persele te verskaf.

(2) Die eienaar of okkupeerder van 'n perseel wat besproeiingswater ontvang, sal verantwoordelik en aanspreeklik wees vir –

(a) Die instandhouding van alle sluise, slote en duikslote op sy of haar perseel, wat vir besproeiingswater gebruik word, en sodanige eienaar of okkupeerder van 'n perseel sal geen eis teen die Munisipaliteit hê vir die nie-ontvangs van besproeiingswater, weens enige versuim van sodanige persoon om sluise, slote en duikslote in stand te hou;

(b) enige skade aan sluise, slote en duikslote wat vir besproeiingswater op sy of haar perseel gebruik word;

(c) enige vermorsing van besproeiingswater;
(d) die behoorlike afsluiting van sluise, maar sal nie toegelaat word om enige sluis met grond of soortgelyke materiaal af te sluit nie; en

(e) die skoonhou van besproeiingslote, insluitend die walle en kante van sodanige slote op sy of haar perseel, van obstruksies en van struike, onkruid of plantegroei.

(3) Die eienaar of okkupeerder van 'n perseel sal met skriftelike toestemming van die Munisipaliteit, toegelaat word om –

(a) besproeiingslote wat deel vorm van 'n besproeiingswater verspreidingstelsel, op sodanige perseel te voorsien van 'n sementvoering, met dien verstande dat die konstruksiewerk ingevolge die siviele ingenieurs en konstruksiespesifikasies en –standaarde van die Munisipaliteit uitgevoer word;

(b) op sodanige perseel 'n gebou of stoep oor 'n besproeiingsloot te bou, om 'n besproeiiingsloot in te kamp, of om 'n dam in 'n besproeiingsloot te bou; en

(c) op sodanige perseel indien benodig, voertuig- of voetgangerbrue oor 'n besproeiingsloot, ingevolge spesifikasie deur die Munisipaliteit verskaf te bou.

(4) Die eienaar of okkupeerder van 'n perseel wat versuim om te voldoen aan die bepalings van subartikel 8(2) van hierdie verordening, sal skuldig wees aan 'n oortreding en aanspreeklik wees vir enige kostes deur die Munisipaliteit aangegaan om 'n versuim reg te stel.

9. ONWETTIGE ONTREKKING VAN WATER

Indien die eienaar of okkupeerder van 'n perseel, enige besproeiingswater deur middel van 'n geïnstalleerde pomp of ander apparaat of pyp vir die uitkeer van water, vanuit 'n besproeiingsloot, besproeiingskanaal of waterloop onttrek, wat nie aan sodanige perseel toegeken is nie of bespoeiingswater onttrek op 'n tydstip wat nie aan sodanige perseel toegeken is nie, mag die eienaar of okkupeerder van sodanige perseel gelas word om sodanige pomp, apparaat of pyp te verwyder, en sal sodanige handeling geag word om 'n oortreding van die bepalings van hierdie verordening te wees.

10. 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 die datum van kennisgewing van die besluit, skriftelike kennis aan die Munisipale Bestuurder te gee van die appèl, en redes vir die appèl te verstrek.

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, 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.

12. STRAFBEPALINGS

(1) '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, begaan 'n oortreding en kan by skuldigbevinding –

(a) 'n boete of gevangenisstraf opgelê word, of gevangenisstraf sonder die keuse van 'n boete, of beide sodanige boete en sodanige gevangenisstraf opgelê word;

(b) in die geval van 'n voortgesette misdryf, 'n bykomende boete of 'n bykomende tydperk van gevangenisstraf of sodanige bykomende gevangenisstraf sonder die opsie van 'n boete of beide sodanige bykomende boete of 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.

(4) Die Munisipaliteit sal die reg hê om die verskaffing van besproeiingswater aan enige perseel, vir 'n periode wat nie een (1) kalenderjaar sal oorskry nie, te staak, indien enige oortreding van bepalings van hierdie verordening voorkom.

13. BESPROEIING MONITERINGKOMITEES

(1) Die Munisipaliteit mag een of meer besproeiing moniteringkomitees in 'n gemeenskap instel, met die doel om -

(a) geleenthede vir die gemeenskap te skep om deel te neem aan die aangeleenthede van die Munisipaliteit, wat met hierdie verordening verband hou;

(b) advies oor aangeleenthede te lewer, wanneer 'n besproeiing moniteringskomitee deur die Munisipaliteit versoek word om advies te lewer; en

(c) die bereiking van 'n behoorlik gekontroleerde en geadministreerde besproeiingswater stelsel, te bevorder.

(2) 'n Besproeiing moniteringkomitee mag bestaan uit –

(a) 'n lid of lede van 'n belangegroep of geaffekteerde persone;

(b) 'n lid of lede van die gemeenskap; of

(c) 'n aangewese beampte of beamptes van die Munisipaliteit of ander owerheidsinstellings.

(3) (a) Die Munisipaliteit mag, wanneer aangeleenthede verbandhoudend tot besproeiingswater ingevolge hierdie verordening oorweeg word, die insette van 'n besproeiing moniteringkomitee versoek.

(b) 'n Besproeiing moniteringkomitee 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.

(b) Lede van die gemeenskap wat as lid van 'n besproeiing moniteringkomitee dien, sal sonder enige vergoeding deelneem aan vergaderings van 'n besproeiing moniteringkomitee.

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

(1) Die bepalings van enige ander verordeninge voorheen uitgevaardig deur die Munisipaliteit, of deur enigeen van die afgeskafte munisipaliteite wat nou in die Munisipaliteit geïnkorporeer is, word hiermee herroep insoverre dit betrekking het op aangeleenthede waarvoor daar in hierdie verordening voorsiening gemaak word.

(2) Die volgende verordening van die Munisipaliteit van Theewaterskloof, word hiermee spesifiek herroep -

Naam van verordening	Datum van publikasie	In die geheel of gedeeltelik
Verordening insake besproeiingswater in die dorpsgebied van Greyton	PK 6234 gedateer 8 Maart 2005	In die geheel

16. KORT TITEL

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

17. INWERKINGTREDING

Hierdie verordening tree op datum van publikasie daarvan in werking.

THEEWATERSKLOOF MUNICIPALITY

OUTDOOR ADVERTISING AND SIGNAGE 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 regulate outdoor advertising and signage in the area of jurisdiction of the Theewaterskloof Municipality, and to provide for matters related thereto.

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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 -

‘‘**advertising structure’’,** means any physical structure designed and built to display a sign or several signs;

“Advertising Standards Authority of South Africa”, means the advertising authority for South Africa, as instituted in terms of the provisions of the Electronic Communications Act, 2005 (Act No 36 of 2005), as amended;

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

‘‘**approval**’’**,** means any approval by the Theewaterskloof Municipality, and ‘‘**approve**’’ has a corresponding meaning;

‘‘**areas of control**’’**,** means those areas indicated in Schedule 1 of this by-law, which may be modified or amended from time to time by the Theewaterskloof Municipality;

‘‘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;

‘‘banner’’, means any material upon which a sign is displayed in such a manner as to be fully legible in windless conditions, attached to one or more ropes, poles or flagstaffs projecting vertically, horizontally or at an angle, or attached to buildings or special structures, but excludes banners carried as part of a procession;

‘‘billboard’’, means any free standing screen or board or structure, larger than four point five (4.5) square meters in total surface area, and which is used for the purpose of posting or displaying of signage, posters and handbills;

‘‘bis’’, means a measuring unit by which the content of information on a sign is determined;

‘‘Class 2 roads’’, means the roads which form the primary transport network for an urban area as a whole, and which are characterized by high volumes traffic, restricted access and higher speed limits;

‘‘Class 3 roads’’, means roads that distribute traffic between the primary residential, industrial and business districts of a town, and which form the link between the primary network of Class 2 roads and the streets within residential areas;

‘‘clearance height’’, in relation to a sign, means the vertical distance between the lowest edge of a sign and the natural level of the surrounding land, walkway or roadway immediately underneath such a sign;

‘‘commercial advertising’’, means any words, letters, logos, figures, symbols or pictures associated with a name, a business, a partnership or an individual, or which relay any information or exhortation in respect of any particular goods manufactured or sold, or any particular services rendered or offered, or any event for commerce or entertainment, including sporting events;

"commercial content", means the content of a sign intended for the advertisement of a product, a service or an activity;

''commercially sponsored sign'', means a sign erected to advertises goods or services, with a secondary purpose to promote or contribute to a specific recognized public or community goal or function;

''common boundary facade'', means any facade of a building which is built on the rear and / or side boundary of a premise, adjoining to an adjacent building, with no facade or architectural features, including no windows;

''composite sign'', means a single free standing advertising structure or other similar structure, for the display of more than one sign;

"contract board", means the contract signage erected on a site for construction and civil engineering projects, as required in terms of the National Building Regulations and Building Standards Act, 1977 (Act No 103 of 1977), as amended;

"development sign'', means a sign displayed on a premises upon which building operations are currently in process, and relates to any services being provided, work being done or goods being supplied in connection with such building operations, but excludes contract boards for building and civil engineering projects as required in terms of the National Building Regulations and Building Standards Act, 1977 (Act No 103 of 1977), as amended;

''display'', means the display of a sign and includes the erection of any sign, billboard, poster, banner or flag, or structure intended solely or primarily for the support of a sign, a poster or a billboard, and includes the display of a sign of a business, a trade partnership or an individual intended as commercial advertisement connected with the contents of a sign or the sign itself, and ''**displayed''** has a corresponding meaning;

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

''environmental impact assessment'', means an environmental assessment carried out in terms of statutory stipulations, intended to determine the impact of any proposed sign on the environment;

''estate agency'', means a person or persons who markets or sells properties as an agency, and includes the private sale of a property by the owner of the property concerned, and ''**estate agent''** has a corresponding meaning;

''flat sign'', means a sign which is affixed to or painted directly onto a wall of a building, which at no point protrude more than two hundred and fifty (250) millimeter in front of the surface of such a wall;

''free standing sign'', means any sign or group of signs displayed on a free standing structure, which is not attached to a building or to any structure or object;

"gateway", means a prominent entrance to and an exit from a specific area within the area of jurisdiction of the Theewaterskloof Municipality, consisting out of various artificial and natural visual characteristics, creating a strong sense of arrival and departure in line with policies for town planning or development frameworks and policies for town planning;

''gateway route'', means a prominent route with an entrance to and an exit from a specific area in the area of jurisdiction of the Theewaterskloof Municipality, which has man-made or natural visual features and creates a strong sense of arrival, and which is consistent with development framework plans and town planning policies;

''graphics'', any component of a depiction, which contributes to the visual appearance or aesthetics of a sign;

''headline poster'', means a temporary poster advertising the contents of a daily or a weekly newspaper or other publication;

''height of a sign'', is calculated by measuring the vertical distance between the uppermost and lowest parts of the advertising panel;

''heritage impact assessment'', means a visual assessment in terms of statutory provisions, of the impact that any proposed sign may have on the cultural heritage in the area where such sign shall be displayed;

''internally illuminated sign'', means a sign or a structure with an electrical or an alternative power source, using the artificial light source to illuminate the displayed advertisement or part thereof, with such light source fully or partially enclosed within the structure or sign concerned;

''locality bound signage or advertising'', means any sign or advertisement displayed on a specific premises or a building, and may include any such sign on municipal property which is adjacent to or abutting on or within five (5) meters of the premises or the building concerned, which refer to an activity, a product, a service or an attraction, which is located, rendered or provided on or from that premises or building;

''loose portable sign'', means a free standing and removable sign or advertising board with a fixed locality, placed in a road reserve or in a public open space adjacent to a premises or a building where the activity, product, service or attraction which is advertised is located;

"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;

"National Building Regulations and Building Standards Act", means the National Building Regulations and Building Standards Act, 1977 (Act No 103 of 1977), as amended, and the regulation promulgated in terms thereof;

''non-profit institution'', means an institution established primarily to promote a community objective, without direct or personal financial gain and may include educational, sporting, medical bodies, as well as any charities or community organizations;

"occupant", means a person who occupies and control land or a premises, and includes a resident; and **"occupier"** has a corresponding meaning;

"Occupational Health and Safety Act", means the Occupational Health and Safety Act, 1993 (Act No 85 of 1993), as amended;

"organ of state", means:
(a) any department of state or administration in the national, provincial or local sphere of government; or
(b) any other functionary or institution –
  (i) exercising a power or performing a function in terms of the Constitution of the Republic of South Africa, 1996 or a provincial constitution; or
  (ii) exercising a public power or performing a public function in terms of any legislation,
but does not include a court or judicial officer;

''overall height'', in relation to a sign, means the vertical distance between the uppermost edge of the sign and the finished level of the surrounding ground, footway or roadway immediately below the center point of a sign;

"owner", means in relation to the ownership of any property, any person who as the owner of a premises resides theron or use it for whatever purpose, or the agent who on behalf of the owner exercise control over a premises, or in relation to the ownership of any sign, any person who as the owner erected such sign or allow it to be erected;

"person", includes for purpose of this by-law, a natural person, a juristic person, any undertaking, an association or an organization, or an organ of the state;

''poster'', means any temporary sign that can be attached to an electrical lamppost, or can be pasted to fixed structures to advertise events or campaigns, including elections or referenda of limited duration;

"premises", means any portion of land situated within the area of jurisdiction of the Theewaterskloof Municipality, of which the outer boundaries are demarcated on a general plan or diagram or sectional title plan, registered in accordance with applicable legislation, and includes a building or structure build or erected on a piece of property;

''protrusive sign'', means a sign which is affixed to a wall of a building, which at any point protrude at least two hundred and fifty (250) millimeter, measured from the surface of the wall on which it is affixed;

"public place", means any premises or property or land, under the control of the 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;

"release fee", means the fee payable as redemption penalty, before an item which has been seized as a result of a transgression of the provisions of this by-law, shall be returned to the owner thereof;

''road reserve'', means the measured area contained within the cadastral boundaries of a road, and includes the roadways, road shoulders, sidewalks and the airspace above such roadways, road shoulders and sidewalks and all other areas within such road reserve boundaries;

''roadway'', means that portion of a road, a street or a thoroughfare which has been improved, constructed or intended for vehicular traffic, as defined in the National Road Traffic Act, 1996 (Act No 93 of 1996), as amended;

''roof sign'', means a sign affixed to a roof of a building, where the top edge of such a sign does not exceed the highest point of the roof level to which it is affixed;

"SANS code", means a South African National Standard as contemplated in the Standards Act, 2008 (Act No 8 of 2008), as amended, and the use of the abbreviation "SANS" followed by any sequel of numbers, means a reference to a SANS code of practices, specifications or standards, published under the corresponding number;

''scenic drive'', means a road designated as a scenic drive in an approved zoning scheme, from which landscapes or features of aesthetic or cultural significance can be seen or viewed;

''security sign'', means a sign containing the name, logo, address and telephone number, of a security company contracted to protect the premises on which it is displayed, or a security system installed to protect the premises on which the sign is displayed, or a neighbourhood watch service, a farm watch service or an area watch service established or contracted to protect a designated area;

''service station facility sign', means free standing signage at petrol filling stations and includes service station pylon signage;

''**shop'',** means a business unit used for retail trading or services;

''sign'', means any design, letter work, numeral design, images, graphics, object, product, replica, advertising structure, mural, device or board which is used to publicly display a sign or which is in itself a sign, and includes a poster, a billboard or an advertisement which is included in the architectural design of a building or a structure;

''signalized traffic intersection'', means an intersection controlled by electronic equipment for traffic signals;

''sky sign'', means a sign where the top edge of any point of such a sign exceeds the height of the roof to which it is affixed;

"South African Road Traffic Signs Manual", as published by the "National Institute for Transport and Road Research, South African Council for Scientific and Industrial Research;

''sponsored sign'', means a sign of which the primary purpose is not to advertise goods or services for commercial purposes, but to display graphics or content which promotes specific community or public awareness of a recognized community objective;

''street name sign'', means a double-sided sign mounted on a pole, which can be internally illuminated or un-illuminated advertising signage displayed in combination with names of streets, as determined from time to time in terms of policy;

''street furniture'', means public equipment and structures in a street, which includes, but is not limited to, street benches, planters, waste bins, pole mounted waste bins, bus shelters, sidewalk clocks, drinking fountains, post boxes and telephone booths;

"third party advertising'', means the advertising of goods or services on signage, where the goods or services that are advertised are not made, procured, sold or delivered on or from the premises on which the signage are affixed or displayed, and includes any advertising which is not locality bound;
''traffic impact assessment'', means a study carried out by a registered

professional engineer with demonstrable experience in the field of traffic engineering, who investigates the impact of a proposed sign on road, vehicle, pedestrian, or cyclist safety and general traffic operations, which study could recommend mitigating measures that may be required as a result of the projected impact of such a sign;

''traffic sign'', means a road traffic sign as depicted in the National Road Traffic Act,1996 (Act No 93 of 1996), as amended;

''traffic signal equipment'', means equipment that provide a road traffic signal as depicted in the National Road Traffic Act, 1996 (Act No 93 of 1996), as amended;

''transit advertising'', means advertising by means of a movable sign, which is transported by road with a motorized vehicle, including trailers and caravans primarily used for advertising;

"transport routes", means the planed and developed routes by which all types of transport can be channeled, excluding air traffic;

''urban edge", means a predetermined point to point boundary line, with the intend to contain urban development to a specific area;

''vehicle terminal'', means an area designated by the Theewaterskloof Municipality where the formal interchange of modes of public transport by people in transit takes place, including, but not limited to, designated railway stations, and official taxi terminals or bus terminals;

''veranda'', includes a cantilevered canopy and a sunblind;

''window sign'', means a sign which is temporarily or permanently painted on or affixed to the window-glass of a building, with the purpose to serve as an advertisement for a business or to designate a business; and

''zone scheme regulations'', means the regulations for a zoning scheme, as applicable for an area within the area of jurisdiction of the Theewaterskloof Municipality.

CHAPTER 1:
APPLICATIONS AND CONDITIONS FOR THE APPROVAL OF SIGNAGE

2. APPLICATIONS FOR THE APPROVAL OF SIGNAGE

(1) No person may display any advertising sign, or erect or use any sign for advertising purposes, without the approval of the Municipality for such sign in terms of this by-law or any other applicable legislation, except for those signs referred to in section 12(3) to 12(11) of this by-law.

(2) Every person who is of intention to display a new sign or to alter or to add to an existing approved sign, shall apply in writing to the Municipality in the prescribed format, which application shall be accompanied by the applicable fees payable and the following information –

(a) a site plan, drawn to a scale and in a format as required by the Municipality, which shall indicate the following –
  (i) the current and proposed amended site plan of the premises, on which the sign is to be erected or be displayed;
  (ii) the position of the sign in relation to the building, when such a sign is to be affixed to a building;
  (iii) every building and the existing signs on the premises and / or building concerned, including any traffic signs or traffic signal equipment; and
  (iv) the positions and dimensions of the proposed sign in relation to the boundaries of the premises and the location of the streets abutting the premises;

(b) the current zoning scheme and overlay scheme conditions for the premises on which the proposed sign shall be erected;

(c) a detailed drawing of the sign concerned, on a scale and in a format as required by the Municipality, which complies with the National Building Regulations and Building Standards Act, and has sufficient detail to enable the Municipality to consider the –
  (i) the appearance and colors of the sign;
  (ii) the relevant technical detail and design for construction;
  (iii) the technical detail and specifications of the materials to be used for the construction of the sign; and
  (iv) when the sign is to be illuminated, the electronic specification and design.

(3) When a sign is to be attached to or be displayed on a wall or a facade of a building, the Municipality may require the submission of an additional drawing, drawn to a scale and in a format as required by the Municipality, depicting the following information –

(a) a front elevation of the building in color;

(b) the details and position of the proposed sign; and

(c) the details and the position of every existing approved sign on the building.

(4) When the applicant for the erection or installation of a sign on a premises or a building, is not the registered owner of the premises or building concerned, the consent of the owner shall be provided with the application, and the applicant as lessee and the owner shall collectively and individually accept responsibility for the proposed sign.

(5) The Municipality may require the submission of further studies and investigations, as required by statutory stipulations.

(6) The Municipality may before the consideration of an application require –
(a) on public demand and when considered to be in public interest, that a public participation process in terms of the public participation policy of the Municipality be instituted; and
(b) that an advertising master plan for any development is submitted, wherein the erection of various signage are proposed or where the rationalization of existing approved signage are proposed.

(7) The Municipality shall notify an applicant of any additional requirements, as contemplated in subsections 2(5) and 2(6) of this by-law, within thirty (30) working days of the date of submission of the original application for the approval.

3. GENERAL PRINCIPLES FOR THE CONSIDERATION OF SIGNAGE

(1) Every person who applies to the Municipality in terms of this by-law for approval
for the erection or displaying of a sign, shall on making the application, pay to the Municipality the prescribed application fee, as determined by the Municipality in terms of the Tariff By-law of the Theewaterskloof Municipality.

(2) When considering an application for a sign, as contemplated in subsection 3(1) of this by-law, or for the amendment of such approval or a condition linked to an approval, the Municipality shall have regard for the following considerations –

(a) the area of control in which the proposed sign is to be erected or displayed as set out in Schedule 1 of this by-law, provided that when a sign falls into more than one area of control or when a proposed sign in one area of control may impact on an adjacent area of control, the Municipality shall be entitled to identify the different areas of control applicable for such application, and determine the conditions which shall be applicable for the approval;

(b) the locality of a proposed sign and the advertising opportunities pertaining to that area of control;

(c) the number of signs already displayed or proposed to be displayed on a premises or a building, or in the area surrounding the premises and building concerned;

(d) the findings of any studies and investigations, the recommendations of municipal departments, and the results of public participation processes undertaken, where applicable;

(e) locality bound signage erected on a premises or displayed at a building, shall relate to the lawful use of such a premises or building;

(f) that no signage be erected or be displayed at residential premises or any portions thereof, except for signage depicting the name of a house, and signage for purpose of identifying approved home industries, and legal temporary uses of such premises; and

(g) that no sign or advertisement shall be designed or displayed –
(i) which shall constitute a danger to any person or property;
(ii) which shall display any material or graphics, which do not comply with the requirements of the Advertising Standards Authority of South Africa;
(iii) which shall be detrimental to the environment or the aesthetics of an area, as a result of the size, intensity, incidence, illumination, quality of design, quality of material, proposed graphics or letter type, or locality thereof;
(iv) which shall be offensive to any person, as a result of the offensive or insulting content thereof;
(v) which shall obscure any other approved signage; or
(vi) which shall be detrimental or otherwise negatively impact on the natural environment; and

(h) that in instances where specific advertisement for products are displayed, it preferable only be done on prescribed billboards, as contemplated in Schedule 2 of this by-law.

(3) Any new signage approved in terms of this by-law, may be displayed as long as such signage comply to the provisions of this by-law and the schedules thereof, the specific conditions determined for the approval of such a sign, or any other applicable legislation.

4. MINIMUM STANDARDS AND CRITERIA FOR SIGNAGE AND AREAS OF CONTROL

(1) The Municipality may in addition to the general principles contained in section 3 of this by-law, apply certain minimum standards and criteria for specific types of signage, subject to the proposed localities for such signage, when an application for approval is considered for a sign.

(2) The minimum standards and criteria which shall be considered are included as Schedules 1 to 17 in this by-law.

(3) Schedule 1 of this by-law depicts the areas of control in which certain types of signage are allowed or disallowed, subject to approval thereof in terms of this by-law, and further subject to any additional requirements that shall be applicable for a specific type of sign as depicted in Schedules 2 to 17 of this by-law.

(4) The description of the areas and / or the transport routes in Schedule 1 of this by-law, shall be read together with the definitions contained in the applicable zoning scheme regulations and the applicable overlay zone of the Municipality.

CHAPTER 2:
STANDARD CONDITIONS AND REQUIREMENTS FOR APPROVAL

5. STANDARDS TO WHICH SIGNAGE SHALL COMPLY

(1) All signage shall be constructed in terms of the approved plans thereof and shall comply with the requirements of the National Building Regulations and Standards Act.

(2) The applicant to whom approval has been granted for the erection or installation and display of a sign, and the owner of the premises or building on which such sign shall be displayed, shall be jointly and separately liable for the maintenance thereof, the replacement of a sign which has been damaged or became dilapidated, and the continuous compliance to safety standards for such a sign.

(3) When any sign becomes torn or damaged or is in a state of disrepair, the applicant to whom the approval has been granted and / or the owner of the building or premises where such a sign has been affixed or erected, shall within seven (7) working days after a written notice to repair the sign concerned, repair or replace or remove such sign.

(4) All signage shall comply to the following basic safety standards –

(a) a sign and the supporting structure of a sign shall be constructed and / or manufactured from durable materials suited for the function, nature and permanence of the sign;

(b) all glass used for a sign, other than the glass covers used in illumination, shall be safety glass of at least three (3) millimeter thick;

(c) all glass panels used in a sign, shall not exceed zero point nine (0.9) square meters in total surface area, and each panel shall be securely fixed in the trunk of the sign, structure or device, independently of all other panels; and

(d) no sign may be nearer that the prescribed minimum distance from overhead electrical conductors.

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

(6) The erection of a new sign may prejudice an existing street tree, and no street tree shall be removed or pruned to accommodate the erection or display of any signage.

6. REQUIREMENTS FOR THE ELECTRIFICATION OF SIGNAGE

(1) All signage requiring an electrical connection, shall preferably be supplied from the existing electrical supply to the premises where it is to be erected, and when such connection is not possible, application for a separate metered electricity supply shall be made to the relevant authority.

(2) Every sign in connection with which electricity is to be used, shall comply to the requirements for electrification and wiring, the applicable SANS codes, and the provisions of the Occupational Health and Safety Act.

(3) Electricity provision to a sign may be provided by means of solar panels, which shall be mounted on or alongside such sign, and the installation of such solar panels shall comply with the standard requirements for solar panel installations, the applicable SANS codes, and the provisions of the Occupational Health and Safety Act.

(4) Signage constructed as such as to allow for future illumination, shall also comply with subsections 6(1), 6(2) and 6(3) of this by-law.

7. REQUIREMENTS FOR ILLUMINATION OF SIGNAGE

(1) The Municipality may approve an illuminated sign, provided that such illuminated sign does not constitute a road safety hazard.

(2) Internal illuminated or electronic signage shall comply to the following specific conditions –

(a) internally illuminated and electronic signage may only be displayed in areas of partial and minimum control, and shall be less than two point one (2.1) square meters in total surface area, or any other size specified by the Municipality in an area, where the installation of illuminated and electronic signage is encouraged; and

(b) electronic signs may not have subliminal flashes.

(3) External illuminated signage shall comply to the following conditions –

(a) the light source emanating from floodlights, shall not be visible to traffic travelling in either direction;

(b) floodlights shall not be positioned in such a way, that it creates any undue light spillage beyond the surface area of the sign; and

(c) the standard requirements for electrical installations, as determined by the applicable SANS codes, and the applicable statutory provisions.

8. REQUIREMENTS FOR TRAFFIC SAFETY

(1) Signage may not be erected in an area where such signage shall cause an unacceptable distraction for vehicle drivers, and the acceptability shall be determined in terms of the guidelines laid down in the South African Road Traffic Signs Manual.

(2) Electronic signs may not be permitted, when such signage shall be visible from Class 2 roads or Class 3 roads, a gateway route or a scenic drive, unless expressly approved in writing by the Municipality.

(3) The graphic content of signage shall not have the potential to be incorrectly visually interpreted as a road traffic sign, as a result of the following causes, but not limited to –

(a) any stylized or pictorial representation of a road traffic sign or a traffic signal;

(b) any word, symbol, logo or other object used on a road traffic sign;

(c) the use of combinations of colours specified for road traffic signs, in a manner likely to lead to confusion; and

(d) any reflectorized paint or material.

(4) Signage may not be erected in an area where the traffic volume or the accident history of a road, requires a higher degree of awareness from vehicle drivers.

(5) Signage may not be attached to or obscure any road traffic sign or traffic signal equipment.

(6) Signage may not be erected within the road reserve of any public road, unless approved by the Municipality and the applicable road authority.

(7) When signage are located at signalized traffic intersections, signage may not have the colors red or yellow or green as main colors, and may not obscure the visibility of any road traffic sign or traffic signal equipment.

(8) Electronic signs shall not be permitted within eighty (80) meters of the perimeter of any signalized traffic intersection.

(9) Electronic signs with flashing or running messages or variable transition messages shall not be permitted, when such messages shall be visible from a public road.

(10) All signage larger than four point five (4.5) square meters in total surface area, erected adjacent to a public road or in a railway reserve, intended to display advertisements for persons using Class 2 roads and Class 3 roads, shall be spaced a minimum specified distance from any other sign or road traffic sign, and such distance shall be measured parallel to the centre line of the roadway, in accordance with the measurements set out in Table 1 of this by-law.

TABLE 1:
LINEAR SPACING BETWEEN SIGNS

Case	Spacing required when visible for traffic on a road with a speed of		
	≤ 60 km/h	61 - 80 km/h	81 - 120 km/h
Where a sign follows a road sign	120 m	200 m	300 m
Where a sign follows a sign	250 m	250 m	300 m
Where a sign precedes a road sign	40 m	70 m	100 m

(11) The minimum distances specified in Table 1 of this by-law, may be decreased by the Municipality, when a sign falls within an area of minimum control, or in the case of other areas of control, on submission of a traffic impact assessment, motivating a justified reduction of the minimum required spacing which is acceptable for the Municipality.

9. LEGAL REQUIREMENTS

All signs to be erected or displayed within the area of jurisdiction of the Municipality, shall in addition to complying with this by-law, also comply with all other applicable statutory stipulations, including any applicable zoning scheme regulations, overlay zones or any departures approved in terms thereof.

10. APPROVAL OF APPLICATIONS

(1) The Municipality may refuse or approve any application, subject to the conditions relating to the erection and / or display of a sign, as contemplated in this by-law and the schedules thereto, on condition that the Municipality shall be indemnified from any claim or any consequences which may result from the erection, the display or the mere presence of such sign or billboard on any place, within the area of jurisdiction of the Municipality.

(2) The Municipality may at any time, withdraw an approval for a sign, or amend any condition or impose a further condition in respect of such approval, when such a sign –

(a) is in a state of disrepair;

(b) poses a danger for humans and / or animals;

(c) remain unused for more than ninety (90) consecutive days, in the case of a advertisement structure;

(d) becomes redundant or obsolete;

(e) no longer complies with the provisions of this by-law; or

(f) is substantially altered from the original approved application, in terms of either the structure or the graphic content or the aesthetical acceptability of such a sign.

(3) When an approved sign has not be erected within twelve (12) months from the date of approval thereof, or within such other time as specified in such approval thereof, the approval for the erection or installation of the sign concerned shall lapse, unless the period is extended in writing by the Municipality, on prior application from the applicant.

(4) In the event that the structure supporting a sign is intentionally demolished, the approval for such a sign shall lapse, and no alternative supporting structure as a replacement or a replacement sign may be installed or erected, without the approval of the Municipality.

(5) All decisions by the Municipality, regarding applications made in terms of this by-law shall be in writing and shall be provided to the applicants concerned within sixty (60) calendar days of the date of submission of a complete application, or when additional information was required by the Municipality, within sixty (60) calendar days of the receipt of the required additional information.

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 such a 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. SIGNAGE FOR WHICH APPROVAL IS NOT REQUIRED

(1) Should any sign not comply with the conditions and specifications applicable for each type of sign contemplated in subsections 12(3) to 12(11) of this by-law, an application in terms of section 2 of this by-law shall be required.

(2) Subject to compliance with the conditions and specifications applicable for each sign provided for in subsections 12(3) to 12(11) of this by-law, and any other applicable statutory stipulations or any other condition imposed by the Municipality, no application for approval is required in terms of this by-law in respect of the signage provided for in subsections 12(3) to 12(11) of this by-law.

(3) *Development Boards.*

(a) Development boards may be erected on premises to be developed or premises in process of development.

(b) Development boards shall immediately be removed from a premise, when building operations are complete or when building operations are discontinued, or when the provisions of a service, the doing of a work or the supply of the goods, to which the sign relates have ceased.

(c) The Municipality may order the removal of any development board, when an occupancy certificate for the new building on the premises concerned has been issued by the Municipality, and the signage involved shall be forthwith removed, by not later than five (5) days after the date of the notice for the removal thereof.

(d) When a developer of a premises fails to remove the development boards contemplated in subsection 12(3)(b) of this by-law, the Municipality may remove such development boards and recover the costs of removal from the developer concerned.

(e) The number and size of development boards on a premises, shall be restricted to -
(i) when the premises are to be used as a whole for only residential purposes, to only one (1) development board, and such development board may not exceed three (3) square meters in total surface area; and
(ii) when the premises are not to be used as a whole for residential purposes, to not more than two (2) development boards, and each development board may not exceed four point five (4.5) square meters in total surface area.

(f) Any development board which include any form of third party advertising, shall comply to the provisions of Schedule 8 of this by-law, and municipal approval approval for the display thereof shall be obtained in terms of the provisions of section 2 of this by-law.

(4) *To Let and For Sale signs.*

"To Let" and "For Sale" signs, not exceeding five hundred (500) millimeter by seven hundred and fifty (750) millimeter in total surface area, intended to advertise the lease or sale of a premises, may be temporarily displayed on any premises offered for rent or for sale, on condition that –

(a) such sign shall be placed on the premises concerned or be affixed against the building concerned;

(b) no such sign may be placed in any street or road reserve; and

(c) such signage shall be removed within sixty (60) days after the date, which the premises it relates to, has been sold or leased.

(5) *Business signage.*

Business signage, with the intent to identify the occupational activity or business activity at and / or the product sold on a premises, may be displayed on such a premises or against a building on the premises on condition that –

(a) such signage do not protrude over a public road;

(b) such signage be un-illuminated;

(c) when such signage is free standing, it shall be placed on the premises concerned;

(d) such signage may be affixed against a wall or a boundary wall;

(e) such signage on a residential premises, where approved occupational practices are lawfully conducted in terms of concessions and departures, shall be restricted to one (1) sign per premises, not bigger than one (1) meter by one (1) meter in size, which may contain the name of the occupant of such premises, the type of occupation or activity practiced, the address, telephone number and the hours of business of the occupant of such premises; and

(f) such signage on non-residential premises not be restricted in numbers, but that any such individual sign not exceed four point five (4.5) square meters in total surface area.

(6) *Window Signs*

A window sign displayed as a locality bound business sign, which is temporarily or permanently painted on or attached to the window glass of a building used for business, commercial, office, industrial or entertainment purposes, which is visible from the outside of such a building, and does not exceed four point five (4.5) square meters in total surface area.

(7) *Business signage incorporated in the face of a building*

Any sign forming an integral part of the material of a building, including a painted sign, which is painted or integrated into such a building may be displayed, on condition that no such sign may exceed four point five (4.5) square meters in total surface area per sign.

(8) *Signage on sports fields.*

Signage around the perimeter of a sports field, may be erected at such sports field with the consent of the owner and the long term lessee of such sports field, without any restrictions in size and numbers, on condition that any signage visible from scenic routes shall be restricted to a maximum size of two (2) by one (1) meter.

(9) *Security signs.*

Security signs, not protruding over a public road and not exceeding four point five (4.5) square meters in total surface area, indicating that a security watch service has been contracted to protect the premises on which the sign is displayed, or that an area watch service, a neighbourhood watch service or a farm watch service has been established or contracted to protect an area, may be displayed on any premises or in the case of an area watch service, a neighbourhood watch service or a farm watch service in a specific area, on condition that –

(a) only one (1) security watch service sign is displayed per client per premises or building on each street frontage of a premises;

(b) only one (1) area watch service sign, neighbourhood watch service sign or farm watch service sign be displayed per approach road to an area; and

(c) such signs only display the name, logo, address and telephone number of the security company contracted or the area watch service, neighbourhood watch service or farm watch service concerned.

(10) *Sponsored signs and signs of non-profit institutions*

Sponsored signage or signs of non-profit institutions may be erected and displayed on any premises, with the consent of the owner or the occupant of such a premises, on condition that –

(a) such sign shall be less than four point five (4.5) square meters in total surface area;

(b) no more than twenty (20) percent of the total surface area of the sign may be used for third party advertising;

(c) the sign shall not be illuminated; and

(d) only one such sign may be displayed per premises.

(11) *Advertising on Vehicles*

(a) Advertisements may be painted, pasted or affixed directly on the body of any motorized vehicle or trailer or caravan, which moves around from one point to another.

(b) When a motorized vehicle or a trailer or a caravan contemplated in subsection 12(11)(a) of this by-law, are parked on any public road or public place or premises for the purpose of advertising and marketing, such advertising signs shall be subject to the conditions contemplated in Schedule 15 of this by-law.

13. DISFIGUREMENT BY SIGNAGE

(1) No person may destroy, harm, damage, disfigure or deface the street frontage of any building, any street name sign, road traffic sign, wall, fence, rock, tree or other natural feature or object, or the front or frontage of the roof of any building or structure, in any manner whatsoever through the display or use of a sign or the writing or painting of any sign, symbol, letters or numerals.

(2) No person may disfigure any sign lawfully erected and displayed in terms of this by-law.

14. DAMAGE TO MUNICIPAL PROPERTY

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

15. ACCESS TO AND THE INSPECTION OF PREMISES

The Municipality shall be entitled, with prior written notification to the owner or the occupant of a premise, to have access to such a premises at any reasonable time by means of duly authorized officials, for the purpose of carrying out any inspection necessary for the proper administration and enforcement of the provisions of this by-law.

16. OFFENCES AND PENALTIES

A 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 officer or posted on a notice board, or 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 –

(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.

17. REMOVAL OF SIGNAGE

(1) Any sign which is displayed or erected in contravention of this by-law, may be removed on instruction of the Municipality, on condition that a prior written notice be served on the owner of the sign and / or the property owner on whose premises the sign is erected or displayed, instructing such person to remove such sign or to implement the required alteration and / or rectification thereto, as may be specified in the notice concerned.

(2) When a written notice is not complied with within the specified time period specified in the notice concerned, the Municipality may without further notice approach the Court to obtain a court order to remove the involved sign.

(3) The Municipality shall after a court order has been obtained to remove a sign, request the owner of such a sign or the owner of the property concerned per written notification, to remove the sign concerned, and by failure thereto instruct a competent service provider to remove the sign concerned on behalf of the Municipality.

(4) Any costs incurred by the Municipality for the removal of signage as contemplated in subsection 17(2) and 17(3), may be recovered from the person or persons on who the notice concerned has been served.

(5) Unlawful signage removed on instruction of the Municipality, may be reclaimed from the Municipality by the owner of such sign, on full payment of any costs incurred by the Municipality in the removal of the sign concerned, and the payment of the prescribed release fee, within a period as determined by the Municipality.

18. 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) when 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 20(2)(a), 20(2)(b) or 20(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.

19. COMMUNITY LIAISON FORUMS

(1) The Municipality may establish liaison forums in a community for the purpose of –

(a) creating opportunities for the community to participate in the affairs of the Municipality, which have reference to this by-law;

(b) to advise the Municipality on matters, referred to a liaison forum by the Municipality;

(c) to promote control over advertising signs and signage; and

(d) to promote the achievement of properly controlled and administered advertising signs and signage.

(2) A liaison forum may consist of –

(a) a member or members of an interested group, or affected persons;

(b) a member or members of the 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 or 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 19(2) of this by-law, may on their own initiative provide input to the Municipality for consideration.

20. JURISDICTION OF MAGISTRATE COURT

Notwithstanding any other provision referred to in any legislation with regard to the jurisdiction of a magistrate's court, a magistrate has the jurisdiction to issue an order on application by the Municipality, for the implementation of any provision of this by-law, or for any approval, refusal or condition granted or applicable in terms thereof.

21. EXEMPTIONS

(1) Notwithstanding the provisions of this by-law, the Municipality may on written application, exempt any person or group of persons from any or all of the requirements of this by-law, and during the consideration of such application for exemption may impose any condition or requirement as deemed necessary.

(2) The Municipality may approve exemptions from the provisions of this by-law, with regard to the type of signage as provided for in Schedules 10, 11 and 12 of this by-law, with regard to –

(a) the area of control where the sign or signage may be displayed;

(b) the nature of an event;

(c) the period for which signage are to be displayed; and

(d) the size of a proposed sign.

(3) The Municipality may approve exemptions from the provisions of this by-law, with regard to all types of signage or areas of control, when an environmental impact assessment or a similar study find that a sign shall have no impact on the environment or the aesthetics of an area.

(4) The Municipality may approve exemptions from the provisions of this by-law for church organizations and non-profit institutions.

22. 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.

23. 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-laws of the Theewaterskloof Municipality are hereby specifically repealed –

Name of by-law	Date published	As a whole or partially
Bylaw relating to the conditions for the affixing and removing of posters from lamp-posts	PG 6814 dated 26 November 2010	As a whole
Bylaw relating to outdoor advertising and signage	PG 6234 dated 8 March 2005	As a whole

24. SCHEDULES FORM PART OF THE BY-LAW

Schedules 1 to 17 of this by-law, form part of this by-law for all practical purposes.

25. TRANSITIONAL ARRANGEMENTS

(1) Anything done under or in terms of any provision repealed by this by-law shall be deemed to have been done under the corresponding provisions of this by-law, and the repeal of any by-law, as contemplated in section 24 of this by-law, shall not affect the validity of anything done under the by-law so repealed.

(2) Anything done prior to the promulgation of this by-law, which was a transgression of the provisions of any by-law repealed in this by-law, and was therefore unlawful, shall in the event of such action or sign still not complying with the provisions of this by-law, be considered as unlawful and the Municipality shall have the authority to take the necessary actions in terms of section 17 of this by-law, to address the continued transgression.

(3) An owner or occupant of a premises, or the owner of a sign, who do not comply with the provisions of this by-law on the operative date of this by-law, shall within a period of six (6) months, after proper written notification by the Municipality of non-compliance to such owner or occupant, ensure that the premises or sign concerned comply to the provisions of this by-law.

(4) The signage erected in terms of previous provisions, requirements, instructions and conditions, may by means of a specific application by the owner or occupant of a premises, or the owner of a sign, to the Municipality for exemption, be exempted from the provisions of this by-law or the person concerned may use his or her right of appeal, or both.

26. SHORT TITLE

This by-law shall be called the Outdoor Advertising and Signage By-law of the Theewaterskloof Municipality.

27. OPERATIVE DATE

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

SCHEDULE 1:
AREAS OF CONTROL

MAXIMUM CONTROL			PARTIAL CONTROL	MINIMUM CONTROL
Natural Area	**Rural Area (Outside urban edge)**	**Urban Area**	**Urban Area (Within urban edge)**	**Urban Area (Within urban edge)**
Proclaimed nature reserve.	Agricultural areas / zones.	(a) Urban conservation areas. (b) Areas of special significance.	(a) Central business districts. (b) Outside areas of special significance.	Industrial zones
Protected natural environments.	Areas with unique natural vegetation.	Declared heritage sites (cultural and natural).	Mixed use commercial and residential areas.	Designated transportation terminals.
Game reserves	Rural small holdings.	Graded buildings and places.	Commercial ribbon development and activity corridors.	Designated areas within undetermined zones.
Proclaimed bird parks.	Large private open spaces such as private golf courses.	Residential zones and adjacent road and rail reserves.	Commercial and business districts and adjacent streets and rail reserves.	Specific areas or sites designated for minimum control in an urban area, by way of a map prepared by the Municipality.
Forestry areas.	Scenic drives.	Transport routes.	Entertainment districts or complexes with commercial zones.	
River corridors	Scenic landscapes	Pedestrian malls and pedestrian plazas.	Sports fields and stadiums.	

1:100 Year flood plains.	Scenic features	School sites and institutional zones.	Undetermined zones (including railway reserves and transport zones).	
Wetlands	Municipal parks.	Scenic features.	Specific areas or sites designated for partial control in an urban area, by way of a map prepared by the Municipality.	
Scenic drives.	Urban edge zones as defined in the applicable policy.	Scenic drives.		
Greening of city network.	Agricultural and horticultural areas and adjacent road and rail reserves.	Gateways		
Specific areas or sites designated for maximum control in a natural area, by way of a map prepared by the Municipality.	Specific areas or sites designated for maximum control in a rural area, by way of a map prepared by the Municipality.	Public open spaces.		
		Private open spaces.		
		Urban small holdings.		
		Intensive urban agriculture areas.		
		Self-sustaining urban agriculture areas.		

		1:100 Year flood plains.		
		River corridors.		
		Wetlands		
		Community facilities (excluding sports facilities and stadiums).		
		Core flora conservation sites, as identified by the National Botanical Institute.		
		Special business zones.		
		Residential components of mixed use buildings.		
		Specific areas or sites designated for maximum control in urban areas, by way of a map prepared by the Municipality.		

SCHEDULE 2:
BILLBOARDS

1. Subject to specific approval in terms of this by-law, the erection or display of custom made or of standard design billboards, shall be permitted only in areas of minimum and partial control.

2. Billboards shall comply with the following requirements –

   (a) when the proposed premises where a billboard is to be erected, borders on Class 2 roads or Class 3 roads, the billboard may not be placed less than five (5) meters from the boundary line of the premises concerned.

   (b) when the proposed site for erection of a billboard has been designated as a gateway or part of a gateway, no billboards shall then be permitted within such gateway.

   (c) the standard conditions for application and approval, as set out in this by-law;

   (d) no billboard may encroach on the boundary line of the property on which a billboard is erected, irrespective whether such encroachment is aerial or on ground level;

   (e) shall have a minimum clearance height of two point four (2.4) meters and a supporting structure which does not exceed a maximum height of seven point five (7.5) meters above natural ground level;

   (f) shall not exceed a maximum size of six (6) by three (3) meters, provided that on any V-shaped structure, two (2) such panels may be allowed;

   (g) shall be displayed between the angles of ninety (90) degrees and sixty (60) degrees to the direction of oncoming traffic;

   (h) shall be spaced a minimum distance apart as specified in Table 1 of this by-law;

   (i) when billboards are located at signalized traffic intersections, the signage may not be erected or displayed within fifty (50) meters of the perimeter of the intersection when un-illuminated and not within eighty (80) meters of the perimeter of such intersection when illuminated;

   (j) when any billboards is erected along the right hand side of a road section, and the graphics thereof are visible to a driver traveling on the left hand side of the road, such billboard shall be deemed to have replaced the advertising opportunity that existed on the left hand side of the road; and

(k) billboards shall have a minimum letter or number height of two hundred and eighty five (285) millimeter.

3. The information content of a proposed advertisement on a billboard shall be measured in “bis”, and when the information content of a proposed advertisement is calculated, the “bis” weights shown in the table below shall be used -

Elements of an advertisement		**Bis per element**
Words	up to 4 letters	0.5
	5 - 8 letters	1.0
	more than 8 letters	2.0
Numbers	up to 4 digits	0.5
	5 - 8 digits	1.0
	more than 8 digits	2.0
Logos, symbols and graphics	smaller than 9 m²	0.5
	between 9 m^2 and 18 m²	1.0
	between 18 m^2 and 27 m²	1.5
	larger than 27 m²	2.0

4. The total “bis” in a proposed advertisement may not exceed fifteen (15).

5. No triangular face billboards shall be allowed.

6. The use of billboards for advertising shall be restricted to advertisements for goods, products, services or a destination.

SCHEDULE 3:
LOCALITY BOUND FREE STANDING AND / OR COMPOSITE SIGNAGE

1. Subject to any approvals in terms of this by-law, the erection or display of locality bound free standing and composite signs shall be permitted only in urban areas of maximum, partial and minimum control, and then only in the following instances –

   (a) where business premises are set back fifteen (15) meters or more from the boundary of a road reserve bending inwards;

   (b) where it is not reasonably possible to affix appropriate signs to a building;

   (c) where such a sign is necessary to allow the public to locate the entrance to a business premises; and

   (d) where the approval of a free standing composite sign shall prevent the proliferation of signage.

2. Locality bound free standing and / or composite signs may not exceed four point five (4.5) meters in height, and in addition may not exceed four point five (4.5) square meters in total surface area.

3. The restrictions on height and surface for free standing and / or composite signs may be waived to a maximum height of seven point five (7.5) meters and a maximum total area of ten (10) square meters in total surface area per side, in instances where –

   (a) such increase, reduces the number of individual signs displayed on any street boundary, thereby minimizing the visual impact on the surrounding environment;

   (b) more than two significant roads borders on the premises concerned;

   (c) the number of businesses which shall be advertising on such sign, justifies it;

   (d) the number of approach or exit routes to the premises concerned, justifies it; and

   (e) the applicable zoning of the premises surrounding the premises concerned, justifies it;

4. Service station free standing signs shall be locality bound and may only be erected or displayed at service stations –

   (a) adjacent to public roads;

   (b) when a service station is directly accessible from the public road on which such a sign is erected; and

(c) on condition that only one (1) service station free standing sign per street boundary shall be permitted.

5. Service station free standing signs may not exceed seven point five (7.5) meters in height, and may not consist of more than eight (8) advertising panels of four point five (4.5) square meters in total surface area.

6. The restrictions on height and surface for free standing service station signs may be waived to a maximum height of sixteen (16) meters and eight (8) advertising panels, not exceeding six (6) square meters in total surface area, subject to the conditions as indicated in paragraph 3 of this schedule.

7. Service station free standing signs in areas of maximum control may not exceed the maximum height of four point five (4.5) meters, and may not exceed seven (7) square meters in total surface area, on each individual side of a sign.

SCHEDULE 4:
FLAT AND PROTRUDING SIGNAGE ATTACHED TO WALLS OF BUILDINGS

1. The erection or display of flat and protruding signage shall be permitted in all areas of maximum, partial or minimum control, subject to approval in terms of this by-law.

2. Flat and protruding signage may –

(a) not be allowed within zero point six (0.6) meters of the edge of a roadway, nor may it extend to within zero point six (0.6) meters of the edge of a roadway;

(b) not protrude more than one point five (1.5) meters in front of a wall, in the case of a sign which has a clearance height of more than seven point five (7.5) meters;

(c) not protrude more than one (1) meters in front of a wall, in the case of a sign which has a clearance height of less than seven point five (7.5) meters;

(d) not protrude more than two hundred and fifty (250) millimeter, when installed over a pedestrian lane or footpath, except when the clearance height of such sign is more than two point four (2.4) meters;

(e) not obstruct any external opening of any building, and no portion of any such sign may obstruct the opening or closing of any window, door or any other openings;

(f) not exceed fifty four (54) square meters in total surface area, or may not exceed one quarter of the overall surface to which it has been affixed or painted, whichever is the lesser, and the size restriction may only be waived on condition that -

(i) the provisions of any environmental impact assessments in terms of statutory stipulations are complied with;
(ii) such signage are to be erected or displayed in a conservation area, and the provisions of any heritage impact assessment in terms of statutory stipulations have been complied with; and

(g) be considered for approval on blank common boundary facades of non-residential buildings.

3. When flat and protruding signage are displayed on the street side or any visible facade of a building –

(a) such signage shall be designed in such a way, as to become an integral part of the building design; and

(b) when a third party advertisement is displayed, it shall be custom made and shall be subject to the requirements of paragraph 2(f) of this schedule.

SCHEDULE 5:
SKY SIGNS

1. The erection or display of sky signs, either custom made or of a standard design shall only be permitted in areas of minimum control, subject to approval in terms of this by-law, and such sky signs shall be limited to a maximum size of four point five (4.5) square meters in total surface area, provided that the size requirement may be waived, with a maximum size of eighteen (18) square meters in total surface area allowable, when –

(a) the conditions of any environmental impact assessment in terms of statutory stipulations, have been complied with; and

(b) the view of any other building is not obstructed.

2. Sky signs erected along the top edge of the roofs of cultural, historic or architecturally significant buildings shall only be allowed, when they are locality bound, un-illuminated and consist of individual cut-out letters or logos.

3. The information content of a proposed sky sign shall be measured in “bis”, and when the information content of a proposed advertisement, is calculated, the “bis” weights shown in the table below shall be used -

Elements of an advertisement		Bis per element
Words	up to 4 letters	0.5
	5 - 8 letters	1.0
	more than 8 letters	2.0
Numbers	up to 4 digits	0.5
	5 - 8 digits	1.0
	more than 8 digits	2.0
Logos, symbols and graphics	smaller the 9 m²	0.5
	between 9 m² and 18 m²	1.0
	between 18 m² and 27 m²	1.5
	larger than 27 m²	2.0

4. The total “bis” in a proposed advertisement may not exceed fifteen (15).

SCHEDULE 6:
ROOF SIGNS

1. The erection or display of roof signs shall be permitted in all urban areas of control, except for areas zoned for residential purposes in areas of maximum control, and subject to approval in terms of this by-law.

2. Roof signs shall comply too the following conditions –

   (a) the total surface area of any roof sign affixed flush or painted onto a roof of a building, may not exceed one quarter of the overall area of the roof to which it is affixed or painted;

   (b) when attached to the bottom edge of a roof or vertically midway on the roof of a building, such sign may not exceed (1) meter in height; and

   (c) the total surface area of a roof sign may not exceed twenty five (25) percent of the roof area to which it has been affixed.

2. A roof sign may be affixed along the edge of a roof of a building, when such sign is composed of a single line of individual cut-out letters, without visible bracing or support, on condition that such sign may not be erected along more than two edges of such a roof, and may not exceed three point six (3.6) square meters in total surface area, six (6) meters by zero point six (0.6) meters in size and a maximum height of one (1) meter.

SCHEDULE 7:
SIGNAGE ON VERANDAS, BALCONIES, CANOPIES, SUPPORTING COLUMNS, PILLARS AND POSTS

The erection or display of signage on a veranda, balcony, canopy, supporting columns, pillars and posts, shall be permitted in all areas of control, on condition that they comply with the following conditions –

(a) no signage may be affixed on or over architectural features of buildings;

(b) signage may be affixed flat onto or painted on a parapet wall, balustrade or railing of a veranda or a balcony, or a beam or a fascia of a veranda or a balcony;

(c) signage may not exceed one (1) meter in height, or protrude above or below or laterally beyond the surface to which it has been affixed, or protrude more than two hundred and fifty (250) millimeter over a roadway or within zero point six (0.6) meters from the edge of a roadway.

(d) signage may be affixed flat onto or painted on supporting columns, pillars and posts, subject thereto that -
   (i) no sign may protrude more than fifty (50) millimeter in front of the surface to which it has been affixed, and may not extend beyond any extremity of any such column, pillar or post; and
   (ii) signage affixed flat onto non-rectangular supporting structures, shall be curved to
   fit the form of such structure;

(e) only one sign per column, pillar or post shall be allowed;

(f) signage suspended below the roof of a verandah, canopy or the floor of a balcony, may not exceed one point eight (1.8) meters in length or six hundred (600) millimeter in height;

(g) signage suspended under a canopy or veranda, may not extend beyond the external edge of the canopy or veranda to which it has been attached;

(h) all suspended signage shall have a clearance height of at least two point four (2.4) meters; and

(i) signage on the roof of a veranda, canopy or balcony, excluding the main roof of a building, shall be composed of a single line of free standing individual, cut-out silhouette letters without visible bracing or other visible means of support, and may not be erected along more than two edges of such roof of a verandah, a canopy or a balcony.

SCHEDULE 8:
SIGNAGE ON BOUNDARY WALLS, FENCES AND CONSTRUCTION SITE HOARDINGS

1. The erection or display of signs on boundary walls, fences and construction site hoardings shall only be allowed for locality bound signage in urban areas of maximum, minimum or partial control, and subject to approval in terms of this by-law, as applicable.

2. Signage on boundary walls, fences and construction site hoardings shall comply with the following conditions –

   (a) in urban areas of maximum and partial control the Municipality shall only approve an application to affix a locality bound sign against a boundary wall, when such a sign is indented into the wall or compounded out of individual un-illuminated cut-out letters or symbols fixed flat on such wall, not protruding more than fifty (50) millimeter from the face of such wall;

   (b) in areas of minimum control, signs may be affixed on boundary walls, fences and hoardings, subject to the following conditions -
      (i) a locality bound sign displayed flat on a boundary wall, a fence or a hoarding shall not protrude more than fifty (50) millimeter from the face of such wall, fence or hoarding;
      (ii) a locality bound sign, in the case of a profession lawfully conducted from a residential premises in terms of a consented use or a departure, shall not be larger than (1) meter by (1) meter and shall be affixed flat on a permanent boundary wall or a fence of such premises; and
      (iii) a locality bound sign, in the case of businesses on non-residential premises, shall have a maximum size of four point five (4.5) square meters and shall be affixed flat on a permanent boundary wall or a fence of a premises.

3. Third party and locality bound advertising on boundary walls, fences and construction site hoardings shall comply too the following conditions -

   (a) no individual sign may exceed a vertical dimension of three (3) meters and a total surface area of eighteen (18) square meters, and in the case of construction site hoardings, the graphics used shall comply with the requirements of the Advertising Standards Association of South Africa;

(b) no sign may protrude more than one hundred (100) millimeter in front of the walls, fences or hoardings to which it has been affixed;

(c) no sign may be illuminated in areas of maximum and partial control; and

(d) no signage may be displayed on construction site hoardings, boundary walls and fences within the cone of vision of motorists at signalized traffic intersections.

SCHEDULE 9:
POSTERS WITH NEWSPAPER HEADINGS

1. The erection or display of posters with headings from newspapers, shall be permitted in all areas, except natural and rural areas of maximum control, subject to approval in terms of this by-law.

2. Posters with headings of newspapers shall comply to the following conditions –

   (a) posters may not exceed zero point nine (0.9) meter by zero point six (0.6) meters in total surface area; and

   (b) the commercial content of a poster may not exceed twenty (20) percent of the area of the poster, nor may the lettering used for the commercial content be larger than the main lettering in the remainder of the poster.

3. Posters may only be attached to municipal electrical light poles or other approved structures, at such locations as approved from time to time for the display of such posters by the Municipality.

4. Poster may not be affixed to traffic signal poles, or other poles which carry road traffic signs, or poles erected for any other purpose, or any other street furniture, waste bins, trees, rocks or other natural features.

5. Posters with newspaper headings may not be pasted on municipal electrical light poles, but shall be mounted on a board, affixed securely with stout string or plastic ties to a pole, unless a permanent frame has been approved and installed for this purpose on a pole.

6. Only one poster with newspaper headings of a newspaper group shall be permitted per pole.

7. The number of posters allowed per area, as well as the designated areas for the display of posters with newspaper headings, shall be determined by the Municipality.

8. All “specific events” posters shall comply with the following conditions –

   (a) the name of the promoter of the event concerned, the specific event and the date of the specific event, shall appear on such posters in letters not less than (50) millimeter mm in height; and

   (b) the specific event posters may not be displayed more than seven (7) days before the date of the event, and shall be removed within twenty four (24) hours after the date of the event shown on the poster.

9. Posters with newspaper headings and their fastenings shall be removed on a daily basis.

10. The Municipality may remove any poster which is displayed in contravention of the conditions of this schedule, subject thereto that –

    (a) any poster which is not removed on a daily basis or any “special event” poster which is not removed within twenty four (24) hours, may be removed by the Municipality; and

    (b) the costs associated with the removal of unlawful posters shall be determined by the Municipality, and be recovered from the person responsible for the display of such posters.

11. Applications shall be made on an annual basis by media groups for permission to display posters with newspaper headings, subject to the payment of an annual fee and a deposit, against which a charges for the removal of any unlawful poster in terms of the provision of this schedule shall be recovered.

12. When the amounts debited against a deposit, exceeds the value of such a deposit, the permission to display such posters shall be suspended, until the deposit is replaced or a further deposit, as applicable, has been paid to the Municipality.

SCHEDULE 10:
POSTERS, BANNERS, FLAGS AND BALLOONS

1. The erection or display of posters, banners, flags and balloons, other than those referred to in Schedule 11 of the by-law or the display of air balloons, shall be permitted in all areas, except natural and rural areas of maximum control, subject to approval in terms of this by-law.

2. The erection and display of posters, banners, flags and balloons shall comply to the following conditions –

   (a) the display of posters, banners, flags and balloons on or alongside any bridge or any public roads shall be forbidden, except when specific consent has been obtained from the Municipality;

   (b) posters, banners, flags or balloons, may not be displayed in such a way that vehicular traffic are restricted or constitute a danger to passing pedestrians of vehicular traffic;

   (c) no banner or flag-type banner may be larger than five (5) square meters in total surface area, and no flag may be bigger than two (2) square meters in total surface area;

   (d) no flagpole may exceed the applicable height restriction of the zoning of a premises;

   (e) no flagpole may be more than eight (8) meters above natural ground level, measured from directly below the flagpole;

   (f) no poster, banner, flag or balloon may be displayed within thirty (30) meters of any road traffic sign or traffic signal equipment;

   (g) posters, banners, flags or balloons may not to be affixed to trees, traffic signs, street name signs, traffic signal equipment, electrical or service authority distribution boxes or structures or poles, rocks and other natural features, street furniture, waste bins or any other municipal property;

   (h) posters, banners, flags or balloons may not be displayed in such a way that they unfairly prejudice other businesses or organizations, or obscure any approved existing signage;

   (i) only one (1) banner per premises shall be permitted, unless the Municipality's written permission has been obtained for the display of more than one banner;

(j) a maximum of five (5) flagpoles bearing national flags, may be erected on the premises of an accommodation facility located on a single residential premises; and

(k) a maximum of three (3) flags may be displayed on a premise, indicating the name, corporate symbol and nature of the business on such premises.

3. Posters, banners, flags and balloons which have become faded and dilapidated may not be further displayed, and shall be removed by the displayer thereof, and by failure thereto, such posters, banners, flags or balloons shall after written notification be removed by the Municipality and the costs of removal shall be recovered from the person who erected such posters, banners, flags or balloons.

SCHEDULE 11:
POSTERS, BANNERS AND FLAGS ON PUBLIC ROADS AND PUBLIC PLACES

1. The erection or display of temporary posters, banners and flags in or on public roads or public places, for the purpose of advertising specific events shall be permitted in all areas of control except natural and rural areas of maximum control, subject to approval in terms of this by-law.

2. The erection and display of temporary posters, banners and flags in or on public roads or public places shall comply with the following conditions –

(a) the name of the host organisation, the date and venue, shall appear on such posters, banners or flags in letters not less than fifty (50) millimeter in height;

(b) sponsored posters, banners and flags may be displayed to advertise an event, on condition that the name or emblem of a sponsor may not cover more than twenty (20) percent of the total surface of such posters, banners or flags;

(c) posters, banners and flags may not be displayed more than seven (7) days before the date of the function and / or event to be promoted, and shall be removed within three (3) days from the date of the function or event;

(d) posters shall be restricted to a maximum size of eight hundred (800) millimeter by five hundred (500) millimeter, and -
(i) shall be mounted on a hard surface;
(ii) shall be affixed securely with stout strings or plastic fastenings;
(iii) shall be affixed in such a way that damage is not caused to the poles on which it is affixed; and
(iv) on condition that the use of fastening material with a metal content shall not be permitted;

(e) posters, banners and flags, excluding election posters and flags used during national, provincial and municipal elections, voter registration campaigns and official referendums, may only be affixed in public roads or public places, as indicated by the Municipality;

(f) posters, banners and flags may not be erected in residential areas and on bridges;

(g) no political banners shall be allowed;

(h) only one poster or flag per organization may be affixed on every streetlight pole;

(i) posters and flags shall be affixed at a uniform height of at least two point four (2.4) meters from ground level, measured from the bottom of a pole;

(j) no posters, banners or flags may be affixed to trees, traffic signs, street name signs, traffic signal equipment, street furniture, waste bins, advertising signage or other municipal property;

(k) no posters, banners and flags may be displayed within thirty (30) meters of any road traffic sign or traffic signal equipment; and

(l) all materials used to affix posters shall be removed together with such posters.

3. The Municipality may remove any indecent or torn posters, banners or flags, together with the fastening material therefore, as well as any posters, banners or flags which create a traffic hazard in the opinion of the Municipality.

4. The Municipality shall be exempted by the displayer of the poster, banners or flags, from any claims that may be instituted against the Municipality as a result of the display of such posters, banners and flags.

5. The display of temporary posters, banners and flags purely for commercial purposes shall not be permitted, provided that any poster, banner or flag which relates to a sport, an arts or a cultural event, may be allowed to contain restricted commercial elements, on condition that such commercial elements may not exceed twenty (20) percent of the total surface area of such poster, banner or flag.

6. Organizations or persons who obtained approval to display posters, banners or flags, shall pay a deposit and the applicable tariffs as determined by the Municipality, which shall then entitle such organization or person to display the posters, banners or flags concerned for a maximum period of ten (10) days, or such other period as may be determined by the Municipality, on condition that –

(a) no posters, banners or flags may be displayed more than seven (7) days before and three (3) days after the date of an event or a function, for which it were intended; and

(b) no posters, banners or flags may be displayed without the required deposit and prescribed tariffs having been paid.

7. The Municipality may remove or request the displayer thereof, to remove all posters, banners or flags when any of the provisions of this by-laws have not been complied with.

8. Posters, banners or flags that are not removed by a due date, may be removed by the Municipality and the deposit paid by the displayer thereof may be utilized for the costs of removal.

9. A maximum number of one hundred (100) temporary posters, banners or flags may be displayed per town, with a maximum of five hundred (500) to be displayed for the area of jurisdiction of the Municipality per organization or person who applied for such temporary display of posters, banners or flags.

10. Banners may be erected and / or removed by the Municipality, on payment of fees and tariffs as determined from time to time by the Municipality, on condition that the banners to be displayed comply with specifications determined by the Municipality.

11. The provisions of this schedule shall be applicable on all political parties, in the instances where there is not an official proclamation for an election day or a by-election.

SCHEDULE 12:
ESTATE AGENT SIGNS

1. The erection or display of estate agent signs shall be permitted in all areas except natural areas of maximum control, subject to approval in terms of this by-law, as applicable.

2. The erection and display of estate agent signs, shall comply to the following conditions –

   (a) advertising signs of estate agents may not be displayed, unless written approval has been obtained from the owner of the property on which such signs are to be displayed and "For Sale" signs may only be displayed for a period of six (6) months;

   (b) "show house" signs may only be displayed from 12:00 on Fridays to 20:00 on Sundays, or on a Thursdays and Mondays, in the instance when either the Friday following the Thursday or the Monday, or both are public holidays, and may only between 8 December of a year and 8 January of a subsequent year be displayed continuously.

   (c) the wording "On Show", "Show House", "Show Flat" or "Show Plot", shall be displayed on each estate agent sign, including the name of the agency and a directional arrow;

   (d) estate agent signs may not be affixed to trees, traffic signal equipment, street poles, street name signs, traffic signs, walls, fences, rocks and other natural features, street furniture, waste bins or other municipal property, unless such alternative method of display has been authorized by the Municipality in writing;

   (e) estate agent signs may not be displayed on traffic islands, center islands, street flower beds, concrete or paved surfaces, on or in public streets;

   (f) estate agent signs may be displayed on structures with stakes, on condition that the stakes of such structures may not penetrate the ground more than one hundred and fifty (150) millimeter; and

   (g) estate agent signs may not exceed zero point three seven five (0.375) square meters in total surface area.

3. A maximum of one "For Sale" sign per estate agency, may be displayed at any single residential premises, except at a corner stand where two signs may be displayed, provided that a maximum of six (6) "For Sale" signs may be displayed simultaneously at a premises.

4. Estate agent signs may not be displayed along scenic drives or on any bridge or on a public place or a public open space.

5. A maximum of ten (10) directional signs per show unit may be displayed along Class 2 roads or Class 3 roads, excluding scenic drives and bridges on such roads, subject thereto that directional signs on such main routes may only indicate the shortest route to a show unit.

6. No estate agent sign may obstruct a road traffic sign.

7. No estate agent sign may be displayed in such a way that any part of the sign concerned is closer than one point five (1.5) meter from the roadway of a public road.

8. “Sold”, “For Sale”, “To Let” signs may be erected flush against the fence or the wall of a premises.

9. No other signage except signs offering a property “for sale” or “to let” or “sold”, may be displayed by estate agents or estate agencies.

10. Every estate agency shall apply annually for permission to display estate agent signage, and the granting of approval shall be subject to the payment of an annual fee, in accordance with the Tariff By-law of the Theewaterskloof Municipality, on condition that -

    (a) a deposit may be required by the Municipality, against which a debit for the removal of any sign which has been displayed in contravention with the provisions of this by-law shall be levied; and

    (b) when the amounts debited against a deposit, exceeds the value of such a deposit, the permission to display such estate agent signs shall be suspended until the deposit is replaced or a further deposit, as applicable, has been paid to the Municipality.

11. Any estate agent sign which is displayed unlawfully or in contravention with the provisions of this schedule, shall be removed by the Municipality, subject to the recovery of the costs for such removal from the estate agency concerned.

SCHEDULE 13:
LOOSE PORTABLE SIGNS

1. The display of loose portable signs shall be permitted in areas of minimum and partial control, as well as designated areas within urban areas of maximum control, subject to approval in terms of this by-law.

2. The placement and display of loose portable signs shall comply to the following conditions –

   (a) loose portable signs may not be placed on a sidewalk or in a road reserve or in public open spaces or on a municipal property, without the written permission of the Municipality;

   (b) the Municipality may remove and impound loose portable signs, placed without permission on a sidewalk, in a road reserve or on municipal property or in contravention with the provisions of this by-law, on condition that –
      (i) owners may recover their impounded signs on payment of a release fee as determined the Municipality; and
      (ii) the cost of removal, storage and transportation of an impounded sign shall be recovered from the owner of such a sign;

3. The following criteria shall apply in respect of an application to place and display a loose portable sign -

   (a) signage may not pose a hazard in terms of safety to the public;

   (b) signage may not obstruct or cause inconvenience to the public or pedestrian traffic, as a result of its physical size or location;

   (c) signage may not unfairly prejudice other traders or businesses;

   (d) signage may not detract from the amenity of the streetscape or the local environment;

   (e) signage may only be used to advertise the name of the business or the nature of goods or services for sale from the premises concerned;

   (f) signage may not exceed the maximum dimensions allowable for loose portable signage, of one point two (1.2) meter in height by zero point six (0.6) meter in width;

   (g) signage may only be placed directly in front of the advertiser's premises, on condition that the afore stated criteria are being met; and

(h) signage shall be placed in such a way, that a footpath of minimum two point five (2.5) meters in width remain clear for pedestrians.

4. The Municipality may demarcate areas within road reserves or on municipal property, for the placement of loose portable signs, where applicants may display approved loose portable signs during normal trading hours, on condition that such signage shall be removed outside normal trading hours and be stored elsewhere from the sight of the general public.

5. The Municipality may levy tariffs in accordance with the Tariff By-law of the Theewaterskloof Municipality, for the right to display loose portable signs, which tariffs shall be payable in advance for a maximum period of six (6) months.

6. Applicants who want to display loose portable signs shall be required to indemnify the Municipality against any claims from third parties, which may arise as a result of the placement of loose portable signs within road reserves or on any other municipal property.

SCHEDULE 14:
AERIAL SIGNS

1. The erection display of aerial signs shall be only permitted in urban areas of partial or minimum control, subject to approvals in terms of this by-law.

2. Aerial signs shall comply to the following conditions –

(a) aerial signs affixed to any building or structure, shall be displayed at a height of more than forty five (45) meters from the surface, measured from ground level; and

(b) aerial signs may not be displayed, above a public road.

SCHEDULE 15:
TRANSIT ADVERTISING

1. The display of transit advertising signs shall be permitted only in urban areas of partial or minimum control, subject to approval in terms of this by-law.

2. Transit advertising shall comply to the following conditions –

   (a) the parking of a vehicle, a trailer or a caravan displaying transit advertising of a third party, where such vehicle, trailer or caravan may be visible from a public road or a public place shall be prohibited, except when such vehicle, trailer or caravan are displayed on a designated display site approved in terms of this by-law;

   (b) vehicles, trailers and caravans containing transit advertising sign, shall not be visible from any public road or public place during the storage thereof on a private premises; and

   (c) the advertising sign on a vehicle or a trailer or a caravan used for transit advertising may not exceed eighteen (18) square meters in total surface area, which may be increased to a maximum size of thirty six (36) square meters in total surface area, in areas of minimum control.

3. The Municipality may designate sites in areas of partial and minimum control for the parking of vehicles, trailers and caravans with transit advertisements.

4. Notwithstanding any provisions of this by-law, the Municipality may without prior notice remove any unauthorized transit advertising signage from a public road, a public place or municipal property, and for unauthorized transit advertising on private property, the Municipality may serve a notice on the owner of the vehicle, trailer or caravan concerned, ordering the removal of the unauthorized transit advertising signage in terms of this by-law.

SCHEDULE 16:
SIGNAGE ON MUNICIPAL LAND OR BUILDINGS

1. No signage may be erected on municipal land, including public roads and public places, without the prior written permission of the Municipality.

2. The following specific conditions and criteria shall apply for the consideration of the erection of any type of sign on municipal property, on application by a third party –

   (a) the consideration of the restrictions applicable for the area of control where the proposed sign is to be erected, to determine the desirability and practicality of the proposed sign;

   (b) consideration of the erection of commercial sponsored signage on municipal property for approval, subject to the following conditions –
      (i) the measure of alignment between the public and community objective of the sign concerned and the identified community needs and objectives;
      (ii) received public comments and input on the proposed commercial sponsored sign;
      (iii) compliance to the supply chain policy of the Municipality for the outsourcing of the proposed advertising opportunity;
      (iv) following the required bid evaluation processes for the selection of a preferred bidder for the advertising opportunity on municipal property; and
      (v) conclusion of a contractual agreement with a third party on conclusion of bid processes;

   (c) the following specific criteria for the erection of a commercial sponsored sign on municipal property shall be considered –
      (i) signage with a political content shall not be permitted;
      (ii) not more than twenty (20) percent of the total surface of a sign may be used for third party advertising;
      (iii) the maximum size of any sign shall be six (6) meter by three (3) meters, provided that in the event of a V-shaped sign, the size of each of the two (2) panels shall not exceed six (6) meter by three (3) meters each.
      (iv) applications for billboards shall comply with the provisions and requirements as set out in Schedule 2 of this by-law; and
      (v) no sign shall be erected within five (5) meters of any boundary line of a premises; and

   (d) the Municipality may consider the erection of a sign by or for the benefit of a non-profit institution, subject to compliance with the requirements set out in Schedule 17 of this by-law.

SCHEDULE 17:
SIGNAGE ERECTED BY OR FOR THE BENEFIT OF NON-PROFIT INSTITUTIONS

1. Notwithstanding the area of control within which a sign by or for the benefit of a non-profit institution is to be erected, and subject to compliance with all the provisions of this by-law, the Municipality may consider such signage for approval, subject to the following conditions –

   (a) the provision of written particulars to the Municipality on the non-profit institution involved in terms of the nature and extent of the support to be received for the erection or display of the sign involved, together with the other required information as contemplated in section 2 of this by-law;

   (b) the proposed extent of the involvement of previously disadvantaged communities, small businesses, job creation and empowerment initiatives, and the benefit to be derived from the erection of such a sign;

   (c) the evaluation of any proposal based on the following considerations -
      (i) the adherence to the principles or provisions of this by-law;
      (ii) the design contribution in terms of creativity and quality;
      (iii) the community benefit offered;
      (iv) compliance to public safety; and
      (v) the contribution to the community objectives or needs; and

   (d) in the event when the proposed sign is to be erected on municipal property:
      (i) the Municipality shall evaluate the proposal;
      (ii) the Municipality as landowner reserves the right not to proceed with any proposal or not to accept any proposal; and
      (iii) on acceptance of a proposal, the conclusion of a written agreement between the Municipality, the person responsible for the erection of the sign and the non-profit institution concerned.

2. Signage to be erected for the benefit of non-profit institutions, shall comply to the following conditions –

   (a) signage with a political content shall not be permitted;

   (b) the maximum size of any such sign shall be six (6) meter by three (3) meters, provided that in the event of a V-shaped sign, the size shall not exceed two panels of six (6) meters by three (3) meters each;

   (c) applications for the erection of billboards, shall comply to the provisions and requirements as set out in Schedule 2 of this by-law;

   (d) no signage erected shall be located within five (5) meters of any boundary line of a premises;

(e) the name of the non-profit institution shall be displayed on the sign by lettering with a maximum size of three hundred (300) millimeter;

(f) all parties that may be affected by the erection or display of such sign shall be given an opportunity for their input;

(g) the Municipality may require that the statutory stipulations with regard to impact assessment studies be complied with;

(h) not more than one sign per street boundary shall be allowed; and

(i) no more than two individual signs of six (6) meters by three (3) meters each shall be allowed on a premises, or alternatively one V-shaped sign with a maximum of two (2) panels of six (6) meters by three (3) meters each.

MUNISIPALITEIT VAN THEEWATERSKLOOF

VERORDENING INSAKE BUITEREKLAME EN ADVERTENSIETEKENS

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

AANHEF

Die doel van hierdie verordening is om buitereklame en advertensietekens in die gebied van jurisdiksie van die Munisipaliteit van Theewaterskloof, te reguleer en voorsiening te maak vir aangeleenthede wat daarmee verband hou.

INHOUDSOPGAWE

1. Interpretasie

HOOFSTUK 1: AANSOEKE EN VOORWAARDES VIR DIE GOEDKEURING VAN TEKENS

2. Aansoeke vir die goedkeuring van tekens
3. Algemene beginsels by die oorweging van aansoeke
4. Minimum standaarde en kriteria vir tekens en gebiede van beheer

HOOFSTUK 2: STANDAARD VOORWAARDES EN VEREISTES VIR GOEDKEURING

5. Standaarde waaraan tekens moet voldoen
6. Vereistes vir die elektrifisiëring van tekens
7. Vereistes vir die beligting van tekens
8. Vereistes vir verkeersveiligheid
9. Regsvereistes
10. Goedkeuring van aansoeke

HOOFSTUK 3: ALGEMENE BEPALINGS

11. Appèlle
12. Tekens waarvoor vooraf goedkeuring nie vereis word nie
13. Ontsiering deur tekens
14. Skade aan munisipale eiendom
15. Toegang tot en die inspeksie van persele
16. Strafbepalings
17. Verwydering van tekens
18. Bediening van kennisgewings en ander dokumente

19. Gemeenskapskakelforums
20. Jurisdiksie van landdroshof
21. Vrystellings
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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 beteken –

"aanplakbord", enige vrystaande skerm of bord of struktuur, wat groter as vier punt vyf (4.5) vierkante meter in totale oppervlak is, en wat gebruik word vir die aanplak of vertoon van tekens, plakkate en biljette;

"banier", enige materiaal waarop 'n teken op so 'n wyse vertoon word, dat dit in windstil toestande ten volle leesbaar is, wat aan een of meer toue, pale of vlagpale wat vertikaal, horisontaal of teen 'n hoek uitsteek, of aan geboue of spesiale strukture vasgeheg word, maar sluit nie baniere in wat as deel van 'n optog gedra word nie;

"bis", 'n meeteenheid waarmee die inhoud van inligting op 'n teken bepaal word;

"dakteken", 'n teken wat op die dak van 'n gebou aangebring word, waar die boonste rand van sodanige teken, nie die hoogste dakvlak van die dak waarop dit aangebring is, oorskry nie;

"derdeparty reklame", die advertering van goedere of dienste op 'n teken, waar die goedere en dienste wat geadverteer word, nie vervaardig, verkry, verkoop of afgelewer word op of vanaf die perseel waarop die teken of tekens wat sodanige goedere of dienste adverteer aangebring of geplaas is nie, wat sal insluit enige reklame wat nie liggingsgebonde is nie;

"diensstasiefasiliteit teken", vrystaande tekens by brandstofvulstasies en sluit diensstasiepiloon tekens in;

"eiendomsagentskap", 'n persoon of persone wat as agentskap eiendomme bemark of verkoop en sluit die privaat verkoop van eiendom deur die eienaar van die betrokke eiendom in, en **"eiendomsagent"** het 'n ooreenstemmende betekenis;

"eienaar", met betrekking tot die eienaarskap van enige eiendom, enige persoon wat as eienaar 'n perseel bewoon of benut vir watter doeleindes ook al, of die agent wie namens die eienaar oor 'n perseel beheer uitoefen, of met betrekking tot die eienaarskap van enige teken, enige persoon wat as eienaar sodanige teken opgerig het of laat oprig het;

"elektroniese teken", 'n teken met 'n elektronies beheerde verligte oppervlak, wat toelaat dat die hele teken of 'n gedeelte daarvan op verskillende maniere verander en / of of belig kan word;

"erfenisimpakbeoordeling", 'n visuele beoordeling in terme van statutêre bepalings, van die impak wat enige voorgestelde teken op die kulturele erfenis van die area waar sodanige teken vertoon sal word, mag hê;

"gebiede van beheer", daardie gebiede wat in Bylae 1 van hierdie verordening uiteengesit word, en wat van tyd tot tyd verander of gewysig kan word deur die Munisipaliteit van Theewaterskloof;

"geborgde teken", 'n teken waarvan die primêre doel nie die advertering van spesifieke goedere of dienste vir kommersiële doeleindes is nie, maar wat grafika of inhoud vertoon wat spesifieke openbare of gemeenskaps bewusmaking van 'n erkende gemeenskapsdoelwit bevorder;

"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;

"**gemeenskaplike grensfasade",** enige fasade van 'n gebou wat op die agter- en / of sygrens van 'n perseel gebou word, teenaan 'n aanliggende gebou, met geen aansig of argitektoniese kenmerke, insluitende geen vensters nie;

"Gesagsvereniging van Reklamestandaarde van Suid Afrika", 'n beheerliggaam vir reklame, soos ingestel ingevolge die Wet op Elektroniese Kommunikasie, 2005 (Wet No 36 van 2005), soos gewysig.

"gesinjaleerde verkeerskruising", 'n kruising wat deur elektriese toerusting vir verkeerseine beheer word;

"goedkeuring", enige goedkeuring deur die Munisipaliteit van Theewaterskloof, en **"goedgekeur"** het 'n ooreenstemmende betekenis;

"grafika", enige komponent van 'n uitbeelding, wat tot die visuele voorkoms of estetika van 'n teken bydra;

"handelsreklame", enige woorde, letters, logos, syfers, simbole of prentjies wat met 'n naam, 'n besigheid, 'n bedryf, 'n vennootskap of 'n individu verband hou, of enige inligting of aanmoediging weergee, ten opsigte van enige spesifieke goedere wat vervaardig of verkoop word of enige spesifieke dienste wat gelewer of aangebied word, of enige gebeurtenis vir handel of vermaak, insluitende sportbyeenkomste;

"hoogte van 'n teken", word bereken deur die vertikale afstand tussen die boonste en onderstes gedeeltes van 'n teken te meet;

"intern verligte teken", 'n teken of 'n struktuur wat van 'n elektriese of 'n ander alternatiewe kragbron voorsien is, met 'n kunsmatige ligbron wat ten volle of gedeeltelik in die betrokke struktuur of teken geïntegreer is, welke ligbron aangewend word om die reklame wat op die teken vertoon word in geheel of gedeeltelik te verlig;

"kimteken", 'n teken waar die boonste rand van enige punt van sodanige teken, die hoogste dakvlak van die dak waarop dit aangebring is oorskry;

"Klas 2-paaie", paaie wat die primêre transportnetwerk vir 'n stedelike gebied as geheel verskaf, en wat gekenmerk word deur hoë volumes verkeer, beperkte toegange en hoër spoedgrense;

"Klas 3-paaie", paaie wat verkeer versprei tussen die primêre residensiële, industriële en sakegebiede van 'n dorp, en wat die skakel vorm tussen die primêre netwerk van Klas 2-paaie en die strate binne residensiële gebiede;

"kommersieel geborgde teken", 'n teken opgerig om goedere of dienste te adverteer, maar wat 'n sekondêre doel dien, naamlik om 'n spesifieke erkende openbare of gemeenskapsdoelwit of -funksie te bevorder of daartoe by te dra;

"kommersiële inhoud", die inhoud van 'n teken wat bedoel word as reklame vir 'n produk, 'n diens of 'n aktiwiteit;

"kontrakbord", 'n kontrakborde op 'n perseel vir konstruksie en siviele ingenieursprojekte, wat soos vereis ingevolge die Wet op Nasionale Bouregulasies en Boustandaarde, 1977 (Wet 103 van 1977), soos gewysig, opgerig moet word;

"liggingsgebonde tekens of reklame", enige teken of reklame wat op 'n spesifieke perseel of 'n gebou vertoon word, wat enige sodanige teken op munisipale eiendom insluit wat naby of aangrensend aan of binne vyf (5) meter vanaf die betrokke perseel of gebou is, welke teken of reklame na 'n aktiwiteit, 'n produk, 'n diens of 'n attraksie verwys wat op sodanige perseel of by sodanige gebou verskaf of voorsien word;

"los draagbare teken", 'n vrystaande en verwyderbare liggingsgebonde teken of reklamebord, wat in 'n padreserwe of 'n oop ruimte geplaas word, aanliggend tot 'n perseel of 'n gebou waar die aktiwiteit, produk, diens of attraksie wat adverteer word, gehuisves word;

"lugteken", 'n teken wat in die lug vertoon word, insluitende, maar nie beperk tot, ballonne en ballonskepe, wat vanaf die Munisipaliteit van Theewaterskloof se gebied van jurisdiksie gesien kan word;

"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;

"nie-winsgewende instansie", 'n instansie wat hoofsaaklik daargestel word om 'n gemeenskapsdoelwit, sonder direkte of persoonlike finansiële gewin te bevorder, en kan opvoedkundige, sport, mediese liggame, sowel as enige liefdadigheid- of gemeenskaporganisasies insluit;

"okkupeerder", 'n persoon wat grond of 'n perseel okkupeer en beheer daaroor het, wat insluit 'n bewoner, en **"okkupant"** het 'n ooreenstemmende betekenis;

"omgewingsimpakbeoordeling", 'n omgewingsbeoordeling wat in terme van statutêre bepalings onderneem word, van die impak wat enige voorgestelde teken op die omgewing kan hê;

"ontwikkelingsbord", 'n teken wat op 'n perseel waar boubedrywighede aan die gang is vertoon word, en wat verband hou met enige dienste verskaf, werk onderneem of goedere wat in verband met sodanige boubedrywighede voorsien word, maar sluit nie kontrakborde vir bou- en siviele ingenieursprojekte, soos vereis ingevolge die Wet op Nasionale Bouregulasies en Boustandaarde, 1977 (Wet 103 van 1977), soos gewysig, in nie;

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

"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;

"opskrif plakkaat", 'n tydelike plakkaat wat die inhoud van 'n dagblad of 'n weeklikse koerant of ander publikasie adverteer;

"padreserwe", die opgemete gebied wat binne die kadestrale grense van 'n pad geleë is, en sluit die ryvlakke, padskouers, sypaadjies en die lugruimte bokant sodanige ryvlakke, padskouers en sypaadjies in, en al die ander gebiede binne sodanige padreserwe grense;

"persoon", sluit vir doeleindes van hierdie verordening, 'n natuurlike persoon, 'n regspersoon, enige onderneming, 'n vereniging of 'n organisasie, of 'n instelling van die staat in;

"perseel", enige gedeelte grond, geleë binne die regsgebied van die Munisipaliteit van Theewaterskloof, waarvan die buitegrense afgebaken is op 'n algemene plan of 'n diagram of 'n deeltitelplan, en wat ingevolge die toepaslike wetgewing geregistreer is, wat insluit 'n gebou of struktuur wat op 'n gedeelte van 'n eiendom gebou of opgerig is;

"plakkaat", enige tydelike teken wat aan elektriese ligpale geheg kan word, of op vaste strukture opgeplak word om byeenkomste of veldtogte te adverteer, insluitend verkiesings of referendums van beperkte duur;

"plat teken", 'n teken wat aan 'n muur van 'n gebou bevestig of direk daarop geverf is, wat nêrens meer as tweehonderd-en-vyftig (250) millimeter voor die oppervlak van sodanige muur uitsteek nie;

"poort", 'n prominente ingang tot en uitgang vanuit 'n spesifieke gedeelte van die Munisipaliteit van Theewaterskloof se gebied van jurisdiksie, bestaande uit verskeie kunsmatige of natuurlike visuele kenmerke, wat 'n sterk sin van aankoms of vertrek skep en in ooreenstemming met ontwikkelingraamwerkplanne of beleide vir stadsbeplanning is;

"poortroete", 'n prominente roete met 'n ingang tot en 'n uitgang vanuit 'n spesifieke gedeelte in die Munisipaliteit van Theewaterskloof se gebied van jurisdiksie, wat kunsmatige of natuurlike visuele kenmerke het, wat 'n sterk sin van aankoms of vertrek skep, en in ooreenstemming met ontwikkelingraamwerkplanne en beleide vir stadsbeplanning beplan en ontwikkel word;

"Reklameowerheid van Suid-Afrika", die reklame owerheid vir Suid-Afrika, soos ingestel ingevolge bepalings van die Wet op Elektroniese Kommunikasie, 2005 (Wet No 36 van 2005), soos gewysig;

"reklamestruktuur", enige fisiese struktuur wat ontwerp en gekonstrueer word, om 'n teken of verskeie tekens te kan vertoon;

"ryvlak", daardie gedeelte van 'n pad, 'n straat of 'n deurgang wat vir voertuigverkeer verbeter, gebou of bedoel is, soos omskryf in die Wet op Nasionale Padverkeer, 1996 (Wet No 93 van 1996), soos gewysig;

"saamgestelde teken " 'n enkel vrystaande reklamestruktuur of ander soortgelyke struktuur, vir die vertoning van meer as een teken;

"SANS-kode", 'n Suid-Afrikaanse Nasionale Standaard, soos voorsien in die Wet op Standaarde, 2008 (Wet No. 8 van 2008), soos gewysig, en die gebruik van die afkorting "SANS", gevolg deur 'n series van nommers, verwys na 'n spesifieke SANS-kode van praktyke, spesifikasies of standaarde, wat onder die spesifieke nommer gepubliseer is;

"sekuriteitsteken", 'n teken wat die naam, logo, adres en telefoonnommer, van 'n sekuriteitsmaatskappy bevat wat gekontrakteer is om 'n perseel waarop dit vertoon word te beskerm, of 'n sekuriteitstelsel wat geïnstalleer is om die perseel waarop die teken vertoon word te beskerm, of 'n buurtwagdiens, 'n plaaswagdiens of 'n areawagdiens gevestig of gekontrakteer om 'n bepaalde gebied te beskerm;

"soneringskema regulasies", die regulasies vir 'n soneringskema soos van toepassing op 'n area binne die gebied van jurisdiksie van die Munisipaliteit van Theewaterskloof;

"staatsinstelling", is:

(a) enige staatsdepartement of administrasie in die nasionale, provinsiale of plaaslike sfeer van regering; of

(b) enige funksionaris of instelling –

(i) wat 'n mag uitoefen of 'n funksie vervul in terme van die Grondwet van die Republiek van Suid-Afrika, 1996 of 'n provinsiale grondwet; of

(ii) wat 'n mag uitoefen of 'n publieke funksie vervul in terme van wetgewing, maar sluit 'n hof of regterlike beampte uit;

"stedelike grens", 'n vooraf bepaalde punt-tot-punt grenslyn, met oogmerk om stedelike ontwikkeling tot 'n spesifieke gebied te beperk;

"straatnaamteken", 'n dubbelsydige teken wat op 'n paal gemonteer word, wat 'n intern verligte of onverligte advertensietekens kan wees, wat in kombinasie met name van strate vertoon word, soos van tyd tot tyd ingevolge beleid bepaal;

"straatmeubelment", openbare toerusting en strukture in 'n straat, wat insluit, maar nie beperk is tot, straatbanke, planthouers, vullishouers, paal gemonteerde houers vir vullis, busskuilings, sypaadjiehorlosies, drinkspuite, posbusse en telefoonhokkies;

"Suid-Afrikaanse Handleiding vir Padverkeerstekens", soos gepubliseer deur die "National Institute for Transport and Road Research, South African Council for Scientific and Industrial Research";

"teken", enige ontwerp, letterwerk, syferwerk, beelde, grafika, voorwerp, produk, replika, reklamestruktuur, muurskildering, toestel of bord wat gebruik word om 'n teken in die openbaar te vertoon of wat op sigself 'n teken is, en sluit 'n plakkaat, 'n aanplakbord of 'n advertensieteken in, wat in die argitektoniese ontwerp van 'n gebou of 'n struktuur ingevoeg word;

"totale hoogte", met betrekking tot 'n teken, die vertikale afstand tussen die boonste rand van die teken en die afgewerkte vlak van die omliggende grond, loopvlak of rypad onmiddellik onder die middelpunt van 'n teken;

"transito reklame", reklame deur middel van 'n beweegbare teken wat padlangs met 'n gemotoriseerde voertuig vervoer kan word, insluitende sleepwaens en karavane wat hoofsaaklik vir reklame gebruik word;

"transportroetes", die beplande en ontwikkelde roetes waarlangs alle tipes van transport gekanaliseer kan word, uitgesluit lugverkeer;

"uitsigpad", 'n roete wat as 'n uitsigpad in 'n goedgekeurde soneringskema aangedui word, waarvandaan landskappe of kenmerke van estetiese of kulturele betekenis gesien of besigtig kan word;

"uitsteekteken", 'n teken wat aan 'n muur van 'n gebou bevestig word en wat by enige punt minstens tweehonderd-en-vyftig (250) millimeter voor die oppervlak van sodanige muur waaraan dit bevestig is, sal uitsteek;

"vensterteken", 'n teken wat tydelik of permanent op die vensterglas van 'n gebou geverf of daaraan bevestig word, met die doel om vir 'n besigheid as reklame te dien of om 'n besigheid te identifiseer;

"veranda", sluit 'n vrydraende sondak en 'n sonblinding in;

"verkeersimpakbeoordeling", 'n studie wat deur 'n geregistreerde professionele ingenieur met bewysbare ondervinding op die gebied van verkeersingenieurswese onderneem word, en wat die impak van 'n voorgestelde teken op pad-, voertuig-, voetganger- en fietsryerveiligheid, en algemene verkeersbedryf ondersoek, welke studie enige maatreëls wat as gevolg van die geprojekteerde impak van die betrokke teken vereis mag word, kan aanbeveel;

"verkeerseintoerusting", toerusting wat 'n padverkeersein verskaf, soos bepaal in die Wet op Nasionale Padverkeer, 1996 (Wet No 93 van 1996), soos gewysig;

"verkeersteken", 'n padverkeersteken soos bepaal in die Wet op Nasionale Padverkeer, 1996 (Wet No 93 van 1996), soos gewysig;

"vertoon", die vertoon van 'n teken, wat insluit die oprigting van enige teken, aanplakbord, plakkaat, banier of vlag, of struktuur wat uitsluitlik of hoofsaaklik vir die ondersteuning van 'n teken, 'n plakkaat of 'n aanplakbord bedoel is, en sluit ook die vertoon van 'n teken van 'n besigheid, 'n handelsvennootskap of 'n individu in, wat as kommersiële reklame bedoel is en met die inhoud van 'n teken of die teken self verband hou, en **"vertoning"** het 'n ooreenstemmende betekenis;

"voertuig terminus", 'n gebied wat deur die Munisipaliteit van Theewaterskloof as sodanig aangewys is, waar die formele verwisseling van openbare vervoermiddele deur persone in transito plaasvind, ingesluit maar nie beperk tot, aangewese spoorwegstasies, en amptelike taxi- of bus terminusse;

"vryhoogte", met betrekking tot 'n teken, die vertikale afstand tussen die laagste rand van 'n teken en die natuurlike vlak van die omliggende grond, loopvlak of ryvlak onmiddellik onder sodanige teken;

"vrystaande teken", enige teken of groep tekens wat op 'n vrystaande struktuur vertoon word, welke struktuur nie aan 'n gebou of enige ander struktuur of voorwerp bevestig is nie;

"vrystellingsfooi", die fooi betaalbaar as afkoopboete, alvorens 'n item waarop daar weens die oortreding van die bepalings van hierdie verordening beslag gelê was, terugbesorg word aan die eienaar daarvan;

"Wet op Beroepsgesondheid en Veiligheid", die Wet op Beroepsgesondheid en Veiligheid, 1993 (Wet No 85 van 1993), soos gewysig;

"Wet op Nasionale Bouregulasies en Boustandaarde", die Wet op Nasionale Bouregulasies en Boustandaarde, 1977 (Wet No 103 van 1977), soos gewysig en die regulasies daarvolgens geproklameer; en

"winkel", 'n sake-eenheid wat vir kleinhandel of dienste gebruik word.

HOOFSTUK 1:
AANSOEKE EN VOORWAARDES VIR DIE GOEDKEURING VAN TEKENS

2. AANSOEKE VIR DIE GOEDKEURING VAN TEKENS

(1) Met uitsondering van die tekens bedoel in subartikels 12(3) tot 12(11) van hierdie verordening, mag niemand enige advertensieteken vertoon of enige teken vir advertensiedoeleindes oprig of gebruik, sonder dat die Munisipaliteit se goedkeuring vir sodanige teken, ingevolge hierdie verordening of enige ander toepaslike wetgewing, verkry is nie.

(2) Elkeen wat van voornemens is om 'n nuwe teken te vertoon of 'n bestaande goedgekeurde teken te verander of iets daartoe te voeg, moet 'n skriftelike aansoek vir sodanige teken of tekens in die voorgeskrewe formaat by die Munisipaliteit indien, vergesel van die voorgeskrewe fooie, welke aansoek ook die volgende inligting moet bevat –

(a) 'n terreinplan, geteken op 'n skaal en in 'n formaat soos deur die Munisipaliteit vereis, wat die volgende aantoon -
  (i) die huidige en voorgestelde gewysigde terreinuitleg van die perseel waarop die teken opgerig of vertoon gaan word;
  (ii) die posisie van die teken in verhouding tot die gebou, indien sodanige teken aan 'n gebou bevestig gaan word;
  (iii) elke gebou en bestaande teken op die betrokke perseel en / of gebou, soos toepaslik, insluitend enige verkeerstekens of verkeerseintoerusting; en
  (iv) die ligging en afmetings van die voorgestelde teken in verhouding tot die grense van die perseel en die strate aangrensend tot die perseel;

(b) die bestaande soneringsvoorwaardes van die perseel, waarop die betrokke teken opgerig gaan word, en die toepaslike oorlegsone voorwaardes ;

(c) 'n gedetaileerde tekening van die betrokke teken, op 'n skaal en in 'n formaat soos deur die Munisipaliteit vereis, wat aan die vereistes van die Wet op Nasionale Bouregulasies en Boustandaarde, voldoen en genoegsame besonderhede bevat om die Munisipaliteit in staat te stel om oorweging te verleen aan -
  (i) die voorkoms en kleure van die teken;
  (ii) die betrokke tegniese besonderhede en ontwerp vir konstruksie;

(iii) die tegniese besonderhede en spesifikasies van die materiaal waaruit die teken vervaardig gaan word; en
(iv) indien die teken verlig gaan of kan word, die elektroniese spesifikasies en ontwerp.

(3) Indien 'n teken aan 'n muur of 'n fasade van 'n gebou bevestig of vertoon gaan word, kan die Munisipaliteit vereis dat 'n addisionele tekening voorsien word, geteken op 'n skaal en in 'n formaat soos deur die Munisipaliteit vereis, wat die volgende besonderhede aantoon –

(a) 'n vooraansig van die gebou, met die kleure daarvan aangedui;

(b) die besonderhede en posisie van die voorgestelde teken; en

(c) die besonderhede en posisie van elkeen van die bestaande goedgekeurde tekens op die gebou.

(4) Indien die aansoeker vir die oprigting of aanbring van 'n teken op 'n gebou of 'n perseel, nie die eienaar is van die betrokke perseel of gebou is nie, moet die toestemming van die eienaar sodanige aansoek vergesel, en die aansoeker as huurder en die eienaar van die perseel of gebou sal gesamentlik en afsonderlik verantwoordelikheid aanvaar vir die voorgestelde teken.

(5) Die Munisipaliteit mag indien so vereis deur statutêre bepalings, verdere studies en ondersoeke van 'n aansoeker vereis.

(6) Die Munisipaliteit mag voor die oorweging van 'n goedkeuring –

(a) op publieke aandrang en indien in openbare belang, 'n openbare deelnameproses in terme van die Munisipaliteit se openbare deelname beleid vereis; en

(b) 'n reklame meesterplan vereis ten opsigte van enige ontwikkeling waar die oprigting van verskeie tekens voorgestel word, of waar die rasionalisering van voorheen goedgekeurde tekens voorgestel word.

(7) Die Munisipaliteit moet 'n aansoeker binne dertig (30) werksdae vanaf die datum waarop die oorspronklike aansoek vir die goedkeuring van 'n teken ingedien was, in kennis stel van enige addisionele vereistes, soos voorsien in subartikel 2(5) en 2(6) van hierdie verordening.

3. ALGEMENE BEGINSELS BY DIE OORWEGING VAN AANSOEKE

(1) Elke persoon wat by die Munisipaliteit aansoek doen om die goedkeuring vir die oprigting of aanbring van 'n teken ingevolge hierdie verordening, moet by die indiening van die aansoek die voorgeskrewe aansoekfooi betaal, soos deur die Munisipaliteit bepaal in terme van die Tariewe Verordening van die Munisipaliteit van Theewaterskloof.

(2) Wanneer 'n aansoek vir 'n teken, soos voorsien in subartikel 3(1) van hierdie verordening, of die wysiging van sodanige goedkeuring, of 'n gekoppelde voorwaarde aan sodanige goedkeuring oorweeg word, moet die Munisipaliteit die volgende oorweegredes in ag neem –

(a) die gebied van beheer waarin die voorgestelde teken opgerig of vertoon gaan word, soos uiteengesit in Bylae 1 van hierdie verordening, met dien verstande dat indien 'n teken in meer as een gebied van beheer val of indien 'n voorgestelde teken op meer as een gebied van beheer 'n impak kan hê, die Munisipaliteit die reg sal hê om die onderskeie gebiede van beheer wat op sodanige aansoek betrekking sal hê, te identifiseer en die vereistes waaraan voldoen moet word te bepaal;

(b) die ligging van 'n voorgestelde teken en die reklamegeleenthede wat op daardie gebied van beheer betrekking het;

(c) die aantal tekens wat reeds op 'n perseel of 'n gebou en in die omliggende gebied van die betrokke perseel of gebou vertoon word of vertoon gaan word;

(d) die bevindings van enige studies en ondersoeke, die aanbevelings van munisipale departemente, en die uitkomste van enige openbare deelnameprosesse wat onderneem was, soos van toepassing;

(e) dat liggingsgebonde tekens opgerig op 'n perseel of aangebring teen 'n gebou, verband moet hou met die wettige gebruik van sodanige perseel of gebou;

(f) dat geen tekens op woonpersele of enige gedeeltes daarvan aangebring of daarop geplaas mag word nie, behalwe huisbenamings en tekens vir doeleindes van die identifisering van goegekeurde tuisnywerhede en wettige tydelike gebruike op sodanige perseel; en

(g) dat geen teken so ontwerp of vertoon sal word, dat -
(i) dit 'n gevaar vir enige persoon of eiendom sal inhou nie;
(ii) dit enige materiaal of grafika sal vertoon wat nie voldoen aan die vereistes van die Gesagsvereniging van Reklamestandaarde van Suid Afrika nie;
(iii) dit nadelig is vir die omgewing of die estetika van 'n gebied, vanweë grootte, intensiteit, herhaling, verligting, gehalte van die ontwerp, kwaliteit van materiaal, voorgestelde grafika of letterwerk, of ligging nie;

(iv) dit aanstoot gee aan enige persoon weens die aanstootlike en beledigende inhoud daarvan nie;
(v) dit enige ander bestaande goedgekeurde tekens sal belemmer nie; of
(vi) dit nadelig sal wees of andersins 'n nadelige impak op die natuurlike omgewing sal hê nie; en

(h) dat in die gevalle waar spesifieke reklame vir produkte vertoon word, dit verkieslik slegs op voorgeskrewe aanplakborde soos voorsien in Bylae 2 van hierdie verordening, toegelaat sal word.

(3) Enige nuwe tekens goedgekeur ingevolge hierdie verordening, mag vertoon word vir solank sodanige tekens voldoen aan die vereistes van hierdie verordening en die bylaes daartoe, die spesifieke voorwaardes bepaal vir goedkeuring van 'n teken, of enige ander toepaslike statutêre bepalings.

4. MINIMUM STANDAARDE EN KRITERIA VIR TEKENS EN GEBIEDE VAN BEHEER

(1) Die Munisipaliteit mag, bo en behalwe die algemene beginsels soos uiteengesit in artikel 3 van hierdie verordening, sekere minimum standaarde en kriteria vir sekere tipes van tekens toepas, nagelang die voorgestelde liggings van sodanige tekens, wanneer 'n aansoek om goedkeuring van 'n teken oorweeg word.

(2) Die minimum standaarde en kriteria wat oorweeg moet word, word as Bylaes 1 tot 17 van hierdie verordening uiteengesit.

(3) Bylae 1 van hierdie verordening, dui die gebiede van beheer aan waarin spesifieke tipes tekens toegelaat word of nie, onderhewig aan die goedkeuring daarvan ingevolge hierdie verordening en verder onderhewig aan enige addisionele vereistes wat betrekking het op 'n spesifieke tipe teken soos in Bylaes 2 tot 17 van hierdie verordening uiteengesit.

(4) Die beskrywing van gebiede en / of transportroetes in Bylae 1 van hierdie verordening moet saamgelees word met die definisies soos vervat in die toepaslike soneringskema regulasies en die toepaslike oorlegsone van die Munisipaliteit.

HOOFSTUK 2:
STANDAARD VOORWAARDES EN VEREISTES VIR GOEDKEURING

5. STANDAARDE WAARAAN TEKENS MOET VOLDOEN

(1) Alle tekens moet aan die vereistes van die Wet op Nasionale Bouregulasies en Boustandaarde voldoen en gekonstrueer wees ingevolge die goedgekeurde plan van sodanige teken.

(2) Die aansoeker aan wie goedkeuring verleen word vir die oprigting of aanbring van ’n teken, en die eienaar van die perseel of gebou waar sodanige teken vertoon word, is gesamentlik en afsonderlik aanspreeklik vir die instandhouding daarvan, die vervanging van ’n teken sodra dit beskadig is of verslete raak, en deurlopende voldoening aan veiligheidstandaarde vir sodanige teken.

(3) Indien enige teken skeur of beskadig raak of andersins bouvallig word, moet die aansoeker aan wie goedkeuring verleen was en / of die eienaar van die gebou of perseel waaraan of waarop sodanige teken aangebring was, dit binne sewe (7) werksdae na ontvangs van ’n skriftelike kennisgewing om die betrokke teken te herstel, sodanige teken herstel of vervang of verwyder.

(4) Alle tekens moet aan die volgende basiese veiligheidstandaarde voldoen –

(a) ’n teken en die steunstruktuur van ’n teken moet uit duursame materiaal wat vir die funksie, aard en permanensie van die teken geskik is, gebou en / of vervaardig word;

(b) alle glas wat vir ’n teken gebruik word, behalwe glasbedekkings wat vir verligting gebruik word, moet veiligheidsglas wees wat minstens drie (3) millimeter dik is;

(c) alle glaspanele wat vir ’n teken gebruik word, mag nie nul punt nege (0.9) vierkante meter in totale oppervlakte oorskry nie, en elke paneel moet stewig aan die romp van die teken of struktuur of toestel, en onafhanklik van al die ander panele bevestig word; en

(d) geen teken mag nader as die minimum afstand wat voorgeskryf word, aan oorhoofse elektriese geleiers wees nie.

(5) Geen teken mag so geplaas word dat dit die oop- of toemaak van enige venster of opening wat vir ventilasie van ’n gebou voorsien word, belemmer nie, of enige trap of deur of ander uitgang van ’n gebou belemmer nie, of die beweging van mense van een deel van ’n dak na ’n ander verhinder nie.

(6) Die oprigting van ’n nuwe teken mag nie ’n bestaande straatboom benadeel nie, en geen straatboom sal verwyder of gesnoei word om die oprigting of vertoning van enige tekens te akkommodeer nie.

6. VEREISTES VIR DIE ELEKTRIFISIëRING VAN TEKENS

(1) Alle tekens wat ’n elektriese aansluiting benodig, moet verkieslik vanaf die bestaande elektriese toevoer op die perseel waarop dit opgerig gaan word, voorsien word, en indien sodanige aansluiting nie moontlik is nie, moet daar by die betrokke owerheid om ’n elektrisiteitaansluiting, waarvan die elektrisiteitgebruik met ’n aparte meter gemeet word aansoek gedoen word.

(2) Elke teken waarvoor elektrisiteit gebruik word, moet voldoen aan die standaard vereistes vir elektrifisering en bedrading, die toepaslike SANS-kodes, en die bepalings van die Wet op Beroepsgesondheid en Veiligheid.

(3) Elektrisiteitvoorsiening aan 'n teken kan geskied by wyse van sonpanele, wat op of by sodanige teken gemonteer word, en die installasie van sodanige sonpanele moet voldoen aan die standaard vereistes vir sonpaneelinstallasies, die toepaslike SANS-kodes, en die bepalings van die Wet op Beroepsgesondheid en Veiligheid.

(4) Tekens wat as sulks gekonstrueer is dat dit in die toekoms verlig kan word, moet ook voldoen aan die vereistes soos voorsien in subartikels 6(1), 6(2) en 6(3) van hierdie verordening.

7. VEREISTES VIR DIE BELIGTING VAN TEKENS

(1) Die Munisipaliteit kan 'n verligte teken goedkeur, met dien verstande dat sodanige verligte teken nie 'n gevaar vir padgebruikers veroorsaak nie.

(2) Intern verligte tekens of elektroniese tekens moet aan die volgende vereistes voldoen –

(a) intern verligte en elektroniese tekens mag slegs in gebiede van gedeeltelike en minimum beheer vertoon word en moet minder as twee punt een (2.1) vierkante meter in oppervlak wees, of enige ander grootte wat deur die Munisipaliteit gespesifiseer word in 'n gebied, waar die aanbring van verligte of elektroniese tekens aangemoedig word; en

(b) elektroniese tekens mag nie onderbewustelik flits nie.

(3) Ekstern verligte tekens moet aan die volgende vereistes voldoen -

(a) die ligbron waarvan die spreiligte afkomstig is, moet nie vir bewegende voertuigverkeer in enige rigting sigbaar wees nie;

(b) spreiligte mag nie so geplaas word dat dit enige oormatige ligverspilling verby die oppervlakte van 'n teken veroorsaak nie; en

(c) die standard vereistes vir elektriese installasies, soos deur die toepaslike SANS-kodes en die toepaslike statutêre bepalings bepaal word.

8. VEREISTES VIR VERKEERSVEILIGHEID

(1) Tekens mag nie in 'n gebied opgerig word, waar sodanige tekens 'n onaanvaarbare afleiding vir voertuigbestuurders tot gevolg sal hê nie, welke aanvaarbaarheid bepaal sal word ingevolge die riglyne soos neergelê in die Suid-Afrikaanse Handleiding vir Padverkeerstekens.

(2) Elektroniese tekens word nie toegelaat, waar dit vanaf Klas 2-paaie of Klas 3-paaie, 'n poortroete of 'n uitsigpad sigbaar is nie, tensy dit skriftelik deur die Munisipaliteit gemagtig word.

(3) Die grafiese inhoud van 'n teken mag nie van sodanige aard wees, dat dit visueel foutiewelik as 'n padverkeersteken vertolk kan word nie, weens die volgende oorsake, maar nie beperk daartoe nie –

(a) enige gestileerde of prentuitbeelding van 'n padverkeersteken of 'n verkeersein;

(b) enige woord, simbool, logo of ander voorwerp wat op 'n padverkeersteken gebruik word;

(c) die gebruik van kombinasies van kleure wat vir padverkeerstekens gespesifiseer word, wat op 'n manier wat tot verwarring aanleiding kan gee; en

(d) enige weerkaatsende verf of material.

(4) Tekens mag nie in 'n gebied opgerig word waar verkeersvolumes of die padongelukke geskiedenis van 'n betrokke pad, buitegewone waaksaamheid van voertuigbestuurders vereis nie.

(5) Tekens mag nie aan enige padverkeersteken of verkeerseintoerusting aangebring word, of die sigbaarheid daarvan belemmer nie.

(6) Tekens mag nie binne 'n padreserwe van enige openbare pad opgerig word nie, tensy dit deur die Munisipaliteit en die betrokke padowerheid goedgekeur was nie.

(7) Waar tekens by gesinjaleerde kruisings geplaas word, mag daar nie van die kleure rooi of geel of groen as die hoofkleur op 'n teken gebruik gemaak word nie en geen teken mag die sigbaarheid van enige padverkeersteken of verkeerseintoerusting belemmer nie.

(8) Elektroniese tekens word nie binne tagtig (80) meter van enige gesinjaleerde verkeerskruising toegelaat nie.

(9) Elektroniese tekens met flitsende of bewegende of veranderlike oorgangboodskappe, wat sigbaar is van 'n openbare pad, is nie toelaatbaar nie.

(10) Alle tekens wat groter as vier punt vyf (4.5) vierkante meter in totale oppervlak is, en wat langs 'n openbare pad of in 'n spoorwegreserwe opgerig word vir doeleindes van reklame vir persone wat Klas 2-paaie en Klas 3-paaie gebruik, moet 'n minimum gespesifiseerde afstand van enige padverkeersteken of ander teken geplaas word, welke afstand parallel met die middellyn van die ryvlak in ooreenstemming met Tabel 1 van hierdie verordening, gemeet moet word.

TABEL 1:
LINIÊRE RUIMTE TUSSEN TEKENS

Geval	Vereiste ruimte wanneer sigbaar vir verkeer op 'n pad met 'n spoed van		
	≤ 60 km/uur	61 - 80 km/uur	81 - 120 km/uur
Waar 'n teken 'n padteken volg	120 m	200 m	300 m
Waar 'n teken 'n teken volg	250 m	250 m	300 m
Waar 'n teken 'n padteken voorafgaan	40 m	70 m	100 m

(11) Die minimum vereiste afstande wat in Tabel 1 van hierdie verordening gespesifiseer word, kan deur die Munisipaliteit verminder word indien 'n teken binne 'n gebied van minimum beheer val, of in die geval van ander gebiede van beheer by indiening van 'n verkeersimpakbeoordeling, wat 'n vermindering van die gemelde afstand tot die bevrediging van die Munisipaliteit as geregverdig bevestig.

9. REGSVEREISTES

Alle tekens wat opgerig word of in die gebied van jurisdiksie van die Munisipaliteit vertoon word, moet benewens voldoening aan die bepalings van hierdie verordening, ook aan alle ander toepaslike statutêre bepalings voldoen, insluitende enige toepaslike soneringskema regulasies, oorlegsones of enige afwykings daarvolgens goedgekeur.

10. GOEDKEURING VAN AANSOEKE

(1) Die Munisipaliteit kan enige aansoek weier of goedkeur, onderhewig aan voldoening aan die voorwaardes wat met die oprigting en / of vertoning van 'n teken verband hou, soos voorsien in hierdie verordening en die bylaes daartoe, met dien verstande dat die Munisipaliteit teen enige eise wat uit die oprigting, vertoning of blote teenwoordigheid van enige sodanige teken, binne die gebied van jurisdiksie van die Munisipaliteit mag ontstaan, of die gevolge daarvan, gevrywaar word.

(2) Die Munisipaliteit kan te eniger tyd die goedkeuring vir ’n teken terugtrek of enige voorwaarde wysig of ’n verdere voorwaarde ten opsigte van sodanige goedkeuring oplê, indien sodanige teken –

(a) bouvallig raak;

(b) ’n gevaar inhou vir mense en / of diere;

(c) vir meer as negentig (90) opeenvolgende dae in die geval van ’n reklame struktuur, nie gebruik word nie;

(d) oorbodig of uitgedien raak;

(e) nie meer aan die bepalings van hierdie verordening voldoen nie; of

(f) aansienlik van die oorspronklike goedkeuring, met betrekking tot die struktuur óf die grafiese inhoud of die estetiese aanvaarbaarheid van sodanige teken afwyk.

(3) Indien ’n teken nie binne twaalf (12) maande vanaf die datum van goedkeuring daarvan of binne sodanige tydperk wat in sodanige goedkeuring voorgeskryf word opgerig word nie, verval die goedkeuring vir die oprigting of aanbring van die betrokke teken, tensy die tydperk vir oprigting voor verstryking, skriftelik op aansoek van die aansoeker deur die Munisipaliteit verleng word.

(4) Indien die struktuur wat ’n teken ondersteun voor die verstryking van die goedkeuringstydperk van sodanige teken doelbewus afgebreek word, verval die goedkeuring van oprigting en geen vervangende ondersteuningstruktuur of vervangende teken mag aangebring of opgerig word, sonder die Munisipaliteit se goedkeuring nie.

(5) Alle besluite deur die Munisipaliteit geneem met betrekking tot ’n aansoek ingevolge hierdie verordening, sal skriftelik aan die betrokke aansoekers verskaf word, en sal binne sestig (60) werksdae vanaf die datum waarop ’n volledige aansoek ingedien word, aan die aansoekers voorsien word of indien aanvullende inligting deur die Munisipaliteit vereis was, binne sestig (60) werksdae vanaf die ontvangs van die verlangde addisionele inligting.

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 die datum van die kennisgewing van die besluit, skriftelike kennis aan die Munisipale Bestuurder te gee van die appèl, en redes vir die appèl te verstrek.

12. TEKENS WAARVOOR VOORAF GOEDKEURING NIE VEREIS WORD NIE

(1) Tekens wat nie aan die voorwaardes en spesifikasies van die verskillende tipes tekens soos voorsien in subartikels 12(3) tot tot 12(11) van hierdie verordening voldoen nie, sal onderworpe wees aan 'n proses van goedkeuring, soos voorsien in artikel 2 van hierdie verordening.

(2) Onderhewig aan die voorwaardes en spesifikasies met betrekking tot elke tipe teken wat in subartikels 12(3) tot 12(11) van hierdie verordening gelys word, en enige ander toepaslike statutêre bepaling of enige ander voorwaardes wat deur die Munisipaliteit opgelê mag word, word geen aansoek vir goedkeuring ingevolge hierdie verordening, ten opsigte van die tekens genoem in subartikels 12(3) tot 12(11) van hierdie verordening vereis nie.

(3) *Ontwikkelingsborde*

(a) Ontwikkelingsborde mag op persele wat ontwikkel gaan word aangebring word of op persele wat in die proses van ontwikkeling is.

(b) Ontwikkelingsborde moet onmiddellik vanaf 'n perseel verwyder word, wanneer boubedrywighede voltooi word of nadat boubedrywighede beëindig word, of wanneer die verskaffing van 'n betrokke dienste, die doen van 'n betrokke werk of die voorsiening van die betrokke goedere, waarop die teken betrekking het, gestaak is.

(c) Die Munisipaliteit kan die verwydering van enige ontwikkelingsbord gelas, nadat 'n okkupasiesertifikaat vir die nuwe gebou op die betrokke perseel deur die Munisipaliteit uitgereik word, en sodanige tekens moet dan onmiddellik verwyder word, maar nie later nie as vyf (5) dae na die datum van die kennisgewing van verwydering nie.

(d) Indien 'n ontwikkelaar van 'n perseel versuim om ontwikkelingsborde soos bedoel in subartikel 12(3)(b) van hierdie verordening te verwyder, kan die Munisipaliteit sodanige ontwikkelingsborde verwyder en die kostes van verwydering van die betrokke ontwikkelaar verhaal.

(e) Die aantal en grootte van ontwikkelingsborde op 'n perseel, sal beperk word tot –

(i) indien die perseel in geheel slegs vir woondoeleindes ontwikkel word, mag slegs een (1) ontwikkelingsbord opgerig word, en sodanige ontwikkelingsbord mag nie drie (3) vierkante meter in totale oppervlak oorskry nie; en

(ii) indien die perseel nie in die geheel vir woondoeleindes ontwikkel word nie, mag hoogstens twee (2) ontwikkelingsborde opgerig word, wat elkeen nie vier punt vyf (4.5) vierkante meter in totale oppervlak mag oorskry nie.

(f) Enige ontwikkelingsbord, wat enige vorm van derdepartyreklame insluit, sal aan die bepalings van Bylae 8 van hierdie verordening voldoen en goedkeuring moet vir die vertoning daarvan ingevolge die bepalings van subartikel 2 van hierdie verordening verkry word.

(4) "*Te Huur" en "Te Koop"-tekens*

"Te Huur"-tekens en "Te Koop"-tekens, wat nie vyfhonderd (500) millimeter by sewehonderd-en-vyftig (750) millimeter in totale oppervlakte oorskry nie, en wat die verhuring of verkoping van 'n eiendom bemark, mag tydelik vertoon word op enige perseel wat verhuur of verkoop word, met dien verstande dat –

(a) sodanige teken op die betrokke perseel staangemaak sal word of teen die betrokke gebou aangebring sal word;

(b) geen sodanige teken in enige straat of straatreserwe geplaas mag word nie; en

(c) sodanige tekens binne sestig (60) dae na die datum van verkoping of verhuring van die betrokke eiendom, verwyder moet word.

(5) *Besigheidtekens*

Besigheidstekens mag op 'n perseel of teen 'n gebou aangebring word, met die oogmerk om die betrokke beroepsbeoefening of besigheidaktiwiteite te identifiseer en / of die produkte aldaar verkoop te bemark, met dien verstande dat –

(a) sodanige tekens nie oor 'n openbare pad mag uitsteek nie;

(b) sodanige tekens nie belig mag word nie;

(c) sodanige tekens losstaande kan wees, maar op die betrokke perseel geplaas moet word;

(d) sodanige tekens teen 'n muur of grensmuur aangebring mag word;

(e) sodanige tekens in die geval van goedgekeurde beroepsbeoefening vanaf 'n residensiële perseel ingevolge vergunde of afwykende gebruik, beperk sal word tot slegs een teken per perseel, wat nie groter as een (1) meter by een (1) meter mag wees nie, en slegs die naam van die okkupeerder van sodanige perseel, die tipe aktiwiteit of beroepsbeoefening, die adres, die telefoonnommer en die diensure van die okkupeerder van sodanige perseel, mag reflekteer; en

(f) sodanige tekens in die geval van besighede op nie-residensiële persele, nie in getal beperk word nie, en nie groter as vier punt vyf (4.5) vierkante meter in totale oppervlak per teken mag wees nie.

(6) V*enstertekens*

'n Vensterteken wat as liggingsgebonde besigheidsteken tydelik of permanent op die vensterglas van 'n gebou, wat vir besigheids, kommersiële, kantoor, nywerheids of vermaaklikheid doeleindes gebruik word, geverf of aangebring word, sodat dit van die buitekant van sodanige gebou sigbaar is, en nie vier punt vyf (4.5) vierkante meter in totale oppervlak oorskry nie.

(7) *Besigheidstekens wat deel vorm van 'n gebou*

Enige teken wat 'n integrale deel van die materiaal van 'n gebou vorm, ingesluit 'n geverfde teken, mag op sodanige gebou geverf of geïntegreer word, op voorwaarde dat geen sodanige teken groter as vier punt (4.5) vierkante meter in totale oppervlakte per teken mag wees nie.

(8) *Tekens op sportvelde*

Tekens wat om die buiterand van 'n sportveld opgerig word, mag sonder beperking van grootte en getal by sodanige sportveld opgerig word, met die instemming van die eienaar en die langtermyn huurder van die betrokke sportveld, met dien verstande dat enige tekens wat vanaf uitsigpaaie sigbaar is, beperk word tot 'n maksimum grootte van twee (2) by een (1) meter elk.

(9) *Sekuriteitstekens*

Sekuriteittekens wat nie oor 'n openbare pad uitsteek nie, en wat nie groter as vier punt vyf (4.5) vierkante meter in totale oppervlak per teken is nie, en wat aandui dat 'n sekuriteitswagdiens die perseel waarop die teken vertoon word beskerm of 'n gebiedswag-, 'n buurtwag- of 'n plaaswagdiens 'n area beskerm, mag op enige perseel aangebring word of in die geval van 'n gebiedswag-, 'n buurtwag- of 'n plaaswagdiens in enige spesifieke area aangebring word, met dien verstande dat –

(a) slegs een (1) sekuriteitswagdiens teken per kliënt per gebou of perseel op elke straatfront van sodanig perseel vertoon mag word;

(b) slegs een (1) gebiedswag-, buurtwag- of plaaswagdiens teken per toegangspad na 'n area vertoon mag word; en

(c) sodanige tekens slegs die naam, logo, adres en telefoonnommer van die gekontrakteerde sekuriteitsmaatskappy of die gebiedswag-, buurtwag- of plaaswagdiens betrokke mag vertoon.

(10) *Geborgde tekens en tekens van nie-winsgewende instansies*

Geborgde tekens of tekens van nie-winsgewende instansies mag op enige perseel opgerig of vertoon of aangebring word, met die instemming van die eienaar en die okkupeerder van sodanige perseel, met dien verstande dat –

(a) sodanige teken nie vier punt vyf (4.5) vierkante meter in totale oppervlakte sal oorskry nie;

(b) nie meer as twintig (20) persent van die totale oppervlakte van die betrokke teken vir derdeparty reklame gebruik mag word nie;

(c) die betrokke teken nie verlig sal word nie; en

(d) slegs een sodanige teken per perseel toegelaat word.

(11) *Advertensies op voertuie*

(a) Advertensies mag regstreeks op die bak van enige gemotoriseerde voertuig of sleepwa of karavaan geverf, geplak of bevestig word, wat van een punt na 'n ander rondbeweeg.

(b) Wanneer 'n gemotoriseerde voertuig of 'n sleepwa of 'n karavaan, soos voorsien in subartikel 12(11)(a) van hierdie verordening, op enige openbare pad of openbare plek of perseel parkeer word vir die doel van reklame en bemarking, sal die vertoon van sodanige advertensietekens onderworpe wees aan die bepalings van Bylae 15 van hierdie verordening.

13. ONTSIERING DEUR TEKENS

(1) Niemand mag die straataangesig van enige gebou, straatnaamteken, padverkeersteken, muur, heining, rots, boom of enige ander natuurlike vista of voorwerp, of die voorkant of die aansig van die dak van enige gebou of struktuur, op enige wyse hoegenaamd, deur die vertoning of gebruik van 'n teken of die skryf of verf van enige teken, simbool, letters of syfers, vernietig, skade aandoen, beskadig, skend of ontsier nie.

(2) Niemand mag enige teken wat wettiglik ingevolge hierdie verordening aangebring en vertoon word, ontsier nie.

14. SKADE AAN MUNISIPALE EIENDOM

Niemand mag met die oprigting of verwydering van enige teken of banier, skade aan enige boom, elektriese paal, straatnaamteken, straatmeubelment, munisipale toerusting of eiendom of enige ander munisipale diens of installasie veroorsaak nie.

15. TOEGANG TOT EN DIE INSPEKSIE VAN PERSELE

Die Munisipaliteit het die reg om met vooraf skriftelike kennisgewing aan die eienaar of die okkupeerder van 'n perseel, enige perseel op enige redelike tyd te laat betree deur behoorlik gemagtigde beamptes, met die doel om enige inspeksie uit te voer, wat vir die behoorlike bestuur en toepassing van die bepalings van hierdie verordening nodig mag wees.

16. STRAFBEPALINGS

'n Persoon wat enige bepaling van hierdie verordening oortree of versuim om daaraan te voldoen of versuim om te voldoen aan 'n kennisgewing uitgereik ingevolge hierdie verordening, 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 in die uitvoering van sy of haar pligte in terme van hierdie verordening verhinder, begaan 'n oortreding en kan by skuldigbevinding –

(a) 'n boete of gevangenisstraf opgelê word, of gevangenisstraf sonder die keuse van 'n boete, of 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.

17. VERWYDERING VAN TEKENS

(1) Enige teken wat strydig met die bepalinge van hierdie verordening vertoon of opgerig word, kan deur die Munisipaliteit laat verwyder word, met dien verstande dat 'n skriftelike vooraf kennisgewing aan die eienaar van 'n teken en / of die grondeienaar op wie se perseel die teken opgerig is of vertoon word, beteken sal

word, om binne 'n gespesifiseerde tydraamwerk sodanige teken te verwyder of die vereiste verandering en / of korreksies aan sodanige teken aan te bring, wat in die betrokke kennisgewing gespesifiseer word.

(2) Indien daar nie aan 'n skriftelike kennisgewing van die Munisipaliteit binne die gespesifiseerde tydperk aangedui in die betrokke kennisgewing gehoor gegee word nie, kan die Munisipaliteit sonder verdere kennisgewing die Hof nader vir die verkryging van 'n hofbevel om die betrokke teken te laat verwyder.

(3) Die Munisipaleit sal na die verkryging van 'n hofbevel om 'n teken te laat verwyder, die eienaar van sodanige teken of die eienaar van die betrokke perseel per skriftelike kennisgewing versoek om die betrokke teken te verwyder, en by verdere versuim, die teken laat verwyder deur 'n bevoegde diensverskaffer namens die Munisipaliteit.

(4) Enige kostes wat deur die Munisipaliteit aangegaan word met die verwydering van tekens, soos voorsien in subartikel 17(2) en 17(3) van hierdie verordening, kan van die persoon of persone aan wie die betrokke kennisgewing beteken was, verhaal word.

(5) Onwettige tekens wat deur die Munisipaliteit laat verwyder word, moet aan die eienaar van sodanige teken terugbesorg word, by volle betaling van die toepaslike vrystellingsfooi en enige koste wat deur die Munisipaliteit met die verwydering van die genoemde teken aangegaan is, binne 'n tydperk soos deur die Munisipaliteit bepaal.

18. 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 18(1)(a), 18(1)(b) of 18(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, 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.

19. GEMEENSKAPSKAKELFORUMS

(1) Die Munisipaliteit mag skakelforums in 'n gemeenskap instel met die doel om -

(a) geleenthede vir die gemeenskap te skep om deel te neem aan die aangeleenthede van die Munisipaliteit, wat met hierdie verordening verband hou;

(b) advies oor aangeleenthede te lewer, wanneer 'n skakelforum deur die Munisipaliteit versoek word om advies te lewer,

(c) beheer oor reklame en advertensietekens te bevorder; en

(d) die bereiking van behoorlik gekontroleerde en geadministreerde reklame en advertensietekens te bevorder.

(2) 'n Skakelforum mag bestaan uit —

(a) 'n lid of lede van 'n belangegroep, of geaffekteerde persone;

(b) 'n lid of lede van die gemeenskap; of

(c) 'n aangewese beampte of beamptes van die Munisipaliteit of ander owerheidsinstellings.

(3) (a) Die Munisipaliteit mag wanneer 'n aansoek om toestemming of 'n permit of 'n vrystelling ingevolge hierdie verordening oorweeg word, die insette van 'n skakelforum versoek.

(b) 'n Skakelforum of enige persoon of persone bedoel in subartikel 19(2) van hierdie verordening, mag op eie inisiatief, 'n inset aan die Munisipaliteit vir oorweging verskaf.

20. JURISDIKSIE VAN LANDDROSHOF

Ondanks enige andersluidende bepaling wat in enige wet met betrekking tot die landdroshof vervat word, het 'n landdros jurisdiksie om op aansoek deur die Munisipaliteit, 'n bevel vir die toepassing van enige van die bepalings van hierdie verordening te maak, of van enige goedkeuring, weiering of voorwaarde wat ingevolge daarvan verleen of van toepassing was.

21. VRYSTELLINGS

(1) Nieteenstaande die bepalings van hierdie verordening, mag die Munisipaliteit op skriftelike aansoek enige persoon of groepering van persone vrystel van enige of al die bepalings van hierdie verordening, en tydens oorweging van sodanige aansoek om vrystelling, kan enige voorwaardes of vereistes wat nodig geag word, opgelê word.

(2) Die Munisipaliteit mag vrystellings van die bepalings van hierdie verordening verleen, ten opsigte van die soorte tekens of gebiede van beheer, soos uiteengesit in Bylaes 10, 11 en 12 van hierdie verordening, met betrekking tot –

(a) die gebied van beheer waar die teken of tekens vertoon mag word;

(b) die aard van 'n byeenkoms;

(c) die tydsduur van die vertoning van tekens; en

(d) die grootte van 'n voorgestelde teken.

(3) Die Munisipaliteit mag vrystellings van die bepalings van hierdie verordening verleen, ten opsigte van alle soorte tekens of gebiede van beheer, indien 'n omgewingsimpakstudie of ander soortgelyke studie bevind dat sodanige teken geen impak op die omgewing of die estetika van 'n area sal hê nie.

(4) Die Munisipaliteit mag vrystellings van die bepalings van hierdie verordening verleen aan kerkorganisasies en nie-winsgewende liggame.

22. 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.

23. HERROEPING VAN VERORDENINGE

(1) Die bepalings van enige ander verordeninge, voorheen uitgevaardig deur die Munisipaliteit of deur enigeen van die afgeskafte munisipaliteite wat nou in die Munisipaliteit geïnkorporeer is, word hiermee herroep insoverre dit betrekking het op aangeleenthede waarvoor daar in hierdie verordening voorsiening gemaak word.

(2) Die volgende verordeninge van die Munisipaliteit van Theewaterskloof word hiermee spesifiek herroep -

Naam van verordening	Datum van publikasie	In die geheel of gedeeltelik
Verordening insake die aanbring en verwydering van plakkate aan lamppale	PK 6814 gedateer 26 November 2010	In die geheel
Verordening insake buitereklame en advertensietekens	PK 6234 gedateer 8 Maart 2005	In die geheel

24. BYLAES VORM DEEL VAN DIE VERORDENING

Bylaes 1 tot 17 tot hierdie verordening, word vir alle praktiese doeleindes geag om deel van hierdie verordening te wees.

25. OORGANGSBEPALINGS

(1) Enigiets wat gedoen is ingevolge enige bepaling van ’n verordening, wat deur hierdie verordening herroep word, sal geag word as gedoen te wees ingevolge die ooreenstemmende bepalings van hierdie verordening, en die herroeping van enige verordeninge, soos voorsien in artikel 23 van hierdie verordening, sal nie die geldigheid affekteer van enigiets wat gedoen is ingevolge die verordening wat as sodanig herroep is nie.

(2) Enigiets wat voor die afkondiging van hierdie verordening gedoen was, wat strydig was met die bepalings van enige verordening wat in hierdie verordening herroep word, en gevolglik onwettig was, sal in die geval waar sodanige handeling of teken wat opgerig was en steeds nog nie aan die bepalings van

hierdie verordening voldoen nie, onwettig geag word en die Munisipaliteit sal geregtig wees om ingevolge die bepalings van artikel 17 van hierdie verordening op te tree om die voortgesette oortreding aan te spreek.

(3) 'n Eienaar of okkupeerder van 'n perseel, of die eienaar van 'n teken, wat op die datum van inwerktreding van hierdie verordening nie aan die bepalings van hierdie verordening voldoen nie, moet binne ses (6) maande, na behoorlike skriftelike kennisgewing van nie-nakoming deur die Munisipaliteit aan sodanige eienaar of okkupeerder, verseker dat sy of haar perseel of teken, aan die bepalings van hierdie verordening voldoen.

(4) Dié tekens wat ingevolge vorige bepalings, vereistes, voorskrifte en voorwaardes opgerig gewees het, mag by wyse van 'n spesifieke aansoek vir vrystelling deur die eienaar of okkupeerder van 'n perseel, of die eienaar van 'n teken, aan die Munisipaliteit, vrygestel word van die bepalings van hierdie verordening of die betrokke persoon mag sy of haar reg tot appél uitoefen, of beide.

26. KORT TITEL

Hierdie verordening heet die Verordening insake Buitereklame en Advertensietekens van die Munisipaliteit van Theewaterskloof.

27. INWERKINGTREDING

Hierdie verordening tree in werking op die datum van publikasie daarvan.

BYLAE 1:
GEBIEDE VAN BEHEER

MAKSIMUM BEHEER			GEDEELTELIK BEHEER	MINIMUM BEHEER
Natuurlike gebied	**Landelike gebied (Buite stedelike grens)**	**Stedelike gebied**	**Stedelike Gebied (Binne stedelike grens)**	**Stedelike Gebied (Binne stedelike grens)**
Geproklameerde natuurreservate.	Landbou gebiede / sones.	(a) Stedelike bewaringsgebiede. (b) Gebiede van spesiale betekenis.	(a) Sentrale sake distrikte. (b) Buite gebiede van besondere betekenis.	Nywerheidsones
Beskermde natuurlike omgewings.	Gebiede met unieke natuurlike plantegroei.	Verklaarde erfenisterreine (kultureel en natuurlik).	Gemengde gebruik handels- en residensiële gebiede.	Aangewese vervoerterminusse.
Wildreservate	Landelike kleinhoewes.	Gegradeerde geboue en plekke.	Handelstrook ontwikkeling en aktiwiteitskorridors.	Aangewese gebiede binne onbepaalde sones.
Geproklameerde voëlparke.	Groot private oop ruimtes, soos privaat gholfbane.	Residensiële sones en aangrensende pad- en spoorweg reserwes.	Handels- en sake distrikte en aangrensende strate en spoorweg reserwes.	Spesifieke gebiede of terreine aangewys vir minimum beheer in stedelike gebied, by wyse van 'n kaart wat deur die Munisipaliteit voorberei word.
Bosbou gebiede.	Uitsigpaaie	Transportroetes	Vermaaklikheid distrikte of komplekse met handelsones.	
Rivierkorridors.	Natuurskoon gebiede en vistas.	Voetganger deurlope en voetgangerpleine.	Sportvelde en stadions.	
1:100 Jaar vloedvlaktes.	Besondere landskapkenmerke.	Skoolterreine en institusionele sones.	Onbepaalde sones (Insluitende spoorwegreserwes en vervoergebruiksones).	
Moerasgebiede	Munisipale parke.	Landskapkenmerke	Spesifieke gebiede of terreine aangewys vir gedeeltelike beheer in stedelike gebied, deur middel van 'n kaart wat deur die Munisipaliteit voorberei word.	
Uitsigpaaie	Stedelike randsones, soos omskryf in die betrokke beleid van die Munisipaliteit.	Uitsigpaaie		

Vergroening van stadnetwerk.	Landbou- en tuinboukundige gebiede en aangrensende. pad- en spoorwegreserwes.	Poorte		
Spesifieke gebiede of terreine aangewys vir maksimum beheer in natuurlike gebied, by wyse van 'n kaart wat deur die Munisipaliteit voorberei word.	Spesifieke gebiede of terreine wat vir maksimum beheer in landelik gebied aangewys word, by wyse van 'n kaart wat deur die Munisipaliteit voorberei word.	Openbare oopruimtes.		
		Private Oopruimtes.		
		Stedelike kleinhoewes.		
		Intensiewe stedelike landbougebiede.		
		Selfversorgende stedelike landbougebiede.		
		1:100 Jaar vloedvlaktes.		
		Rivierkorridors		
		Moeraslande		
		Gemeenskapsfasiliteite (met uitsluiting van sportfasiliteite en stadions).		
		Kern bewaringsterreine vir flora, soos deur die Nasionale Botaniese Instituut geïdentifiseer.		
		Spesiale handelsones		
		Woonkomponente van gemengde gebruik geboue.		
		Spesifieke gebiede of terreine wat vir maksimum beheer in stedelik gebied aangewys word, by wyse van 'n kaart wat deur die Munisipaliteit voorberei word.		

BYLAE 2:
AANPLAKBORDE

1. Onderhewig aan spesifieke goedkeuring ingevolge hierdie verordening, sal die oprigting of vertoning van aanplakborde, hetsy doelgemaak of van 'n standaard ontwerp, slegs in gebiede van minimum en gedeeltelike beheer toegelaat word.

2. Aanplakborde moet aan die volgende vereistes voldoen –

   (a) indien die voorgestelde erf waar 'n aanplakbord opgerig gaan word aan 'n Klas 2-pad of Klas 3-pad grens, mag die aanplakbord nie minder as vyf (5) meter van die grens van die betrokke perseel geplaas word nie;

   (b) indien die voorgestelde perseel of gebied waarop 'n aanplakbord opgerig gaan word, as 'n poort of deel van 'n poort aangewys word, sal geen aanplakborde binne sodanige poort toegelaat word nie;

   (c) die standaardvoorwaardes vir aansoek en goedkeuring vir oprigting, soos in hierdie verordening uiteengesit word, moet aan voldoen word;

   (d) 'n aanplakbord mag nie die grenslyn van die perseel waarop dit opgerig is oorskry nie, ongeag of sodanige oorskrydings in die lug of op grondvlak is:

   (e) aanplakborde sal 'n minimum vryhoogte van twee punt vier (2.4) meter hê, en 'n ondersteunende struktuur wat nie 'n maksimum hoogte van sewe punt vyf (7.5) meter bokant die natuurlike grondvlak sal oorskry nie;

   (f) aanplakborde sal nie 'n maksimum totale grootte van ses (6) meter by drie (3) meter oorskry nie, met dien verstande dat twee (2) sodanige panele op enige V-vormige struktuur toegelaat word;

   (g) aanplakborde moet teen hoeke van tussen negentig (90) grade en sestig (60) grade tot die rigting van aankomende verkeer vertoon word;

   (h) aanplakborde moet 'n minimum afstand van mekaar gespasieer word, soos vereis in Tabel 1 van hierdie verordening;

   (i) indien aanplakborde by 'n gesinjaleerde verkeerskruising geplaas word, mag dit nie binne vyftig (50) meter van die buiterand van die kruising opgerig of vertoon word, as dit nie verlig word nie, en indien dit verlig word, nie binne tagtig (80) meter van die buiterand van sodanige kruising geplaas word nie;

   (j) enige aanplakbord wat aan die regterkant van 'n gedeelte van 'n pad opgerig word, sodat die grafika van sodanige bord aan 'n bestuurder wat aan die linkerkant van die pad ry sigbaar is, sal geag word die reklamegeleentheid wat aan die linkerkant van die pad bestaan te wees; en

(k) aanplakborde moet 'n minimum letter of nommer hoogte van tweehonderd vyf-en-tagtig (285) millimeter hê.

3. Die inligtingsinhoud van 'n voorgestelde advertensie op 'n aanplakbord sal in "bis" gemeet word, en wanneer die inligtingsinhoud van 'n voorgestelde advertensie bereken word, sal die "bis"-gewigte wat in die onderstaande tabel getoon word, gebruik word -

Elemente van 'n advertensie		**Bis per element**
Woorde	tot en met 4 letters	0.5
	5 - 8 letters	1.0
	meer as 8 letters	2.0
Getalle	tot en met 4 syfers	0.5
	5 - 8 syfers	1.0
	meer as 8 syfers	2.0
Logos, simbole en grafika	kleiner as 9 m²	0.5
	tussen 9 m^2 en 18 m²	1.0
	tussen 18 m^2 en 27 m²	1.5
	groter as 27 m²	2.0

4. Die totale "bis" in 'n voorgestelde teken mag nie vyftien (15) oorskry nie.

5. Geen driehoek aangesig aanplakborde sal toegelaat word nie.

6. Die gebruik van aanplakborde vir reklame sal beperk word tot reklame vir goedere, produkte, dienste of 'n bestemming.

BYLAE 3:
LIGGINGSGEBONDE VRYSTAANDE EN / OF SAAMGESTELDE TEKENS

1. Onderhewig aan enige goedkeurings ingevolge hierdie verordening, sal die oprigting of vertoning van liggingsgebonde vrystaande en / of saamgestelde tekens in stedelike gebiede van maksimum, gedeeltelike en minimum beheer toegelaat word, en dan wel in die volgende gevalle –

   (a) waar sakepersele vyftien (15) meter of meer van die grens van 'n padreserwe, binnewaarts inbuig;

   (b) waar dit nie redelikerwys moontlik is om gepaste tekens aan 'n gebou aan die bring nie;

   (c) waar sodanige teken nodig is, sodat die publiek die ingang tot 'n sakeperseel kan vind; en

   (d) waar die goedkeuring van 'n vrystaande saamgestelde teken, die aanbring van 'n klomp tekens sal verhinder.

2. Liggingsgebonde vrystaande en / of saamgestelde tekens mag nie vier punt vyf (4.5) meter in hoogte oorskry nie en mag daarbenewens nie vier punt vyf (4.5) vierkante meter in totale oppervlakte oorskry nie.

3. Die beperking op die hoogte en oppervlak van vrystaande en / of saamgestelde tekens kan verslap word tot 'n maksimum hoogte van sewe punt vyf (7.5) meter en 'n maksimum totale oppervlakte van tien (10) vierkante meter per kant, in sodanige gevalle waar –

   (a) sodanige verhoging die aantal afsonderlike tekens wat op enige straatgrens van 'n perseel voorkom sal verminder, om sodoende die visuele impak op die omliggende omgewing te minimaliseer;

   (b) meer as twee belangrike paaie, die betrokke perseel begrens;

   (c) 'n aantal besighede op sodanige teken sal kan adverteer;

   (d) die aantal toegangs- of uitgangsroetes tot die betrokke perseel dit regverdig; en

   (e) die toepaslike sonerings van die persele rondom die betrokke perseel dit regverdig.

4. Diensstasiefasiliteit vrystaande tekens moet liggingsgebonde wees en mag slegs opgerig of vertoon word by diensstasies –

   (a) aangrensend aan openbare paaie;

(b) wat regstreeks van die openbare pad, waar sodanige teken opgerig word, toeganklik is; en

(c) met dien verstande dat slegs een (1) diensstasiefasiliteit vrystaande teken per straatgrens per perseel toegelaat sal word.

5. Diensstasiefasiliteit vrystaande tekens mag nie sewe punt vyf (7.5) meter in hoogte oorskry nie, en mag nie uit meer as agt (8) panele van vier punt vyf (4.5) vierkante meter elk in totale oppervlakte beslaan nie.

6. Die beperking op die hoogte en oppervlak van diensstasiefasiliteit vrystaande tekens kan verslap word tot 'n maksimum hoogte van sestien (16) meter en agt (8) panele wat nie ses (6) vierkant meter elk in totale oppervlakte oorskry nie, met inagneming van die faktore soos uiteengesit in paragraaf 3 van hierdie bylae.

7. Diensstasiefasiliteit vrystaande tekens mag in areas van maksimum beheer, nie die maksimum hoogte van vier punt vyf (4.5) meter oorskry nie, en mag nie 'n totale oppervlakte van sewe (7) vierkante meter aan weerskante van 'n teken oorskry nie.

BYLAE 4:
PLAT- EN UITSTEEKTEKENS WAT AAN MURE VAN GEBOUE BEVESTIG WORD

1. Die oprigting of vertoning van plat- en uitsteektekens, sal in alle gebiede van maksimum, gedeeltelike of minimum beheer toelaatbaar wees, onderhewig aan goedkeuring ingevolge hierdie verordening.

2. Plat- en uitsteektekens –

   (a) word nie binne nul punt ses (0.6) meter van die rand van die ryvlak van 'n pad toegelaat nie, en mag ook nie tot binne nul punt ses meter van die rand van die ryvlak van 'n pad uitsteek nie;

   (b) mag nie meer as een punt vyf (1.5) meter vanaf 'n muur van 'n gebou uitsteek nie, in die geval van 'n teken met 'n vryhoogte van meer as sewe punt vyf (7.5) meter;

   (c) mag nie meer as een (1) meter vanaf 'n muur van 'n gebou uitsteek nie, in die geval van enige vryhoogte wat minder as sewe punt vyf (7.5) meter sal wees nie;

   (d) mag nie meer as tweehonderd-en-vyftig (250) millimeter oor 'n voetgangerlaan of -pad uitsteek nie, tensy sodanige teken 'n vryhoogte van meer as twee punt vier (2.4) meter het;

   (e) mag nie enige eksterne opening van enige gebou belemmer nie, en geen gedeelte van enige sodanige teken mag die oop- of toemaak van enige venster, deur of ander opening belemmer nie;

   (f) mag nie vier-en-vyftig (54) vierkant meter in totale oppervlakte oorskry nie, of nie een kwart van die oppervlakte waarop dit aangebring of geverf word, oorskry nie, watter een ook al die minste is, en daar kan van slegs van hierdie grootte beperking afgesien word, indien -
      (i) daar voldoen word aan omgewingsimpakbeoordelings in terme van statutêre bepalings;
      (ii) sodanige plat of uitsteekteken in 'n bewaringsgebied opgerig word, en daar voldoen word aan erfenisimpakbeoordelings in terme van statutêre bepalings; en

   (g) mag vir goedkeuring op die oop gemeenskaplike grensfasades van nie-residensiële eiendomme oorweeg word.

3. Indien plat en uitsteek tekens op die straatkant of enige ander sigbare fasade van 'n gebou vertoon word –

   (a) moet dit so ontwerp wees dat dit 'n integrale deel van die ontwerp van die gebou vorm; en

   (b) indien dit 'n derdeparty teken is, sal dit slegs toegelaat word indien dit doelgemaak is, en onderhewig aan die vereistes soos bepaal in paragraaf 2(f) van hierdie bylae.

BYLAE 5:
KIMTEKENS

1. Die oprigting of vertoning van kimtekens, hetsy doelgemaak of van 'n standaard ontwerp, word onderhewig aan goedkeuring ingevolge hierdie verordening, slegs in gebiede van minimum beheer toegelaat en sodanige kimtekens sal tot 'n maksimum totale grootte van vier punt vyf (4.5) vierkante meter in totale oppervlak beperk word, met dien verstande dat daar van die grootte beperking tot 'n maksimum van agtien (18) vierkante meter in totale oppervlak afgesien kan word, indien –

   (a) daar aan die vereistes van enige omgewingsimpakbeoordeling in terme van statutêre bepalings voldoen kan word; en

   (b) die uitsig van enige ander gebou nie belemmer word nie.

2. Kimtekens word slegs aan die boonste rand van die dak van geboue van kulturele, historiese of argitektoniese belang toegelaat, indien dit liggingsgebonde en onverligte tekens is, en uit afsonderlik uitgesnyde letters of logo's bestaan.

3. Die inligtingsinhoud van 'n voorgestelde kimteken moet in "bis" gemeet word, en wanneer die inligtingsinhoud van 'n voorgestelde advertensie bereken word, sal die "bis"-gewigte wat in die onderstaande tabel getoon word, gebruik word -

Elemente van 'n advertensie		**Bis per element**
Woorde	Tot en met 4 letters	0.5m
	5 - 8 letters	1.0
	meer as 8 letters	2.0
Getalle	Tot en met 4 syfers	0.5
	5 - 8 syfers	1.0
	meer as 8 syfers	2.0
Logos, simbole en grafika	kleiner as 9 m²	0.5
	tussen 9 m^2 en 18 m²	1.0
	tussen 18 m^2 en 27 m²	1.5
	groter as 27 m²	2.0

4. Die totale "bis" in 'n voorgestelde teken mag nie vyftien (15) oorskry nie.

BYLAE 6:
DAKTEKENS

1. Die oprigting of vertoning van daktekens sal in alle stedelike gebiede van beheer toegelaat word, behalwe in gebiede wat vir residensiële doeleindes in gebiede van maksimum beheer gesoneer word en onderhewig aan goedkeuring ingevolge hierdie verordening.

2. Daktekens moet aan die volgende vereistes voldoen -

   (a) die totale oppervlakte van enige dakteken wat gelykvlakkig op 'n dak van 'n gebou aangebring of daarop geverf is, mag nie een kwart van die totale oppervlakte van die dak waarop dit aangebring of geverf word oorskry nie;

   (b) wanneer 'n dakteken aan die onderrand van 'n dak of vertikaal halfpad op die dak van 'n gebou bevestig word, mag sodanige teken nie een (1) meter in hoogte oorskry nie; en

   (c) die totale oppervlakte van 'n dakteken mag nie vyf-en-twintig (25) persent van die dakoppervlakte waaraan dit bevestig word, oorskry nie.

2. 'n Dakteken kan langs die rand van 'n dak van 'n gebou bevestig word, indien sodanige teken uit 'n enkel lyn van afsonderlik, uitgesnyde letters bestaan sonder sigbare verspanning of ondersteuning, met dien verstande dat sodanige teken nie langs meer as twee rande van sodanige dak opgerig mag word nie, en nie meer as drie punt ses (3.6) vierkante meter in totale oppervlakte, en ses (6) meter by nul punt ses (0.6) meter in grootte mag oorskry nie, met 'n maksimum toelaatbare hoogte van een (1) meter.

BYLAE 7:
TEKENS OP VERANDAS, BALKONNE, SONDAKKE, STEUNKOLOMME, PILARE EN PALE

Die oprigting of vertoning van tekens op 'n veranda, balkon, sondak, steunkolomme, pilare en pale, sal in alle gebiede van beheer toegelaat word, onderhewig aan goedkeuring ingevolge hierdie verordening en met dien verstande dat dit aan die volgende vereistes moet voldoen –

(a) geen sodanige teken mag op of oor argitektoniese kenmerke van geboue gemonteer word nie;

(b) tekens kan plat op 'n borsweringmuur, balustrade of reëling van 'n veranda of 'n balkon, of 'n balk of 'n fassie van 'n veranda of 'n balkon aangebring of geverf word;

(c) tekens mag nie een (1) meter in hoogte oorskry nie of bokant of onderkant of sydelings by die oppervlakte waarop dit aangebring word uitsteek nie, of meer as tweehonderd-en-vyftig (250) millimeter oor 'n pad uitsteek nie of binne nul punt ses (0.6) meter van die rand van die ryvlak van 'n pad wees nie;

(d) tekens kan plat op steunkolomme, pilare en pale aangebring of geverf word, met dien verstande dat –
  (i) geen teken meer as vyftig (50) millimeter, voor die oppervlakte waarop dit aangebring word mag uitsteek nie, en ook nie verby enige van die eindpunte van sodanige kolom, pilaar of paal mag uitsteek nie; en
  (ii) tekens wat plat op nie-reghoekige steunstrukture aangebring word, moet gerond wees om by die vorm van sodanige strukture te pas;

(e) slegs een teken per kolom, pilaar of paal toegelaat word;

(f) tekens wat onder die dak van 'n veranda, sondak of die vloer van 'n balkon gehang word, nie een punt agt (1.8) meter in lengte of seshonderd (600) millimeter in hoogte mag oorskry nie;

(g) geen tekens wat onder 'n sondak of veranda gehang word, mag verby die eksterne rand van die sondak of veranda waaraan dit bevestig word uitsteek nie;

(h) alle tekens wat hang moet 'n onbelemmerde vryhoogte van twee punt vier (2.4) meter hê; en

(i) tekens op die dak van 'n veranda, sondak of balkon, met uitsondering van die hoofdak van 'n gebou, moet uit 'n enkellyn van vrystaande, afsonderlik uitgesnyde silhoeëtletters sonder sigbare verspanning of enige ander sigbare middel van ondersteuning bestaan, en mag nie langs meer as twee rande van sodanige dak van 'n veranda, 'n sondak of 'n balkon opgerig word nie.

BYLAE 8:
TEKENS OP GRENSMURE, HEININGS EN BOUTERREINSKUTTINGS

1. Die oprigting en of vertoning van tekens op grensmure,heinings en skuttings vir bouterreine sal slegs vir liggingsgebonde tekens in stedelike gebiede van maksimum, minimum of gedeeltelike beheer toegelaat word, onderhewig aan goedkeuring ingevolge hierdie verordening, soos toepaslik.

2. Tekens op grensmure,heinings en bouterreinskuttings moet aan die volgende vereistes voldoen –

   (a) in stedelike gebiede van maksimum en gedeeltelike beheer, sal 'n aansoek om 'n liggingsgebonde teken teen 'n grensmuur aan te bring, slegs goedkeur word, indien die teken in die muur ingekeep word of uit afsonderlike onverligte uitgesnyde letters of simbole bestaan wat plat op sodanige muur aangebring word en nie meer as vyftig (50) millimeter van die voorkant van sodanige muur uitsteek nie; en

   (b) in gebiede van minimum beheer, mag tekens op grensmure, heinings en skuttings aangebring word wat aan die volgende vereistes sal voldoen –
      (i) 'n liggingsgebonde teken mag plat op 'n grensmuur, heining of skutting aangebring word, wat nie meer as vyftig (50) millimeter van die voorkant van sodanige muur, heining of skutting uitsteek nie;
      (ii) 'n liggingsgebonde teken met 'n maksimum grootte van een (1) meter by een (1) meter mag in die geval van 'n goedgekeurde beroepsbeoefening ingevolge 'n vergunde of 'n afwykende gebruik vanaf 'n residensiële perseel, plat op 'n grensmuur of 'n permanente heining van sodanige perseel aangebring word; en
      (iii) 'n liggingsgebonde teken met 'n maksimum grootte van vier punt vyf (4.5) vierkante meter mag in die geval van besighede op nie-residensiële persele, plat op 'n permanente heining of 'n grensmuur van 'n perseel aangebring word.

3. Derdeparty en liggingsgebonde reklametekens op grensmure, heinings en bouterreinskuttings, moet aan die volgende vereistes voldoen –

   (a) geen individuele teken mag 'n vertikale afmeting van drie (3) meter en 'n totale oppervlakte van agtien (18) vierkante meter oorskry nie, en in die geval van konstruksieterreinskuttings moet die grafika gebruik voldoen aan die vereistes van die Gesagsvereniging van Reklamestandaarde van Suid Afrika;

   (b) 'n teken mag nie meer as eenhonderd (100) millimeter voor die muur of heining of skutting waarop dit aangebring word uitsteek nie;

   (c) geen sodanige teken mag nie in gebiede van maksimum en gedeeltelike beheer belig word nie; en
   (d) geen tekens mag op grensmure, heinings en skuttings wat binne die gesigsveld van motoriste by gesinjaleerde kruisings sal wees, opgerig word nie.

BYLAE 9:
PLAKKATE MET KOERANTOPSKRIFTE

1. Die oprigting of vertoning van plakkate met opskrifte van koerante sal in alle gebiede, behalwe in natuurlike en landelike gebiede van maksimum beheer toegelaat word, onderhewig aan goedkeuring ingevolge hierdie verordening.

2. Plakkate met opskrifte van koerante moet aan die volgende vereistes voldoen –

   (a) plakkate mag nie nul punt nege (0.9) meter by nul punt ses (0.6) meter in totale oppervlakte oorskry nie; en

   (b) die kommersiële inhoud van 'n plakkaat mag nie twintig (20) persent van die totale oppervlakte van 'n plakkaat oorskry nie, en die letters gebruik vir die kommersiële inhoud mag nie groter as die hoof letterwerk in die res van die plakkaat wees nie.

3. Plakkate mag slegs aan munisipale elektriese ligpale of ander goedgekeurde strukture bevestig word, op sodanige plekke as wat die Munisipaliteit van tyd tot tyd vir die vertoning van sodanige plakkate goedgekeur.

4. Plakkate mag nie aan verkeerseinpale, of enige ander pale waarop verkeerstekens aangebring is, of pale wat vir enige ander doel opgerig word of aan enige straatmeubelment, vullishouers, straatbome, rotse of ander natuurlike elemente aangebring word nie.

5. Plakkate met koerantopskrifte mag nie op munisipale elektriese ligpale of ander goedgekeurde strukture geplak word nie, maar moet op 'n bord gemonteer word wat met duursame tou of plastiese bindbande vasgemaak word aan die betrokke paal, tensy 'n permanente raam vir die bevestiging van plakkate goedgekeur en aangebring word op die betrokke paal.

6. Slegs een plakkaat met opskrifte van dieselfde publikasie sal per paal of ligging toegelaat word.

7. Die aantal toelaatbare plakkate per gebied, asook die aangewese gebiede vir die vertoning van plakkate met opskrifte, sal deur die Munisipaliteit bepaal word.

8. Alle "spesifieke gebeurtenis"- plakkate moet aan die volgende vereistes voldoen –

   (a) die naam van die promoter van 'n gebeurtenis, die spesifieke gebeurtenis en die datum van die spesifieke gebeurtenis moet op die betrokke plakkate in letters wat nie minder as vyftig (50) millimeter in hoogte is nie, aangebring word; en

   (b) die plakkate vir spesifieke gebeurtenisse mag nie meer as sewe (7) dae voor die datum van die gebeurtenis vertoon word nie en sal binne vier-en-twintig (24) uur na die datum van die gebeurtenis wat op die plakkaat verskyn, verwyder word.

9. Plakkate met opskrifte en die hegmiddels daarvoor gebruik, moet op 'n daaglikse grondslag verwyder word.

10. Die Munisipaliteit mag enige plakkaat wat strydig met die voorwaardes van hierdie bylae vertoon word verwyder, met dien verstande dat -

(a) enige plakkaat wat nie op 'n daaglikse grondslag verwyder word of 'n plakkaat vir 'n "spesifieke gebeurtenis", wat nie vier-en-twintig (24) uur na die datum van die betrokke gebeurtenis verwyder word nie, kan deur die Munisipaliteit verwyder word; en

(b) die kostes wat met die verwydering van ongemagtigde plakkate verband hou, sal deur die Munisipaliteit bepaal word en van die vertoner van sodanige plakkate verhaal word.

11. Mediagroepe moet jaarliks aansoek doen vir toestemming, om opskrifplakkate te vertoon, onderhewig aan die betaling van 'n jaarlikse fooi en 'n deposito, waarteen die kostes vir die verwydering van enige onwettige plakkaat in terme van die bepalings van hierdie bylae verreken sal word.

12. Indien die bedrae gedebiteer teen sodanige deposito die waarde van sodanige deposito oorskry, sal die toestemming om sodanige plakkate te mag vertoon opgeskort word, totdat 'n vervangende of bykomende deposito, wat ook al van toepassing mag wees, by die Munisipaliteit inbetaal word.

BYLAE 10:
PLAKKATE, BANIERE, VLAE EN BALLONNE

1. Die oprigting of vertoning van plakkate, baniere en vlae, anders as die tydelike plakkate, baniere of vlae waarna verwys in Bylae 11 van hierdie verordening of die vertoning van lugballone, sal in alle gebiede toegelaat word, behalwe in natuurlike en landelike gebiede, en gebiede van maksimum beheer, onderhewig aan goedkeuring ingevolge hierdie verordening.

2. Die oprigting en vertoning van plakkate, baniere, vlae en balonne moet aan die volgende vereistes voldoen –

   (a) die vertoning van plakkate, baniere, vlae en ballonne op of langs enige brug of oor enige openbare pad sal verbied word, tensy spesifieke toestemming van die Munisipaliteit verkry word;

   (b) plakkate, baniere, vlae of ballonne, mag nie op so 'n wyse vertoon word dat dit verbygaande voetgangers of voertuigverkeer belemmer of 'n gevaar inhou nie;

   (c) geen banier of vlagtipe-banier mag groter as vyf (5) vierkante meter in totale oppervlakte wees nie en geen vlag mag groter as twee (2) vierkante meter in totale oppervlakte wees nie;

   (d) geen vlagpaal mag die toepaslike hoogtebeperking van die sonering van 'n perseel oorskry nie;

   (e) die maksimum hoogte van 'n vlagpaal mag nie meer as agt (8) meter wees nie, gemeet vanaf die natuurlike grondvlak direk onder die vlagpaal;

   (f) geen plakkaat, banier, vlag of ballon mag binne dertig (30) meter van enige padverkeersteken of verkeerseintoerusting vertoon word nie;

   (g) plakkate, baniere, vlae of ballonne mag nie aan bome, verkeerstekens, straatnaamtekens, verkeerseintoerusting, elektriese of diensowerheid distribusiekaste of strukture of pale, rotse en ander natuurlike elemente, straatmeubelment, vullishouers of enige ander munisipale eiendom bevestig word nie;

   (h) plakkate, baniere, vlae of ballonne mag nie op so 'n wyse vertoon word, dat dit enige ander besighede of organisasies op 'n onregverdige wyse sal benadeel of enige bestaande goedgekeurde tekens sal belemmer nie;

   (i) slegs een (1) banier sal per perseel toegelaat word, tensy spesiale skriftelike toestemming vir meer as een banier vanaf die Munisipaliteit verkry word;

(j) 'n maksimum van vyf (5) vlagpale wat nasionale vlae vertoon, mag op die perseel van 'n verblyfonderneming geleë op 'n enkel residensiële perseel opgerig word; en

(k) 'n maksimum van drie (3) vlae mag op 'n perseel vertoon word, waarop die naam, korporatiewe simbool en die aard van die besigheid op sodanige perseel mag verskyn.

4. Plakkate, baniere, vlae en balonne wat verdof het en in 'n vervalle toestand verkeer, mag nie verder vertoon word nie en moet deur die vertoner daarvan verwyder word, en by versuim daartoe moet die Munisipaliteit na skriftelike kennisgewing, sodanige plakkate, banniere, vlae of ballonne verwyder en die koste van die verwydering van sodanige plakkate, banniere, vlae of ballonne, van die persoon wat dit opgerig het verhaal.

BYLAE 11:
PLAKKATE, BANIERE EN VLAE OP OPENBARE PAAIE EN OPENBARE PLEKKE

1. Die oprigting of vertoning van tydelike plakkate, baniere en vlae in of op openbare paaie en openbare plekke, sal in alle gebiede van beheer toegelaat word, behalwe in natuurlike en landelike gebiede van maksimum beheer, onderhewig aan goedkeuring ingevolge hierdie verordening.

2. Die oprigting en vertoning van tydelike plakkate, baniere en vlae, in of op openbare paaie of openbare plekke, moet aan die volgende vereistes voldoen –

   (a) die naam van die gasheer organisasie, die datum en plek van die beoogde funksie, moet op sodanige plakkaat, banier of vlag wat vertoon word verskyn, in letters van nie minder as vyftig (50) millimeter in hoogte;

   (b) geborgde plakkate, baniere en vlae mag vertoon word om 'n byeenkoms te adverteer, met dien verstande dat die naam of embleem van die borg nie meer as twintig (20) persent van die totale oppervlakte van sodanige plakkaat, banier of vlag mag beslaan nie.

   (c) plakkate, baniere en vlae mag nie meer as sewe (7) dae voor die datum van die funksie en / of byeenkoms wat dit promoveer vertoon word nie, en moet binne drie (3) dae vanaf die datum van die funksie of die byeenkoms verwyder word;

   (d) plakkate word beperking tot 'n maksimum afmeting van agthonderd (800) millimeter by vyfhonderd (500) millimeter en moet –
   (i) op 'n harde oppervlak gemonteer word;
   (ii) met duursame tou of plastiese bindbande vasgemaak word;
   (iii) op so 'n wyse vasgemaak word, dat dit nie die pale waaraan dit geheg word kan beskadig nie; en
   (iv) met dien verstande dat geen bindmateriaal met 'n metaalinhoud gebruik sal word nie;

   (e) plakkate, baniere en vlae, uitgesonderd verkiesingsplakkate en -vlae gebruik tydens nasionale, provinsiale en munisipale verkiesings, kierserregistrasie veldtogte en offisiële referendums, mag slegs in publieke strate of publieke plekke soos deur die Munisipaliteit bepaal word, aangebring word;

   (f) plakkate, baniere en vlae mag nie in residensiële gebiede en op brûe aangebring word nie;

   (g) geen politieke baniere word toegelaat nie;

   (h) slegs een plakkaat of vlag per organisasie mag teen elke straatligpaal aangebring word;

(i) plakkate en vlae moet op 'n eenvormige hoogte van minstens twee punt vier (2.4) meter vanaf grondvlak aangebring word, gemeet van die onderkant van 'n paal;

(j) geen plakkate, baniere of vlae mag teen bome, verkeerstekens, straatnaamtekens, verkeerseintoerusting, straatmeubelment, vullishouers, advertensietekens of teen enige ander munisipale eiendom aangebring word nie;

(k) geen plakkaat, banier of vlag mag binne dertig (30) meter van enige padverkeerstekens of verkeerseintoerusting vertoon word nie; en

(l) alle hegmateriaal moet saam met plakkate verwyder word.

3. Die Munisipaliteit mag enige aanstootlike of stukkende plakkate, baniere of vlae, tesame met die hegmateriaal daarvan, asook enige plakkate, baniere en vlae, wat na die mening van die Munisipaliteit 'n verkeersgevaar of veiligheidsgevaar inhou, verwyder.

4. Die Munisipaliteit moet deur die vertoner van plakkate, baniere en vlae, gevrywaar word teen enige eise wat as gevolg van die vertoon van sodanige plakkate, baniere of vlae ingestel mag word.

5. Die vertoning van tydelike plakkate, baniere en vlae uitsluitlik vir kommersiële doeleindes word nie toegelaat nie, met dien verstande dat enige plakkate, baniere en vlae wat met 'n sport, 'n kunste of 'n kulturele gebeurtenis verband hou, toegelaat mag word om beperkte kommersiële inhoud te bevat, op voorwaarde dat sodanige kommersiele elemente nie meer as twintig (20) persent van die oppervlakte van die betrokke plakkate, baniere of vlae mag beslaan nie.

6. Organisasies of persone wat goedkeuring verkry het om plakkate, baniere of vlae te vertoon, sal 'n deposito en die voorgeskrewe tariewe betaal soos deur die Munisipaliteit bepaal, wat die organisasie of persoon dan die reg gee om plakkate, baniere en vlae vir 'n maksimum van tien (10) dae, of sodanige ander tydperk wat deur die Munisipaliteit bepaal word te vertoon, met dien verstande dat –

(a) geen plakkaat, banier of vlag meer as sewe (7) dae voor of drie (3) dae na die datum van die geleentheid of die funksie waarvoor dit bedoel is, vertoon mag word nie; en

(b) geen plakkaat of vlag sonder dat die vereiste deposito en voorgeskrewe tariewe betaal word, vertoon mag word nie.

7. Die Munisipaliteit mag alle plakkate, baniere en vlae verwyder of die vertoner daarvan versoek om dit te verwyder, indien daar nie aan enige van die bepalings van hierdie verordening voldoen word nie.

8. Plakkate, baniere of vlae wat nie teen ’n keerdatum verwyder word nie, mag deur die Munisipaliteit verwyder word en die deposito wat deur die vertoner daarvan betaal was aanwend vir die verbandhoudende kostes van verwydering.

9. ’n Maksimum getal van eenhonderd (100) plakkate, baniere of vlae mag per dorp vertoon word, met ’n maksimum van vyfhonderd (500) wat in die gebied van jurisdiksie van die Munisipaliteit vertoon kan word per organisasie of persoon, wat aansoek gedoen het vir die tydelike vertoning van plakkate, banniere en vlae.

10. Baniere kan deur die Munisipaliteit opgerig en / of verwyder word teen betaling van fooie en tariewe soos van tyd tot tyd bepaal deur die Munisipaliteit, met dien verstande dat die baniere wat opgerig word aan spesifikasies voldoen soos deur die Munisipaliteit bepaal.

11. Die bepalings van hierdie bylae sal op alle politieke partye van toepassing wees, in gevalle waar daar nie `n amptelike proklamasie van `n verkiesingsdag of ’n tussenverkiesing was nie.

BYLAE 12:
EIENDOMSAGENT TEKENS

1. Die oprigting of vertoning van eiendomsagent tekens sal in alle gebiede, behalwe in natuurlike gebiede van maksimum beheer toegelaat word, onderhewig aan goedkeuring ingevolge hierdie verordening, soos toepaslik.

2. Die oprigting en vertoning van eiendomsagent tekens, moet aan die volgende vereistes voldoen –

   (a) advertensietekens van eiendomsagente mag nie vertoon word sonder die skriftelike goedkeuring van die eienaar van die eiendom waarop die tekens opgerig word nie, en "Verkoop" tekens mag slegs vir 'n periode van ses (6) maande vertoon word.

   (b) "skouhuis" tekens mag gedurende die jaar slegs van 12:00 op Vrydae tot 20:00 op Sondae vertoon word, of op Donderdae en Maandae in die geval waar die Vrydag of die Maandag, of beide dae, openbare vakansiedae is, en mag slegs tussen 8 Desember van 'n jaar en 8 Januarie van die daaropvolgende jaar, deurlopend vertoon word;

   (c) die woorde "Op Skou", "Skouhuis, "Skouwoonstel" of "Skou Erf", moet op elke teken van 'n eiendomsagent aangebring wees, met die agentskap se naam en 'n rigtinggewende pyl ingesluit op sodanige teken;

   (d) eiendomsagent tekens mag nie aan bome, verkeerseinpale, straatpale, straatnaamtekens, verkeerstekens, mure, heinings, rotse en ander natuurlike elemente, straatmeubelment, vullishouers of ander munisipale eiendom bevestig word nie, tensy sodanige wyse van vertoning skriftelike deur die Munisipaliteit gemagtig word;

   (e) eiendomsagent tekens mag nie op verkeerseilande, middeleilande, blombeddings in strate, beton of op geplaveide oppervlaktes op of in openbare strate vertoon word nie;

   (f) eiendomsagent tekens mag op strukture met penne vertoon word, met dien verstande dat die penne van die betrokke struktuur nie dieper as eenhonderd-en-vyftig (150) millimeter in die grond ingedryf mag word nie; en

   (g) eiendomsagent tekens mag nie nul punt drie sewe vyf (0.375) vierkante meter in totale oppervlakte oorskry nie.

3. ’n Maksimum van een “Te Koop” teken per eiendomsagentskap mag per residensiële perseel vertoon word, maar in die geval van ’n hoekerf mag een teken op elke straatfront vertoon word, met dien verstande dat slegs ’n maksimum van ses (6) “Te Koop” tekens van verskillende eiendomsagentskappe by ’n perseel vertoon mag word.

4. Eiendomsagent tekens mag nie langs uitsigpaaie of op enige brug of in ’n openbare plek of in ’n openbare oopruimte vertoon word nie.

5. Slegs tien (10) rigtingtekens per skou-eenheid mag langs Klas 2-paaie of Klas 3-paaie vertoon word, met uitsluiting van uitsigpaaie en brue op sodanige paaie, met dien verstande dat rigtingwysers wat langs sodanige hoofroetes vertoon word, slegs die kortste roete na ’n skou-eenheid mag aandui.

6. Geen eiendomsagent teken mag ’n padverkeersteken versper nie.

7. Geen eiendomsagent teken mag op so ’n wyse opgerig word dat enige gedeelte van die betrokke teken, nader as een punt vyf (1.5) meter van die rand van die ryvlak van ’n openbare pad is nie.

8. “Verkoop”, “Te Koop”, “Te Huur”- tekens moet gelykvlakkig teen die heining of die muur van ’n perseel opgerig word.

9. Tekens wat enigiets anders as ’n eiendom “te koop” of “te huur” of “verkoop” aandui, mag nie deur eiendomsagente of eiendomsagentskappe opgerig of vertoon word nie.

10. Elke eiendomsagentskap moet op ’n jaarlikse grondslag aansoek doen vir toestemming om eiendomsagent tekens te vertoon, en goedkeuring sal onderhewig wees aan die betaling van ’n jaarlikse tarief ooreenkomstig die Tariewe Verordening van die Munisipaliteit van Theewaterskloof, met dien verstande dat -

    (a) die Munisipaliteit ’n deposito mag vereis, waarteen die koste vir die verwydering van enige teken wat strydig met die bepalings van hierdie verordening aangebring word, verhaal sal word; en

    (b) in die geval waar die bedrae gedebiteer teen sodanige deposito die waarde van sodanige deposito oorskry, sal die toestemming om eiendomsagent tekens te mag vertoon opgeskort word, totdat ’n vervangende of ’n bykomende deposito, wat ook al van toepassing mag wees, by die Munisipaliteit inbetaal word.

11. Enige eiendomsagent teken wat onwettig of strydig met die bepalings van hierdie bylae opgerig word, sal deur die Munisipaliteit verwyder word, en die kostes van verwydering sal van die betrokke eiendomsagentskap verhaal word.

BYLAE 13:
LOS DRAAGBARE TEKENS

1. Die vertoning van los draagbare tekens in gebiede van minimum en gedeeltelike beheer, asook in aangewese gebiede binne stedelike gebiede van maksimum beheer, sal toegelaat word onderhewig aan goedkeuring ingevolge hierdie verordening.

2. Die plasing en vertoning van los draagbare tekens, moet aan die volgende vereistes voldoen –

   (a) los draagbare tekens mag nie op 'n sypaadjie of in 'n padreserwe of in 'n openbare oopruimte of op munisipale eiendom, sonder die skriftelike toestemming van die Munisipaliteit geplaas word nie; en

   (b) die Munisipaliteit kan los draagbare tekens wat sonder die Munisipaliteit se goedkeuring op 'n sypaadjie, in 'n padreserwe of op eiendom in die Munisipaliteit se besit of strydig met die bepalings van hierdie verordening geplaas word, verwyder en daarop beslag lê, met dien verstande dat –
      (i) tekens wat sodanig verwyder word, by betaling van 'n vrystellingsfooi deur die Munisipaliteit bepaal, terug gekry kan word; en
      (ii) die koste van verwydering, bewaring en vervoer van 'n teken waarop daar beslag gelê word, van die eienaar van sodanige teken verhaal sal word.

3. Die volgende kriteria sal van toepassing wees vir die verkryging van toestemming om los draagbare tekens te plaas en te vertoon –

   (a) tekens mag nie 'n gevaar vir die veiligheid van die publiek inhou nie;

   (b) tekens mag nie vanweë die fisiese grootte of die ligging van sodanige tekens, die publiek of voetgangerverkeer belemmer of verontrief nie;

   (c) tekens mag nie ander handelaars of besighede onregverdig benadeel nie;

   (d) tekens mag nie aan die aantreklikheid van die straatlandskap of die plaaslike omgewing afbreuk doen nie;

   (e) tekens mag alleenlik gebruik word om die naam van die betrokke besigheid, of die aard van goedere of dienste te koop vanaf die betrokke perseel te adverteer;

   (f) tekens mag nie die maksimum afmetings van een punt twee (1.2) meter in hoogte en nul punt ses (0.6) meter in wydte oorskry nie;

   (g) tekens mag slegs direk voor die adverteerder se perseel geplaas word, met dien verstande dat daar aan die voorgemelde kriteria voldoen word; en

(h) tekens moet sodanig gepaas word dat 'n minimum onbelemmerde looppad wydte van twee punt vyf (2.5) meter vir voetgangerverkeer gelaat sal word.

4. Die Munisipaliteit kan areas in padreserwes of op munisipale eiendom afbaken vir die plasing van los draagbare tekens, waar aansoekers dan goedgekeurde los draagbare tekens gedurende gewone handelsure kan plaas, met dien verstande dat sodanige tekens buite die normale handelsure verwyder moet word, en elders buite sig van die publiek gestoor moet word.

5. Die Munisipaliteit kan tariewe hef vir die reg om los draagbare tekens te vertoon, in ooreenstemming met die Tariewe Verordening van die Munisipaliteit van Theewaterskloof, welke tariewe vooruit betaalbaar sal wees vir 'n maksimum tydperk van ses (6) maande.

6. Aansoekers wat los draagbare tekens wil vertoon, moet die Munisipaliteit teen eise van derde partye vrywaar, wat weens die plasing van los draagbare tekens in padreserwes of enige ander munisipale eiendom mag ontstaan.

BYLAE 14:
LUGTEKENS

1. Die oprigting of vertoning van lugtekens, sal slegs in stedelike gebiede van gedeeltelike of minimum beheer toegelaat word, onderhewig aan goedkeurings ingevolge hierdie verordening.

2. Lugtekens moet aan die volgende vereistes voldoen –

(a) lugtekens wat aan enige gebou of struktuur bevestig word, moet teen 'n hoogte van meer as vyf-en-veertig (45) meter van die oppervlakte vertoon word, gemeet vanaf die grondvlak reg onder die lugteken; en

(b) lugtekens mag nie bokant 'n openbare pad vertoon word nie.

BYLAE 15:
TRANSITO REKLAME

1. Die vertoning van transito reklame sal slegs in stedelike gebiede van gedeeltelike of minimum beheer toegelaat word, onderhewig aan goedkeuring ingevolge hierdie verordening.

2. Transito reklame moet aan die volgende vereistes voldoen –

   (a) die parkering van 'n voertuig, 'n sleepwa of 'n karavaan wat transito reklame vir 'n derdeparty adverteer, wat van 'n openbare pad of 'n openbare plek sigbaar sal wees, word verbied, behalwe indien sodanige voertuig, sleepwa of karavaan op 'n aangewese reklameterrein vertoon word wat ingevolge hierdie verordening goedgekeur was;

   (b) 'n voertuig, 'n sleepwa of 'n karavaan wat transito reklame vertoon, wat op private eiendom vir stoordoeleindes geparkeer word, moet so geplaas word dat dit nie van 'n straat of openbare plek sigbaar is nie; en

   (c) die advertensiepaneel op 'n voertuig of sleepwa of karavaan wat vir transito reklame gebruik word, mag nie agtien (18) vierkante meter in totale oppervlakte oorskry nie, welke grootte tot 'n maksimum van ses-en-dertig (36) vierkante meter totale oppervlak in gebiede van minimum beheer verhoog kan word.

3. Die Munisipaliteit kan terreine in gebiede van gedeeltelike en minimum beheer vir die parkering van voertuie, treilers en karavane met transito reklametekens aanwys.

4. Ondanks enige bepalings van hierdie verordening, mag die Munisipaliteit sonder vooraf kennisgewing, enige ongemagtigde transito reklame vanaf 'n openbare pad, 'n openbare plek of munisipale eiendom verwyder, en in die geval van ongemagtigde transito reklame op private eiendom, kan die Munisipaliteit in terme van die bepalings van hierdie verordening, 'n kennisgewing vir die verwydering, aan die betrokke eienaar van die voertuig of sleepwa of karavaan beteken.

BYLAE 16:
TEKENS OP MUNISIPALE GROND EN GEBOUE

1. Geen tekens mag op grond in munisipale besit opgerig word, insluitend openbare paaie en openbare plekke, sonder die vooraf skriftelike toestemming van die Munisipaliteit nie.

2. Die volgende spesifieke voorwaardes en kriteria sal geld vir die oorweging van aansoeke vanaf derde partye vir die oprigting van enige tipe teken op munisipale eiendom -

   (a) die oorweging van die beperkings van toepassing op die area van beheer, waar die voorgestelde teken opgerig gaan word, om wenslikheid en uitvoerbaarheid te bepaal;

   (b) die oprigting van kommersieel geborgde tekens op munisipale eiendom, sal vir goedkeuring oorweeg word, onderhewig aan die volgende vereistes –
      (i) die mate van ooreenstemming tussen die openbare en gemeenskapdoelwit wat met die betrokke teken beoog word en die geïdentifiseerde gemeenskapsbehoeftes en -doelwitte;
      (ii) die verkryging van publieke kommentare en insette op die voorgestelde kommersieel geborgde teken;
      (iii) voldoening aan die Munisipaliteit se verkrygingsbeleid vir die uitkontraktering van die voorgestelde reklamegeleentheid;
      (iv) toepassing van die vereiste bodprosesse vir die seleksie van ’n voorkeur tenderaar, vir die advertensie geleentheid op munisipale eiendom; en
      (v) die aangaan van ’n skriftelike ooreenkoms met die derde party wat vir die oprigting van ’n teken verantwoordelik sal wees, na afhandeling van die bodprosesse wat gevolg moet word;

   (c) die volgende spesifieke kriteria vir die goedkeuring vir oprigting van ’n kommersieel geborgde teken sal oorweeg word –
      (i) tekens met ’n politieke inhoud sal nie toegelaat word nie;
      (ii) nie meer as twintig (20) persent van die totale oppervlakte van ’n teken vir derdeparty reklame gebruik mag word nie;
      (iii) die maksimum grootte van enige teken, nie ses (6) meter by drie (3) meter mag oorskry nie, met dien verstande dat waar ’n V-vormige teken voorgestel word, die maksimum grootte van elkeen van die twee (2) panele, nie ses (6) meter by drie (3) meter sal oorskry nie;
      (iv) dat die aansoeke vir die oprigting van aanplakborde aan die bepalings en vereistes, soos in Bylae 2 van hierdie verordening uiteengesit, sal voldoen; en
      (v) dat geen teken binne vyf (5) meter van ’n perseel se grenslyne opgerig sal word nie; en

(d) die Munisipaliteit die oprigting van 'n teken deur of ten bate van 'n nie-winsgewende instansie mag oorweeg, onderhewig aan die nakoming van die vereistes wat in Bylae 17 van hierdie verordening uiteengesit word.

BYLAE 17:
TEKENS WAT DEUR OF TEN BATE VAN NIE-WINSGEWENDE INSTANSIES OPGERIG WORD

1. Ongeag die gebied van beheer waarin 'n teken deur of ten bate van 'n nie-winsgewende instansie opgerig gaan word, en onderhewig aan voldoening aan al die bepalings van hierdie verordening, mag die Munisipaliteit sodanige teken vir goedkeuring oorweeg, onderhewig aan die volgende vereistes –

(a) die verstrekking van skriftelike besonderhede aan die Munisipaliteit, van die nie-winsgewende instansie wat voordeel sal verkry uit die oprigting van die teken, die aard en omvang van die ondersteuning wat na aanleiding van die oprigting of vertoning van die teken ontvang sal word, tesame met die standaard gegewens verlang vir 'n aansoek vir die oprigting van 'n teken, soos voorsien in artikel 2 van hierdie verordening;

(b) die omvang en betrokkenheid van voorheen benadeelde gemeenskappe, klein sake geleenthede, werkskepping en bemagtiging, wat betrokke is by en / of voordeel verkry uit die oprigting van sodanige teken;

(c) die beoordeling van enige voorstel op die volgende basis -
(i) voldoening aan die beginsels van hierdie verordening;
(ii) die ontwerpbydrae in terme van kreatiwiteit en kwaliteit;
(iii) die gemeenskapsvoordeel wat dit bied;
(iv) voldoening aan die vereistes vir openbare veiligheid; en
(v) die bydrae tot die gemeenskapsdoelwitte of -behoeftes; en

(d) indien daar beoog word dat die voorgestelde teken op munisipale grond opgerig moet word -
(i) moet die Munisipaliteit die voorstel oorweeg;
(ii) behou die Munisipaliteit as grondeienaar die reg voor, om nie enige voorstel te aanvaar of met enige voorstel voort te gaan nie; en
(iii) indien die oprigting van sodanige teken aanvaar word, moet 'n skriftelike ooreenkoms tussen die Munisipaliteit, die persoon wat vir die oprigting van die teken verantwoordelik is en die betrokke nie-winsgewende instansies aangegaan word.

2. Tekens wat deur of ten bate van nie-winsgewende instansies opgerig word, moet aan die volgende vereistes voldoen –

(a) tekens met 'n politieke inhoud sal nie toegelaat word nie;

(b) die maksimum toelaatbare grootte van enige teken sal nie ses (6) meter by drie (3) meter oorskry nie, met dien verstande dat waar 'n V-vormige teken voorgestel word, die maksimum grootte van elkeen van die twee (2) panele, nie ses (6) meter by drie (3) meter sal oorskry nie;

(c) aansoeke vir die oprigting van aanplakborde, sal aan die vereistes soos voorsien in Bylae 2 van hierdie verordening voldoen;

(d) geen teken mag binne vyf (5) meter van 'n perseel se grenslyne opgerig word nie;

(e) die naam van die nie-winsgewende instansie moet op die teken met 'n maksimum lettergrootte van driehonderd (300) millimeter vertoon word;

(f) al die partye wat deur die oprigting of vertoning van sodanige teken geraak word, moet die geleentheid gegee word om insette te lewer;

(g) die Munisipaliteit mag vereis dat daar aan statutêre vereistes ten opsigte van omgewingsimpakbeoordelings en ander studies voldoen moet word;

(h) slegs een teken sal per straatvoorkant toegelaat word; en

(i) nie meer as twee (2) afsonderlike tekens van ses (6) meter by drie (3) meter elk sal op 'n perseel toegelaat word nie, of alternatiewelik een (1) V-vormige teken met 'n maksimum grootte van twee (2) panele van ses (6) meter by drie (3) meter elk.

THEEWATERSKLOOF MUNICIPALITY

PUBLIC AMENITIES 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 provide for measures to control the access and the use of public amenities, which are owned and / or controlled by the Theewaterskloof Municipality.

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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 –

"animal", means any equine, bovine, donkey, mule, camel, sheep, goat, pig, fowl or other bird, poultry, ostrich, hare, rabbit, dog, cat or other domestic animal or bird, or a wild animal or reptile which is in captivity or under the control of someone, or insects such as bees, kept and controlled by someone;

"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;

"**camp**" or "**camping**", means to utilize a site for camping, by picnicking thereon or by occupying it with a caravan or vehicle adapted for camping, or a tent or similar camping accessories, and to use such caravan, vehicle, tent or camping accessories, for temporary habitation or sleeping or as a shelter or protection against the weather;

"**camping area**"**,** means a property owned and formally designated by the Theewaterskloof Municipality as a public picnic area, a camping area or a caravan park, or a similar facility approved by the Theewaterskloof Municipality on private land;

"camping permit", means a documented proof of permission granted, issued by the Theewaterskloof Municipality for the purposes contemplated in this by-law, or an official receipt issued by the Theewaterskloof Municipality against payment of the prescribed camping fees;

"camping site", means any part of a camping area or a caravan park, demarcated and assigned for the purpose of camping thereon;

"caravan", means any trailer or vehicle permanently fitted out for use by persons for living and sleeping purposes;

"**erect**", in relation to a notice board, means to construct, affix or erect a notice board;

"garden", means any piece of land under the control of the Theewaterskloof Municipality, which is maintained as a garden for use by the general public;

"life guard", means a person employed by the Theewaterskloof Municipality in the capacity of a life guard, or any member of the South African Beach Life Savers Association, or any member of affiliated life guard clubs or any association of life guards;

"mobile home", means a movable or mobile factory assembled structure for residential inhabitation, intended and erected for use as a dwelling, which have the required ability to be connected to municipal infrastructure for water, sanitation and electricity;

"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;

"**notice board**"**,** means any sign, poster, board , electronic apparatus or other device, which have been specifically erected or which are displayed, to convey any commanding instruction or symbol;

"person", means and includes for purpose of this by-law, a natural person or a juristic person or any industrial or commercial undertaking or an organ of state;

"**public amenity**"**,** means –

(a) any portion of public land or place, commonage, square, camping area, caravan park, swimming pool, swimming area, sports ground, sport stadium, public open space, public resort, recreation site, land adjacent to a river or a dam; the Victoria Park Nature Reserve; the Greyton Nature Reserve; the Villiersdorp Nature Reserve, proclaimed nature area or nature reserve or management area of another organ of state, zoo, game reserve, botanical garden or wild flower garden or any other public garden or park, or hiking trail, including any portion thereof and any facility or amenity at the public place concerned, which are the property of or are under control of or are leased by the Theewaterskloof Municipality, and to which the general public has access, whether on payment of admission fees or not, but excludes a public road or a public street;
(b) any building, structure, hall, centre, complex or office, including any part thereof or any facility or apparatus therein, which is the property of, or is possessed, controlled or leased by the Theewaterskloof Municipality and to which the general public has access, whether on payment of admission fees or not; and
(c) any public amenity as contemplated in paragraphs (a) and (b), which is lawfully controlled or managed in terms of an agreement between a private person or an institution and the Theewaterskloof Municipality on behalf of the Theewaterskloof Municipality;

"public gathering or procession", means a procession or gathering of more than thirty (30) members of the general public;

"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 or used or build-up or vacant municipal land, or a cemetery;

"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; and

"vehicle", means any vehicle powered by mechanical, electrical, animal, natural or human power, and includes, but are not restricted to, any bicycle, motorcycle, car, pick-up, truck, rebuild vehicle, trailer, wagon, boat, craft or aircraft, but does not include a wheel chair or pram used solely for the conveyance of an invalid or a child, propelled or pushed by hand.

CHAPTER 1:
GENERAL ARRANGEMENTS FOR PUBLIC AMENITIES

2. RESTRICTION OF VISITORS AND VEHICLES

The Municipality may –

(a) determine the maximum number of persons or vehicles that may be allowed entrance to or may be present at a public amenity at any given time; and

(b) determine the different classes of vehicles that may be allowed entrance to or may be present at the various public amenities at any given time.

3. RIGHT OF ACCESS AND THE RESTRICTION OF ACTIVITIES

(1) A public amenity is open for use by the general public, at the times and on the dates, and subject to the conditions as may be determined by the Municipality.

(2) The Municipality may determine the activities or vehicles or equipment that are allowable or not, in, on or at a public amenity, and such restrictions may include, but are not limited to –

(a) restrictions on the use of vehicles in a public amenity;

(b) restrictions on the access for different classes of vehicles to a public amenity; and

(c) restrictions on the flying of radio controlled model aircraft and kite flying, wind surfing, kite surfing and other water sport activities, or the use of boats or other jet propelled craft on or at any dam or river.

(3) The Municipality may grant to any person or persons, who apply for such consent, an exclusive use of a public amenity during such hours and / or periods, and for such activities as required, which may include the following, but are not limited to, games, public meetings, fetes, shows, weddings or any other function or entertainment.

(4) The Municipality may for purpose of the maintenance of a public amenity, development activities, or for security, safety or public health, close a public amenity temporarily or permanently, or suspend any activities at such a public amenity temporarily or permanently.

(5) Where a person has committed an offence in terms of this by-law at a public amenity, an authorized official may order such person to leave the public amenity concerned.

(6) Where an authorized official on reasonable grounds suspects, that a person who wish to enter a public amenity, intends to commit an offence in terms of this by-law, or any other statutory stipulation or municipal by-law, he or she may refuse entry to such public amenity to such a person.

4. ENTRANCE FEES AND OTHER PAYMENTS

(1) The Municipality may determine and levy different tariffs and fees or any other payments, for access to and the use of public amenities, on condition that the Municipality may differentiate between persons of different ages, groups of persons or users, or different classes and categories of vehicles, and may grant concessions in respect of fees and tariffs payable.

(2) Entrance fees for public amenities are payable at the entrance to a public amenity, except where it is otherwise indicated on a notice board.

(3) Entrance fees for the use of public amenities are payable in respect of each day of use or portion thereof, as specified for each individual public amenity.

(4) Daily entrance fees for public amenities are not refundable, but entrance fees paid in advance on booking, may be refunded on written request with the prior cancellation of such a booking.

(5) An authorized official may request a user of a public amenity to provide proof, that the required entrance fee has been paid.

5. NOTICE BOARDS

(1) The Municipality may erect a notice board at the entrance to or in the immediate vicinity of a public amenity, on which any or all of the following information may be displayed –

(a) the times and dates that a public amenity is open for use;

(b) the conditions for access to a public amenity;

(c) the activities allowed and / or prohibited at a public amenity;

(d) the entrance fees payable for a public amenity; and

(e) a notice stating that a public amenity has been closed for public use, as contemplated in subsection 3(4) of this by-law.

(2) No person, except an authorized official or any other person authorized by the Municipality to fulfil such a task, may alter the contents of a notice board or otherwise remove a notice board.

(3) A notice posted or erected by Municipality in terms of subsection 5(1) of this by-law, may contain a graphic representation to convey a meaning.

6. WRITTEN CONSENT REQUIRED FOR CERTAIN ACTIVITIES

(1) No person may, subject to the provisions of the By-law relating to the Holding of Events of the Theewaterskloof Municipality, and without the prior written consent of the Municipality, arrange any public entertainment, or hold on or at or in a public amenity, a public meeting, a public gathering, a procession, an exhibition, a performance, an auction or a wedding.

(2) No person may without the prior written consent of the Municipality on or at or in a public amenity –

(a) solicit or collect money or any other goods from the general public, for charity or any other purpose;

(b) display for sale paintings, woodcarvings, wire, metal or any other artwork, books, woodwork, wood furniture or painted work, or distribute pamphlets, advertising material, placards, handbills, written or printed work; or

(c) engage in any form of trade, commerce or business.

(3) No person may on or at or in a public amenity undertake or perform any activity in contravention with the instructions and restrictions on a notice board, as contemplated in subsection 5(1) of this by-law or which is contrary to the stipulations and conditions of a written consent.

(4) No person may on or at or in a public amenity, without the prior written consent of the Municipality, erect or construct any temporary fence, structure, shelter or anything else, and a person who has obtained such consent may only erect or construct such temporary fence, structure, shelter or anything else in the designated area specifically set aside for the purpose.

(5) No person may at or in or on a public amenity, without the prior written consent of the Municipality, bring into or have in his or her possession any type of firearm, airgun, air pistol, crossbow, bow or other weapon, except an authorized official or a member of the South African Police Services.

(6) A person who wishes to obtain the consent of the Municipality as contemplated in subsections 6(1), 6(2), 6(4) and 6(5) of this by-law, shall complete and submit an application on the prescribed form, and the Municipality shall consider and in writing grant the consent applied for, subject to any such conditions the Municipality deems necessary, the payment of the prescribed fees and tariffs, and the obtaining of the required permits and / or

licenses for the preparation and selling of food, or in writing refuse an application.

(7) A person who has been granted a consent in terms of subsections 6(1), 6(2), 6(4), 6(5) or 6(6) of this by-law, shall at all times keep the consent document in his or her possession, while exercising the approved consent on or at or in a public amenity, and shall present the consent document when requested by an authorized official.

7. ISSUING OF SPECIAL PERMITS

(1) The Municipality may, notwithstanding the provisions of this by-law, on application and subject to any such conditions the Municipality may impose, issue a special permit –

(a) to groups of people to use public amenities free of charge; or

(b) to a person or persons undertaking scientific, educational or similar research purposes to use public amenities free of charge.

(2) The holder of a special permit issued in terms of subsection 7(1) of this by-law, may subject to any conditions imposed –

(a) when in possession of a valid hunting licence and / or has the required consent of the applicable responsible authority, may hunt, catch or remove fauna under the supervision and control of an authorized official, on or at or in a public amenity;

(b) with the required consent of the applicable responsible authority, may pick, collect or remove flora under the supervision and control of an authorized official, at or in or on a public amenity;

(c) on or at or in a public amenity under the supervision and control of an authorized official, remove anything of historical or scientific importance;

(d) on or at or in a public amenity have in his or her possession or use diving equipment, weapons, explosives, or a trap, poison, hammer, saw, knife or a gardening tool;

(e) on or at or in a public amenity only remove any picked flora or a carcass of a hunted animal, when an authorized official has –
(i) inspected such flora or carcass;
(ii) when necessary or desirable, measured the dimensions or mass or has taken a sample of such flora or carcass; and
(iii) in writing authorized such permit holder to remove such flora or carcass;
or

(f) on or at or in a public amenity excavate soil, sand or stone, or remove organic or non-organic material.

(3) The holder of a special permit shall on arrival at the public amenity for which a permit was issued, show the permit concerned to an authorized official, before entering such public amenity or commencing with any activity authorized by the special permit.

8. ANIMALS

(1) No person may in contravention of any prohibition displayed on a notice board,
bring any animal into a public amenity, except for a guide dog accompanying a blind or disabled person, or a dog or any other animal used by an authorized official or a member of the South African Police Services, in the execution of their duties.

(2) A person who is permitted to bring an animal on or at or in a public amenity, shall always have direct control over such animal by means of a leash or other restraining device, and may not bath or allow such animal to bath in or enter any dam, fountain, pool, river or any other natural water source, or any water provided for ornamental or swimming purposes.

(3) Any animal found on or at or in a public amenity, which is not under the direct control of a person, may be impounded by the Municipality in terms of the provisions of the Impoundment of Animals By-law of the Theewaterskloof Municipality.

9. PROHIBITED BEHAVIOUR

(1) No person who is under the influence of liquor or drugs may enter or be present in a public amenity, or may take any liquor or drugs into a public amenity for the consumption thereof.

(2) No one may on or at or in a public amenity –

(a) break, damage, destroy, tamper with, misuse or disfigure anything, or fail to observe any instructions by an authorized official in regard therewith;

(b) remove, throw or roll a rock, stone or object;

(c) remove, pick, cut down, break, saw, cut or damage any flora, or have such flora in his or her possession, except when authorized thereto by means of a special permit;

(d) walk, stand, sit or recline in a flowerbed, or sit or recline in any place or area or on any object or grass, in contravention with a notice;

(e) write, paint or draw graffiti or a symbol on a structure, building, rock, tree or path;

(f) excavate soil, sand or stone, or remove organic or non-organic material, except when authorized thereto by a special permit;

(g) interfere with the flow of water, or divert a stream or drain a wetland;

(h) deface anything by pasting or affixing handbills, placards, notices, advertisement or anything else thereon;

(i) wash or polish a vehicle, or repair a vehicle, except for emergency repairs to a vehicle;

(j) burn waste, or dispose of any waste, garden waste or building rubble, except in containers provided therefore;

(k) wash crockery or laundry or hang out clothes, except at places designated by a notice for such purpose;

(l) use or endeavour to use anything provided on or at or in a public amenity for a purpose other than that for which it was intended or designated by a notice;

(m) discard a burning or smouldering object, or throw it out of a vehicle;

(n) behave or reveal himself or herself in an improper, indecent or unbecoming manner;

(o) defecate, urinate or undress in public;

(p) lie on benches or seating provided, or use it in such a manner that other users or potential users are restricted or discouraged to make use thereof;

(q) play or sit on playground equipment, except for a child under the age of thirteen years;

(r) swim, walk or play in a fish-pond, fountain, dam, river, swimming pool, artificial feature or pond, in contravention with a notice or where applicable an instruction of a life guard prohibiting such action;

(s) use any swimming pool or water facility, with an open body wound;

(t) perform any act that may detrimentally affect the health of any other person;

(u) enter or use a toilet facility or an ablution facility designated by a notice for use by members of the opposite sex;

(v) overnight without authorization;

(w) hunt, injure, disturb, feed, kill, follow, disturb, tease, annoy, snare, trap or catch any animal, or move, disturb, destroy or remove a bird nest or eggs, or skin or gut an animal, except when authorized to do so in terms of a special permit;

(x) discharge a firearm, airgun, air pistol, crossbow, bow or slingshot, except an authorized official or a member of the South African Police Services in the execution of their duties or when special consent has been granted;

(y) in any way whatsoever prejudice the safety, convenience or rights of other persons, or by playing any games that may cause annoyance or endanger public safety or the property of other persons; or

(z) light a fire in any place, except a place specifically designated for the lighting of open fires.

(3) No one may enter or leave a public amenity other than by way of the official entry and exit point, or without having paid the required entrance fees.

(4) No one may release or introduce any wild animal, fish, bird or flora on or at or in a public amenity, except an authorized official in the execution of his or her duties.

(5) No one may on or at or in a public amenity, swim or angle, when such activities are prohibited by a notice board, as contemplated in subsection 5(1) of this by-law.

10. VEHICLES

(1) No one may bring any vehicle on or at or in a public amenity, except in accordance with the specific conditions applicable for a specific public amenity, subject thereto that an authorized official or a member of the South African Police Services shall not be restricted hereby in the execution of their duties.

(2) Where a person is permitted to use a vehicle in a public amenity, such vehicle may only be used on constructed roads and at the speed limit indicated for such public amenity.

(3) The stipulations of subsections 10(1) and 10(2) of this by-law shall not be applicable for an emergency vehicle used in an emergency situation.

11. CAMPING SITES AND CARAVAN PARKS

(1) No person may camp on any property belonging to or under the control of the
Municipality, except on a designated camping site within the boundaries of a camping area or a caravan park.

(2) No person may in any period of twelve (12) months, camp on the same camping site in a camping area or a caravan park, for a period exceeding three (3) months, without the written consent of the Municipality.

(3) Notwithstanding the stipulations of subsection 11(2) of this by-law, the Municipality may allocate and reserve ten (10) per cent or any larger percentage as approved by the Municipality, of a caravan park for semi-permanent occupation in terms of specific conditions for caravans and / or mobile homes.

(4) The occupant of a camping site shall be the person to whom the camping site
has been leased, and no camping site may be sub-let, ceded, sold or in any illegal manner be given to any other person for use, by the occupant of a camping site.

(5) The reservation of camping sites shall only be considered upon receipt of a written or telephonic application, or any other accepted method of application determined by the Municipality.

(6) The Municipality may determine additional conditions for the use of all or any of
the camping sites and caravan parks, under the control of the Municipality.

CHAPTER 2:
GENERAL PROVISIONS

12. POWERS OF AUTHORIZED OFFICIALS

(1) The authorized officials appointed by the Municipality to monitor and enforce this by-law, may investigate any act or omission, which on reasonable suspicion may constitute an offence in terms of this by-law.

(2) Authorized officials and life guards may not be hindered or obstructed in the execution of their duties, or an authorized official may not be obstructed in obtaining access to any premises.

13. 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 such a 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.

14. OFFENCES AND PENALTIES

Any person who —

(a) fails to comply with 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 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.

15. LIMITATION OF LIABILITY

The Municipality is not liable for any damage or loss caused by the exercise of any power or the performance of any duty in good faith under this by-law.

16. 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 authorized 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 16(2)(a), 16(2)(b) or 16(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.

17. CONCLUDING OF AGREEMENTS

The Municipality may enter into written agreements with any person, a consortium, a company, a municipality or an organ of state, a local community or an organisation, in terms of the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000), as amended, to provide for –

(a) the collective development of any public amenity;

(b) the use of any public amenity for the purposes, subject to conditions as stipulated in an agreement;

(c) the collective management of any public amenity; and
(d) the provision and regulation of activities at a public amenity.

18. COMMUNITY LIASON FORUMS

(1) The Municipality may establish liaison forums in a community for the purpose of –

(a) creating opportunities for the community to participate in the affairs of the Municipality;

(b) to advise the Municipality on matters referred to the liaison forum by the Municipality, and

(c) promoting a safe and healthy environment.

(2) A liaison forum may consist of –

(a) a member or members of an interested group or affected persons;

(b) a member or members of the 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, consent or a permit 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 18(2) of this by-law, may on their own initiative provide input to the Municipality for consideration.

19. 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.

20. 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-laws of the Theewaterskloof Municipality are hereby specifically repealed –

Name of by-law	Date published	As a whole or partially
Camping Sites By-law	PG 6234 dated 8 March 2005	As a whole
Parks for Caravans and Mobile Homes By-law	PG 6234 dated 8 March 2005	As a whole
Swimming Pool By-law	PG 6234 dated 8 March 2005	As a whole
Public Nuisances By-law	PG 6234 dated 8 March 2005	As a whole

21. SHORT TITLE

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

22. OPERATIVE DATE

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

MUNISIPALITEIT VAN THEEWATERSKLOOF

VERORDENING INSAKE OPENBARE GERIEWE

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 maatreëls vir die heheer van die toegang tot en die gebruik van openbare geriewe wat aan die Munisipaliteit van Theewaterskloof behoort of onder die beheer van die Munisipaliteit van Theewaterskloof is, te voorsien.

INHOUDSOPGAWE

1. Interpretasie

HOOFSTUK I: ALGEMENE REËLINGS VIR OPENBARE GERIEWE

2. Beperking van besoekers en voertuie
3. Reg van toegang en beperking van aktiwiteite
4. Toegangsgelde en ander betalings
5. Kennisgewingborde
6. Skriftelike toestemming benodig vir bepaalde aktiwiteite
7. Uitreiking van spesiale permitte
8. Diere
9. Verbode gedrag
10. Voertuie
11. Kampeerterreine en karavaanparke

HOOFSTUK 2: ALGEMENE BEPALINGS

12. Bevoegdhede van gemagtigde beamptes
13. Appèlle
14. Strafbepalings
15. Beperking van aanspreeklikheid
16. Bediening van kennisgewings en ander dokumente
17. Aangaan van ooreenkomste
18. Gemeenskapskakelforums
19. Teenstrydighede met ander wetgewing
20. Herroeping van verordeninge
21. Kort titel
22. Inwerkingtreding

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:

"dier", enige perd, bees, donkie, muil, kameel, skaap, bok, vark, hoender of ander voël, pluimvee, volstruis, haas, konyn, hond, kat, of ander huisdier of voël, of 'n wilde dier of reptiel wat in gevangenisskap verkeer of onder die beheer van iemand is, of insekte soos bye, wat deur 'n persoon aangehou of beheer word;

"**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;

"kamp" of **"kampeer",** om 'n terrein vir kampering te benut deur daarop piekniek te hou, of dit te okkupeer met 'n karavaan of 'n voertuig aldus ingerig vir kampering, of 'n tent of ander soortgelyke kampeertoebehore, en sodanige karavaan, voertuig, tent of kampeertoebehore tydelik te benut as slaapgerief of as skuiling of beskerming teen weerelemente;

"kampeerperseel", enige gedeelte van 'n kampeerterrein of 'n woonwapark, wat afgebaken en toegewys word vir die doeleindes van kampering daarop;

"kampeerterrein", 'n eiendom wat aan die Munisipaliteit van Theewaterskloof behoort, en formeel gereserveer word vir gebruik as 'n piekniekarea, kampeerarea of karavaanpark, of 'n soortgelyke fasiliteit goedgekeur deur die Munisipaliteit van Theewaterskloof wat op private eiendom is;

"kampeerpermit", 'n dokumentêre bewys van magting toegestaan, wat vir die doeleindes van hierdie verordening uitgereik word, of 'n amptelike kwitansie van die Munisipaliteit van Theewaterskloof, wat uitgereik word na betaling van die voorgeskrewe kampeerfooie;

"karavaan", enige sleepwa of voertuig, wat permanent ingerig word vir mense om daarin te woon of te slaap;

"kennisgewingbord", 'n teken, plakkaat, bord, elektroniese apparaat of ander meduim, wat aangebring of vertoon word met die spesifieke oogmerk om inligting of 'n gebiedende instruksie of simbool te vertoon;

"lewensredder", 'n persoon wat in sodanige kapasiteit deur die Munisipaliteit van Theewaterskloof in diens geneem of aangestel word, of enige lid van die Strandlewensreddingsvereniging van Suid-Afrika, of van 'n geaffilieerde lewensreddingsklub of 'n vereniging van lewensredders;

"mobiele woning", 'n verskuifbare of mobiele fabrieksvervaardigde struktuur vir residensiële bewoning, wat bedoel en ingerig is om gebruik te word as 'n woonplek, en wat oor die nodige vermoë beskik om aan munisipale infrastruktuur vir water, sanitasie en elektrisiteit gekoppel te 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;

"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;

"openbare byeenkoms of optog", 'n optog of byeenkoms van meer as dertig (30) lede van die algemene publiek;

"openbare gerief", –

(a) enige stuk publieke grond of publieke plek, meentgrond, plein, kampeerterrein, karavaanpark, swembad, swemarea, sportgrond, sportstaduim, openbare oop ruimte, openbare oord, ontspanningsterrein, grond aanliggend tot 'n rivier of 'n dam, die Victoria Park Natuurreservaat, die Greyton Natuurreservaat, die Villiersdorp Natuurreservaat, enige ander geproklameerde natuurgebied of natuurreservaat of bestuurskontrakgebied van 'n ander owerheidinstelling, dieretuin, wildreservaat, botaniese tuin of natuurtuin of enige ander publieke tuin of park, of voetslaanpad, met inbegrip van enige gedeelte daarvan en enige gerief of fasiliteit voorsien by die betrokke openbare plekke, wat die Munisipaliteit van Theewaterskloof se eiendom is of deur die Munisipaliteit van Theewaterskloof beheer of uitverhuur word, en waartoe die breë publiek toegang het, hetsy by betaling van toegangsgelde of nie, maar uitgesluit 'n openbare pad of of 'n openbare straat;

(b) enige gebou, struktuur, saal, sentrum, kompleks of kantoor, met inbegrip van enige gedeelte daarvan, of enige fasiliteit of toerusting daarin, wat die Munisipaliteit van Theewaterskloof se eiendom is of deur die Munisipaliteit van Theewaterskloof beheer of uitverhuur word, en waartoe die breë publiek toegang het, hetsy by betaling van toegangsgelde of nie; en

(c) enige openbare gerief, soos beoog in paragrawe (a) en (b), wat ingevolge 'n ooreenkoms tussen 'n privaat persoon of 'n instelling en die Munisipaliteit van Theewaterskloof, namens die Munisipaliteit van Theewaterskloof beheer of bestuur word;

"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 of gebruikte of beboude of onbeboude munisipale grond; of 'n begraafplaas, waaroor die Munisipaliteit van Theewaterskloof jurisdiksie het;

"oprig", met betrekking tot 'n kennisgewingbord, om 'n kennisgewingbord op te rig, aan te bring of staan te maak;

"persoon", sluit vir doeleindes van hierdie verordening, 'n natuurlike persoon, 'n regspersoon, enige onderneming, 'n vereniging of organisasie of 'n instelling van die staat in;

"**tuin",** enige stuk grond onder die beheer van die Munisipaliteit van Theewaterskloof, wat as 'n tuin vir die gebruik van die algemene publiek in stand gehou word; en

"voertuig", enige voertuig aangedryf deur meganiese, elektriese, diere-, natuurlike of mensekrag, en sluit in, maar is nie beperk tot, enige fiets, motorfiets, motor, bakkie, vragmotor, omboude voertuig, sleepwa, wa, vaartuig, boot of vliegtuig, maar uitgesluit enige kinderstootwaentjie of rolstoel, wat met die hand gestoot of aangedryf word, en uitsluitlik vir die vervoer van 'n kind of invalide gebruik word.

HOOFSTUK I:
ALGEMENE REëLINGS VIR OPENBARE GERIEWE

2. BEPERKING VAN BESOEKERS EN VOERTUIE

Die Munisipaliteit mag –

(a) die maksimum getal persone of die maksimum getal voertuie wat op 'n gegewe in of by 'n openbare gerief teenwoordig mag wees bepaal, en

(b) die verskillende klasse voertuie wat op 'n gegewe tydstip by 'n openbare gerief toegelaat mag word, vir die verskillende openbare geriewe bepaal.

3. REG VAN TOEGANG EN BEPERKING VAN AKTIWITEITE

(1) 'n Openbare gerief is vir die algemene publiek oop vir gebruik, op die tye en die datums, en ingevolge die voorwaardes soos wat deur die Munisipaliteit bepaal mag word.

(2) Die Munisipaliteit mag bepaal watter aktiwiteite of voertuie of toerusting in, op of by 'n openbare gerief toelaatbaar is, aldan nie, en sodanige beperkings mag insluit, maar is nie beperk tot –

(a) beperkinge op die gebruik van voertuie in 'n openbare gerief;

(b) beperkinge op die toegang van spesifieke klasse voertuie tot 'n openbare gerief; en

(c) beperkinge op die vlieg van radiobeheerde modelvliegtuie en vlieërs, wind branderry, vlieër branderry en ander watersportaktiwiteite, of die gebruik van bote of ander kragaangedrewe vaartuie op of by enige dam of rivier.

(3) Die Munisipaliteit mag aan enige persoon of persone wat daarvoor aansoek doen, 'n eksklusiewe reg van gebruik van 'n openbare gerief, vir sodanige tye en / of periodes, en aktiwiteite as wat wenslik mag wees toeken, wat die volgende gebruike mag insluit, maar nie beperk is tot, spele, openbare vergaderings, kermisse, vertonings, troues of enige ander funksies of vermaak.

(4) Die Munisipaliteit mag vir doeleindes van instandhouding van openbare geriewe, ontwikkelingswerksaamhede, of vir sekuriteit, veiligheid of openbare gesondheid, 'n openbare gerief tydelik of permanent sluit of enige aktiwiteite by sodanige openbare gerief, tydelik of permanent staak.

(5) Waar 'n persoon 'n misdryf by 'n openbare gerief ingevolge hierdie verordening begaan het, mag 'n gemagtigde beampte sodanige persoon gelas om die betrokke openbare gerief te verlaat.

(6) Waar 'n gemagtigde beampte op redelike gronde vermoed dat 'n persoon wat 'n openbare gerief wil binnegaan, van voornemens is om 'n misdryf ingevolge hierdie verordening, of enige ander statutêre bepaling of munisipale verordening te begaan, mag die betrokke persoon toegang tot sodanige openbare gerief geweier word.

4. TOEGANGSGELDE EN ANDER BETALINGS

(1) Die Munisipaliteit mag verskillende tariewe en fooie as toegangsgelde en ander betalings bepaal en hef, vir toegang tot en die gebruik van openbare geriewe, met dien verstande dat die Munisipaliteit tussen verskillende ouderdomme van persone, groepe persone of gebruikers, of verskillende klasse en kategorieë van voertuie mag differensiëer en dat konsessies verleen mag word ten opsigte van die tariewe en fooie wat betaalbaar is.

(2) Toegangsgelde vir openbare geriewe, moet by die ingang van 'n openbare gerief betaal word, behalwe waar 'n kennisgewingbord anders aandui.

(3) Toegangsgelde vir die gebruik van openbare geriewe is betaalbaar vir elke dag of gedeelte van 'n dag van gebruik, soos gespesifiseer vir elke betrokke openbare gerief.

(4) Daaglikse toegangsgelde vir 'n openbare gerief is nie terugbetaalbaar nie, maar toegangsgelde vir 'n openbare gerief wat vooruit betaal was tydens bespreking, kan op skriftelike versoek met die vooraf kansellasie van sodanige bespreking, terugbetaal word.

(5) 'n Gemagtigde beampte het die reg om 'n gebruiker van 'n openbare gerief te versoek, om bewys te lewer dat die toepaslike toegangsgelde betaal is.

5. KENNISGEWINGBORDE

(1) Die Munisipaliteit mag 'n kennisgewingbord by of naby die ingang van enige openbare gerief aanbring, waarop enige of al die volgende besonderhede verstrek kan word -

(a) die tye en datums wat 'n openbare gerief oop is vir gebruik;

(b) die voorwaardes van toegang tot 'n openbare gerief;

(c) die aktiwiteite wat by 'n openbare gerief toegelaat en / of verbode is;

(d) die toegangsgelde wat vir toegang tot 'n openbare gerief betaal moet word; en

(e) 'n kennisgewing dat 'n openbare gerief gesluit is vir publieke gebruik, soos bedoel in subartikel 3(4) van hierdie verordening.

(2) Geen persoon, behalwe 'n gemagtigde beampte of enige ander persoon wat deur die Munisipaliteit gemagtig om sodanige handeling te verrig, mag 'n kennisgewingbord verwyder of die inhoud daarvan verander.

(3) 'n Kennisgewing wat deur die Munisipaliteit ingevolge subartikel 5(1) van hierdie verordening aangebring of opgerig word, mag grafiese voorstellings bevat om 'n betekenis oor te dra.

6. SKRIFTELIKE TOESTEMMING BENODIG VIR BEPAALDE AKTIWITEITE

(1) Onderworpe aan die bepalings van die Verordening insake die Hou van Geleenthede van die Munisipaliteit van Theewaterskloof, mag geen persoon sonder die skriftelike toestemming van die Munisipaliteit, op of by of in 'n openbare gerief, enige openbare vermaak aanbied, of 'n openbare vergadering, 'n openbare byeenkoms, 'n optog, 'n uitstalling, 'n optrede, 'n veiling of 'n troue hou nie.

(2) Geen persoon mag sonder die vooraf skriftelike toestemming van die Munisipaliteit, op of by of in 'n openbare gerief -

(a) geld of enige ander goedere vir liefdadigheids of enige ander doel, van die algemene publiek bedel of kollekteer nie;

(b) pamflette, advertensie materiaal, plakkate, pamflette, gedrukte of geskrewe werk versprei nie, of skilderye, houtsneewerk, draad, metaal of ander kunswerke, boeke, houtwerkstukke en –meubels, of geverfde werk vertoon vir verkoping nie; of

(c) enige ambag, handel of besigheid bedryf nie.

(3) Niemand mag op of by of in 'n openbare gerief, enige aktiwiteit wat strydig is met die voorskrifte en beperkings vertoon op 'n kennisgewingbord verrig of uitvoer, soos bedoel in subartikel 5(1) van hierdie verordening of wat strydig is met die bepalings en voorwaardes van 'n skriftelike toestemming nie.

(4) Geen persoon mag sonder die vooraf skriftelike toestemming van die Munisipaliteit, enige tydelike heining, struktuur, skuiling of enigiets anders op of by of in 'n openbare gerief oprig of konstrueer nie, en 'n persoon wat sodanige toestemming verkry het mag sodanige tydelike heining, struktuur, skuiling of enigiets anders slegs in die toegewese area wat uitsluitlik vir dié doel uitgewys word oprig of konstrueer.

(5) Geen persoon mag sonder die vooraf skriftelike toestemming van die Munisipaliteit, enige tipe vuurwapen, windbuks, lugpistool, kruisboog, boog of ander wapen op of by of in 'n openbare gerief inbring of dit in sy of haar besit hê nie, behalwe 'n gemagtigde beampte of 'n lid van die Suid-Afrikaanse Polisiediens.

(6) 'n Persoon wat die skriftelike toestemmings van die Munisipaliteit, soos beoog in subartikels 6(1), 6(2), 6(4) en 6(5) van hierdie verordening wil verkry, moet 'n voorgeskrewe aansoekvorm voltooi en inhandig, en die Munisipaliteit sal sodanige aansoek oorweeg en skriftelik toestaan, onderworpe aan enige sodanige voorwaardes as wat die Munisipaliteit nodig mag ag, die betaling van die voorgeskrewe fooie en tariewe, en die verkryging van die toepaslike permitte en / of lisensies vir die voorbereiding en verkoop van voedsel, of skriftelik 'n aansoek weier.

(7) 'n Persoon wat 'n toestemming ingevolge subartikels 6(1), 6(2), 6(4), 6(5) of 6(6) van hierdie verordening verkry het, moet ten alle tye wanneer die aktiwiteit waarvoor die toestemming verleen word, op of by of in 'n openbare gerief uitgeoefen word, sodanige magtiging vir toestemming in sy of haar besit hê en moet sodanige toestemming op aanvraag van 'n gemagtigde beampte toon.

7. UITREIKING VAN SPESIALE PERMITTE

(1) Die Munisipaliteit mag nieteenstaande die bepalings van hierdie verordening, indien 'n skriftelike aansoek daarvoor ontvang word en onderworpe aan enige sodanige voorwaardes wat die Munisipaliteit mag bepaal, 'n spesiale permit uitreik aan –

(a) groepe persone om openbare geriewe gratis te gebruik; of
(b) aan 'n persoon of persone om openbare geriewe gratis te gebruik, vir wetenskaplike, opvoedkundige of soortgelyke navorsing doeleindes.

(2) Die houer van 'n spesiale permit soos uitgereik ingevolge subartikel 7(1) van hierdie verordening, mag onderworpe aan enige voorwaardes wat bepaal word –

(a) indien in besit van 'n geldige jaglisensie en / of die vereiste permit van die betrokke verantwoordelike owerheid, fauna onder die toesig en beheer van 'n gemagtigde beampte, op of by of in 'n openbare gerief, jag, vang, of verwyder;
(b) indien in besit van die vereiste permit van die betrokke verantwoordelike owerheid, flora onder die toesig en beheer van 'n gemagtigde beampte, op of by of in 'n openbare gerief insamel, verwyder of afhaal;

(c) enige voorwerp of item van historiese of wetenskaplike belang op of by of in of van 'n openbare gerief, onder die toesig en beheer van 'n gemagtigde beampte verwyder;

(d) duiktoerusting, wapens, plofstof, of 'n strik, gif, hamer, saag, mes of tuinwerktuie, op of by of in 'n openbare gerief, duiktoerusting, wapens, plofstof, of 'n strik, gif, hamer, saag, mes of tuinwerktuie in sy of haar besit hê of gebruik;

(e) enige geplukte flora of 'n karkas van 'n dier wat gejag is, van 'n openbare gerief verwyder, indien 'n gemagtigde beampte –
  (i) sodanige flora of karkas geïnspekteer het;
  (ii) indien nodig of wenslik, die afmetings of massa of 'n monster van sodanige flora of karkas geneem het; en
  (iii) die betrokke permithouer skriftelik gemagtig het om die flora of karkas te verwyder; of

(f) op of by of in 'n openbare gerief, grond, sand of klip uitgrawe, of organiese of nie-organiese materiaal verwyder.

(3) Die houer van 'n spesiale permit moet by aankoms by die betrokke openbare gerief waarvoor 'n permit uitgereik was, sodanige permit aan 'n gemagtigde beampte toon, voor sodanige persoon die betrokke openbare gerief binnegaan of in aanvang neem met enige aktiwiteite wat deur die spesiale permit gemagtig word.

8. DIERE

(1) Niemand mag enige dier, uitgesonderd 'n gidshond wat 'n blinde of gestremde persoon vergesel, of 'n hond of ander dier gebruik deur 'n gemagtigde beampte of lid van die Suid-Afrikaanse Polisiediens in die uitvoering van hulle pligte, by 'n openbare gerief inneem strydig met 'n verbod wat op 'n kennisgewingbord daarvoor aangebring is, by 'n openbare gerief inneem nie.

(2) Indien 'n persoon toegelaat word om enige dier op of by of in 'n openbare gerief in te bring, moet die betrokke dier altyd onder regstreekse beheer gehou word deur middel van 'n leiband of ander dwangtoestel, en sodanige dier mag nie in enige dam, fontein, poel, rivier of enige ander natuurlike waterbron, of water voorsien vir ornamentele doeleindes of vir swem, bad of daarin kom nie.

(3) Indien 'n dier op of by of in 'n openbare gerief aangetref word wat nie onder die regstreekse beheer van 'n persoon is nie, mag so 'n dier deur die Munisipaliteit geskut word, ooreenkomstig die bepalings van die Verordening insake die Skut van Diere van die Munisipaliteit van Theewaterskloof.

9. VERBODE GEDRAG

(1) Iemand wat onder die invloed van drank of dwelms is, mag 'n openbare gerief binnegaan of daar teenwoordig wees nie, of enige alkoholiese drank of verdowingsmiddel by sodanige openbare gerief inneem vir gebruik nie.

(2) Niemand mag op of by of in 'n openbare gerief –

(a) enigiets breek, beskadig, vernietig, daarmee peuter, wangebruik, ontsier, of versuim om 'n opdrag van 'n gemagtigde beampte aangaande sodanige optredes te gehoorsaam nie;

(b) 'n klip, rots of voorwerp verwyder, gooi of rol;

(c) enige flora verwyder, pluk, afkap, afbreek, afsaag, afsny of beskadig of sodanige flora onwettig in besit hê nie, behalwe indien daartoe ingevolge 'n spesiale permit gemagtig;

(d) in 'n blombedding loop, staan, sit of lê, of strydig met 'n kennisgewingbord in enige plek of area, of op enige voorwerp of gras, sit of lê;

(e) graffiti of 'n simbool op 'n struktuur, gebou, rots, boom of pad, skryf, verf of teken;

(f) grond, sand of klip uitgrawe of organiese of nie-organiese voorwerpe verwyder nie, behalwe ingevolge 'n spesiale permit daartoe gemagtig;

(g) inmeng met die vloei van water, 'n waterstroom aflei of 'n vleiland dreineer;

(h) enigiets ontsier, deur biljette, plakkate, kennisgewings, advertensies of enigiets anders daarop te plak of aan te bring;

(i) 'n voertuig was of poleer nie, of 'n voertuig herstel, behalwe in die geval van noodherstelwerk aan 'n voertuig;

(j) vullis verbrand of enige vullis, tuinafval, of bourommel stort, behalwe in houers daarvoor voorsien;

(k) breekgoed of wasgoed was of klere uithang nie, behalwe op plekke deur 'n kennisgewing aangedui vir sodanige doel;

(l) enigiets wat op of by of in 'n openbare gerief voorsien is, gebruik of probeer gebruik vir enige ander doel as waarvoor dit bestem is of wat by wyse van 'n kennisgewing bepaal word;

(m) ’n brandende of smeulende voorwerp weggooi, of dit uit ’n voertuig gooi;

(n) op ’n onbehoorlike, onbetaamlike of onwelvoeglike wyse optree nie, of sy of haar liggaam ontbloot nie;

(o) in die openbaar ontlas, urineer, of ontklee nie;

(p) op banke of sitplekke lê of dit op so ’n wyse gebruik, dat dit ander gebruikers of potensiële gebruikers verontrief of van gebruik verhinder;

(q) op speelterreintoerusting speel of daarop sit, behalwe ’n kind onder die ouderdom van dertien jaar;

(r) strydig met ’n kennisgewing wat sodanige handeling verbied of die instruksie van ’n lewensredder waar toepaslik, in ’n visdam, fontein, dam, rivier, swembad, sierpoel, of dammetjie swem, loop of speel;

(s) enige swembad of waterfasiliteit gebruik, met ’n oop wond op sy of haar liggaam nie;

(t) enige handeling verrig wat die gesondheid van ’n ander persoon nadelig mag raak;

(u) toiletfasiliteite en ablusiegeriewe wat ingevolge ’n kennisgewing vir gebruik deur lede van die teenoorgestelde geslag bestem is, binnegaan of gebruik;

(v) ongemagtig oornag;

(w) ’n dier jag, beseer, versteur, voer, doodmaak, agtervolg, hinder, terg, treiter, in ’n strik vang, betrap of vang, of ’n voëlnes of -eiers verskuif, versteur, vernietig of verwyder, of ’n dier afslag of die ingewande daarvan verwyder, behalwe ingevolge ’n spesiale permit daartoe gemagtig;

(x) ’n vuurwapen, windbuks, lugpistool, kruisboog, boog of slingervel gebruik of afvuur nie, behalwe ’n gemagtigde beampte of lid van die Suid-Afrikaanse Polisiediens in die uitvoering van hulle pligte, of ingevolge ’n spesiale permit daartoe gemagtig;

(y) op enige wyse hoegenaamd inbreuk maak op die veiligheid, gerief of regte van ander mense, of deur enige speletjie te speel wat ’n ergernis mag veroorsaak of die veiligheid of eiendom van ander persone bedreig; of

(z) `n vuur op enige plek maak, wat nie spesifiek vir die maak van oop vure aangewys is nie.

(3) Niemand mag 'n openbare gerief binnegaan of verlaat behalwe by wyse van die amptelike toegang of uitgang, of sonder om die toepaslike toegangsgelde te betaal nie.

(4) Niemand mag op of by of in 'n openbare gerief enige wilde dier, vis, voël of flora inbring of vrylaat nie, behalwe `n gemagdigde beampte in die uitvoering van sy of haar pligte.

(5) Niemand mag op of by of in 'n openbare gerief swem of hengel, indien dit by wyse van 'n kennisgewing soos bedoel in subartikel 5(1) van hierdie verordening verbied word.

10. VOERTUIE

(1) Niemand mag enige voertuig op of by of in 'n openbare gerief bring, behalwe in ooreenstemming met die spesifieke voorwaardes wat geld vir 'n spesifieke openbare gerief, met dien verstande dat `n gemagtigde beampte of 'n lid van die Suid-Afrikaanse Polisiediens in nie hierdeur beperk word in die uitvoering van hulle pligte nie.

(2) Waar 'n persoon toegelaat word om 'n voertuig in 'n openbare gerief of gedeelte van 'n openbare gerief te gebruik, mag sodanige voertuig slegs op 'n geboude pad en teen die voorgeskrewe spoedgrens bestuur word.

(3) Die bepalings van subartikel 10(1) en 10(2) van hierdie verordening, is nie van toepassing op 'n noodvoertuig in 'n noodgeval gebruik.

11. KAMPEERTERREINE EN KARAVAANPARKE

(1) Niemand mag op enige eiendom wat aan die Munisipaliteit behoort of onder die Munisipaliteit se beheer is kampeer nie, behalwe op 'n toegewyste kampeerperseel binne die grense van 'n kampeerterrein of 'n woonwapark.

(2) Niemand mag in enige periode van twaalf (12) maande, vir langer as drie (3) maande aaneenlopend op dieselfde kampperseel in 'n kampeerterrein of 'n woonwapark kampeer nie, sonder dat die Munisipaliteit skriftelike goedkeuring daarvoor verleen nie.

(3) Nieteenstande die bepalings van subartikel 11(2) van hierdie verordening, mag die Munisipaliteit tien (10) persent van 'n karavaanpark, of enige groter persentasie soos goedgekeur deur die Munisipaliteit, toeken en reserveer vir semi-permanente okkupering ingevolge spesifieke voorwaardes, deur karavane en / of mobiele wonings.

(4) Die okkupeerder van 'n kampeerperseel moet die persoon wees aan wie die betrokke kampeerperseel verhuur word, en geen kampperseel mag onderverhuur, sedeer, verkoop of op enige ander wyse onwettig toegeken word deur die okkupeerder aan 'n ander persoon nie.

(5) Die reservering van kampeerpersele sal slegs by ontvangs van 'n skriftelike 'n telefoniese aansoek of 'n ander aanvaarbare wyse, soos deur die Munisipaliteit bepaal, oorweeg word.

(6) Die Munisipaliteit mag addisionele voorwaardes tot dié wat in hierdie verordening vervat word, bepaal vir alle of sommige kampeerterreine en karavaanparke, wat onder die Munisipaliteit se beheer resorteer.

HOOFSTUK 2:
ALGEMENE BEPALINGS

12. BEVOEGDHEDE VAN GEMAGTIGDE BEAMPTES

(1) Die gemagtigde beamptes wat deur die Munisipaliteit aangestel is om hierdie verordening te monitor en af te dwing, mag enige handeling of versuim ondersoek, indien redelikerwys vermoed word dat dit 'n oortreding ingevolge hierdie verordening kan wees.

(2) Gemagtigde beamptes of lewensredders mag nie in die uitvoering van hulle pligte verhinder word nie, of gemagtigde beamptes mag nie toegang tot enige perseel verhinder word nie.

13. 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.

14. STRAFBEPALINGS

Enige persoon wat –

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

(b) in gebreke bly om te voldoen aan enige kennisgewing uitgereik ingevolge hierdie verordening;

(c) enige bepaling van hierdie verordering 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.

15. BEPERKING VAN AANSPREEKLIKHEID

Die Munisipaliteit is nie aanspreeklik vir enige skade of verliese, wat veroorsaak word deur, die uitoefening van enige bevoegdheid of die verrigting van enige plig te goeder trou ingevolge hierdie verordening.

16. 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 16(1)(a), 16(1)(b) of 16(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, 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 'n persoon 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.

17. AANGAAN VAN OOREENKOMSTE

Die Munisipaliteit mag , in terme van die bepalings van die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet No 32 van 2000), soos gewysig, skriftelike ooreenkomste met enige persoon, 'n konsortuim, 'n maatskappy, 'n ander munisipaliteit of 'n staatsorgaan, 'n plaaslike gemeenskap of 'n organisasie aangaan, ten einde voorsiening te maak vir –

(a) die gesamentlike ontwikkeling van enige openbare gerief;

(b) die gebruik van enige openbare gerief vir doeleindes en onderworpe aan voorwaardes, soos in sodanige ooreenkoms uiteengesit;

(c) die gesamentlike bestuur van enige openbare gerief; en

(d) die voorsiening en regulering van aktiwiteite by 'n openbare gerief.

18. GEMEENSKAPSKAKELFORUMS

(1) Die Munisipaliteit mag skakelforums in 'n gemeenskap instel met die doel om –

(a) geleenthede vir die gemeenskap te skep om deel te neem aan die aangeleenthede van die Munisipaliteit;

(b) advies aan die Munisipaliteit oor aangeleenthede te lewer, wanneer 'n skakelforum deur die Munisipaliteit versoek word om advies te lewer, en

(c) 'n veilige en gesonde omgewing te bevorder.

(2) 'n Skakelforum mag bestaan uit –

(a) 'n lid of lede van 'n belangegroep of geaffekteerde persone;

(b) 'n lid of lede van die gemeenskap; en

(c) 'n aangewese beampte of beamptes van die Munisipaliteit of ander owerheidsinstellings.

(3) (a) Die Munisipaliteit mag wanneer 'n aansoek om toestemming of 'n permit ingevolge hierdie verordening oorweeg word, die insette van 'n skakelforum versoek.

(b) 'n Skakelforum of enige persoon of persone bedoel in subartikel 18(2) van hierdie verordening, mag op eie inisiatief, 'n inset aan die Munisipaliteit vir oorweging verskaf.

19. 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.

20. 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 hiermee herroep insoverre dit betrekking het op aangeleenthede waarvoor in hierdie verordening voorsiening gemaak word.

(2) Die volgende verordeninge van die Munisipaliteit van Theewaterskloof word hiermee spesifiek herroep -

Naam van verordening	Datum gepubliseer	In die geheel of gedeeltelik
Verordening insake Kampeergebiede	PK 6234 gedateer 8 Maart 2005	In die geheel
Verordening insake Parke vir Woonwaens en Mobiele Wonings	PK 6234 gedateer 8 Maart 2005	In die geheel
Swembadverordening	PK 6234 gedateer 8 Maart 2005	In die geheel
Verordening insake Openbare Oorlaste	PK 6234 gedateer 8 Maart 2005	In die geheel

21. KORT TITEL

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

22. INWERKINGTREDING

Hierdie verordening tree op datum van publikasie daarvan in werking.

THEEWATERSKLOOF MUNICIPALITY

PUBLIC NUISANCES AND NUISANCES RESULTING FROM THE KEEPING OF ANIMALS 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 -

i) to protect and promote the constitutional rights of each member of the public, for an environment of general peace and harmony, which is not a threat to his or her health or welfare; and
ii) to overcome the services delivery, welfare and economic inequalities of the previous local government dispensation, by striving to achieve the new envisaged objectives for local government as contemplated in section 152 of the Constitution of the Republic of South Africa, 1996.

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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 -

"accommodation for cats", means any institution where the breeding of cats take place, or where cats are kept and cared for;

"accommodation for dogs", means any institution where the breeding, care or training of dogs takes place, and can include a pound, whether operated by a public institution or in any other manner, and include any reference to **"kennels"**;

"agent", means a person who acts on behalf of an owner of a property, and who has been appointed and authorized by such owner to -
(a) receive rental income or any other payments with regard to such property, on behalf of the owner; or
(b) make payments with regard to such property, on behalf of the owner;

"animals", means any equine, bovine, donkey, mule, camel, sheep, goat, fowl or other bird, poultry, ostrich, hare, rabbit, dog, cat or other domestic animal or bird, or a wild animal, bird or reptile which is in captivity or under the control of someone, or insects such as bees, but not restricted thereto, kept and controlled by someone;

"authorized official", means an official authorized in terms of section 8 of the Animal Protection Act, 1962 (Act No 71 of 1962), 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;

"bird", means any dove, peacock, swan, pheasant, sand grouse, guinea-fowl, ostrich or any tame or wild bird in captivity or under the control of someone;

"*bona fide* agricultural purposes", means an agricultural or agricultural related activity, undertaken for the purpose of profit, which is registered as such with the South African Revenue Service;

"breed", means a population of breeding animals, with a high degree of genetic stability, as characterized by identifiable uniform breed characteristics and looks;

"breeder", means the persons who as a registered breeder, is the owner of a female breeding animal, at the time of the natural or artificial impregnation of such female or the birth of her progeny;

"District Municipality", means the Overberg District Municipality established in terms of section 12 of the Local Government: Municipal Structures Act, 1998 (Act No 117 of 1998), as amended, by Provincial Notice 486 of 2000, dated 22 September 2000, and as amended by Provincial Notice 162 dated 20 August 2004, and includes any reference to any duly delegated and / or appointed officials in terms of service level agreements of the Overberg District Municipality;

"implement", means any electrical or mechanical tool or implement, or a tool or implement with an alternative drive, used for construction, commercial, agricultural or any other purposes;

"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 –

(a) with regard to the ownership of an animal, any person who lawfully owns or who is the agent of such an owner, and is responsible for the care, custody or control of an animal;
(b) in relation to the ownership of property, the person who is the registered owner of a property, and includes the occupant, the lessee, servitute holder, trustee, executor, curator or agent or administrator of such property;

"pet", means any tame animal, which are normally kept by a household for comradeship or entertainment, and include, but is not limited to, any canary, budgie, parrot or any other type of bird, or any dog, cat, hamster, rabbit or any other domesticated animal;

"pet salon", means a business or parlour where pets are groomed;

"pet shop", means a business where pets are kept for purpose of the sale or purchase of them;

"poultry", means any chicken, goose, duck, turkey or Muscovy duck, either tame or wild;

"premises", means any portion of land situated within the area of jurisdiction of the Theewaterskloof Municipality, of which the outer boundaries are demarcated on a general plan or diagram or sectional title plan, registered in accordance with applicable legislation;

- **"public nuisance",** means any action, omission or condition, on or at any premises or public place or public road, including any reference to any building, structure or growth on such premises, public place, or public road, which can put the safety of persons or property in jeopardy or which is unsightly, annoying, offensive or a disturbance for other persons, and includes **"nuisance"**;

"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; nature reserve; open space; recreational area; sports grounds; public road; municipal street, alley or road reserve; 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;

"responsible authority", the Theewaterskloof Municipality or any national or provincial government or institution, who may in terms of their functions and competencies, restrict the keeping of animals or impose conditions for the keeping of animals;

"structure", means any container, stable, barn, pigsty, pen, bird gage, fowl-run, paddock, pigeon house or building, used for the keeping of animals;

"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; 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 a veterinary surgeon.

2. APPLICATION

(1) The provisions of subsections 4(1), 14(1), 15(1) and 21(1) of this by-law shall not be applicable on –

(a) a premises or land used or zoned for *bona fide* agricultural purposes, or

(b) a premises or property identified by the Municipality, where animals are kept and cared for commercial purposes, and which are used as pet parlours, pet shops, or dog or cat accommodation facilities, in terms of an approved zoning scheme.

(2) A person who is keeping animals on premises as contemplated in subsection 2(1) of this by-law, is not exempted from the provisions of any other by-law of the Municipality, or any other statutory stipulation, with regard to creating or causing a public nuisance.

CHAPTER 1:
GENERAL PROVISIONS REGARDING PUBLIC NUISANCES

3. PUBLIC NUISANCES

(1) No one may cause a public nuisance.

(2) The following situations or actions may cause a public nuisance or shall be considered to be public nuisances, when proof thereof have been provided, and include, but is not restricted to –

(a) the keeping of animals or reptiles on a premises, excluding those animals and reptiles kept as pets, when such premises is not zoned in terms of an applicable zoning scheme for the keeping of such animals or reptiles;

(b) any person who allows any animal, reptile or dog –
  (i) to wander or roam around on public or private land, outside the premises it is kept on, without being under control of any kind, and in the case of a dog without a lease or harness;
  (ii) to suffer from a contagious or infectious disease, without proper medical treatment for such disease; or
  (iii) to create a nuisance or to give offence on public or private land, or become a danger for other animals, adjacent property owners or the general public;

(c) any person who allows any animal to relief itself on a public road or a public place, without immediately removing the faeces of such animal;

(d) any person who keep pets in such a way, that it cause a nuisance or may cause a potential nuisance;

(e) the overnight parking of more than one heavy duty vehicle or boat or vessel on a premises zoned for residential purposes;

(f) the parking of an implement on a premises zoned for residential purposes;

(g) the repair, maintenance or servicing of a heavy duty vehicle, any other vehicle, boat, vessel or implement on a premises zoned for residential purposes;

(h) run-off water as a consequence of the washing of a heavy duty vehicle, any other vehicle, boat, vessel or implement, contaminated with oils, chemical substances or any other liquid, waste, human and animal waste, or any other substance which can lead to a health risk for humans or can pollute the environment or has a bad odour;

(i) the parking of a vehicle, trailer, caravan, heavy duty vehicle, boat, vessel or implement on a premises, in such a way, that the boundaries of the premises on which it is parked are infringed on;

(j) the discharging of fireworks without the required approval of the Municipality on or over any private property, and in such a way that the fireworks or fragments thereof may fall on adjoining or other premises, causing a fire hazard on such premises;

(k) the running of a business on a residential premises in such a way, that notwithstanding the predetermined conditions for approval granted by the Municipality, for departure or new or additional land use rights for the premises concerned, a nuisance is created for adjacent property owners as a result of -

(i) the increase of activities on the premises to such an extent, that the restrictions and conditions determined by the Municipality with the original approval are exceeded;

(ii) the stock-pilling and storage of goods and materials on the premises in plain view;

(iii) the vibration or noise exceeding the maximum sound level of eighty five (85) dBA, caused by pumps, compressors, fans or similar machines used on the premises;

(iv) the playing of loud music exceeding the maximum sound level of eighty five (85) dBA;

(v) the use of spray paint or other volatile substances in such a way, that the vapour, odour or gasses created by it disperse to adjoining premises;

(vi) the manufacturing of certain goods, or the activities related to such manufacturing processes, or the material used for such manufacturing processes;

(vii) the frequency of deliveries, or the amount of people visiting the premises;

(viii) the frequency of loading and off-loading of goods on vehicles in the street or on the premises;

(ix) the congestion of staff on or near the premises; or

(x) the frequency of vehicles arriving and parking at, and leaving from the premises or the adjoining public road, because of the activities on the premises;

(xi) any stoep, veranda or alley of a premises, be used for the unsightly storage, stock-pilling or disposal of goods, waste generated by such business and waste material, which may cause a fire hazard and / or create a health risk;

(xii) any stoep, veranda or alley of a premises, be used for the purpose of displaying, keeping, selling, or offering for sale any goods, articles, services or merchandise, without the written approval of the municipality.

(l) any person who allows vacant premises or buildings –
  (i) to become unsightly or look offensive or become so dilapidated, that it negatively impact on the market values of adjoining properties;
  (ii) to become a shelter for loafers and vagrants, and allow the illegal inhabitation or occupation thereof;
  (iii) to become uncontrolled overgrown by grass, trees, scrubs or other cultivated or uncultivated plant material;
  (iv) to become unsightly, as a result of waste paper, cartons, garden waste, building rubble or other waste material on it; or
  (v) to become a dumping site for waste material;

(m) any persons that allows that –
  (i) waste generated on business premises, are disposed in street waste bins;
  (ii) waste generated on business premises, are disposed or stored on a part of such premises, which is visible from any street or sidewalk, excluding waste disposed or stored in a waste container approved by the Municipality;
  (iii) marketing or promotion activities on business premises, create confusion or pose a danger for passing traffic and pedestrians, or obstruct the use of a sidewalk in front of a business premises for pedestrians;
  (iv) shopping trolleys of a business, piling up to such an extend in streets, on sidewalks or in public parking areas, that vehicular and / or pedestrian traffic are impeded by it;
  (v) a radiator, a compressor, a fan or other machinery of a business, create a nuisance for adjacent premises, because of the vibration or noise, exceeding the maximum sound level of eighty five (85) dBA, thereof;
  (vi) deliveries to a business premises or the clients of a business premises, prevent normal access to their own premises, for the occupants of adjacent premises; or
  (vii) any stoep, veranda or alley of a business premises, be used for the unsightly storage, stock-pilling or disposal of goods, waste generated by such business and waste material, which may cause a fire hazard and / or create a health risk;
  (viii) any stoep, veranda or alley of a business premises, be used for the purpose of displaying, keeping, selling, or offering for sale any goods, articles, services or merchandise, without the written approval of the municipality.

(n) the general conduct of persons in or on public roads and public places –
  (i) by shouting, screaming, whistling or making any noise, exceeding the maximum sound level of eighty five (85) dBA, that may create a nuisance for other persons;
  (ii) by driving a vehicle or parking a vehicle in such a way, that vehicular

and pedestrian traffic are impeded;

(iii) by impeding vehicular and pedestrian traffic, with bicycles or similar vehicles;

(iv) by pushing or parking shopping trolleys or similar devices, that vehicular and / or pedestrian traffic are impeded;

(v) by walking or standing deliberately in groups to impede vehicular and pedestrian traffic;

(vi) by trading in such a way at road crossings, that the attention of vehicle drivers are diverted, causing potential traffic hazards;

(vii) by trading in such a way alongside public roads with goods and services, that vehicular and pedestrian traffic are impeded or the attention of vehicle drivers are diverted, causing potential traffic hazards;

(ix) by using a vehicle pulled by animals in peak traffic or on roads with congested vehicular traffic;

(x) by being under the influence of liquor and / or drugs, causing a nuisance for other persons;

(xi) by being disorderly and riotous;

(xii) by swearing and using offensive language; or

(xiii) by inconveniencing any other person with cigarette smoke or any other type of smoke;

(o) the exhibition of anything that is considered in terms of general public opinion to be visually offensive;

(p) the use of any device that interferes with radio and television reception;

(q) the eliciting or persuasion of any person for purpose of prostitution or any other immoral deed;

(r) to continue begging from a person or to follow a person to beg, after such person already reacted adversely to such begging;

(s) to play load music on any premises or to use megaphones, musical instruments or loudspeakers in such a way, that the maximum sound level of eighty five (85) dBA is exceeded, and that a disturbance or a nuisance is created;

(t) a person who washes himself or herself, or wash or bath any animal in a public stream, pool, standpipe, water trough, fountain or any place where such action are explicitly forbidden by a notice board; or

(u) any person who washes or service a vehicle on or in a public road or a public place.

(3) When a transgression occur of any of the provisions of subsection 3(2) of this by-law, the Municipality may –

(a) serve a notice on such owner or occupant or alleged transgressor, to terminate the activity within a specified time or remove the nuisance created; and

(b) by failure of the owner or occupant of a premises, or the alleged transgressor to comply with a notice, and without limiting the right of the Municipality to institute further prosecution, the Municipality may implement all the necessary measures to remove the cause or the source of the nuisance concerned, and may recover any costs incurred by the Municipality from the person responsible for the nuisance, or from the owner or occupant of a premises where the nuisance originated or may still continue, by rendering an account to the owner or occupant of the premises concerned, irrespective of who is responsible for causing the nuisance concerned.

(4) Where any build-up or vacant premises, are used unauthorized by persons for any purpose which may cause a nuisance or when any of the nuisances as contemplated in subsection 3(2) of this by-law occurred on such premises, the Municipality may serve a written notice on the owner or the occupant of such premises, wherein the following may be demanded –

(a) that the property or premises concerned be properly cleaned up before a specified date, and be closed off or be fenced off to the satisfaction of the Municipality; and

(b) that the enclosure or fencing required be of such a nature and structure, to restrict access to the premises for unauthorized persons and to prevent the illegal disposal or accumulation of material or any other nuisances recurring.

(5) For purpose of the application of this by-law, any action or situation on any premises or public road or public place, which may put the safety of any person or property in jeopardy, or is disorderly, untidy, annoying, inconvenient, offensive or disturbing for other persons, may be considered to be a nuisance.

(6) The Municipality may after consideration of –

(a) the input or comments received, with regard to situations and actions in terms of section 3(2);

(b) the locality, geographical charactistics and size of a premises for which an application has been submitted;

(c) the documentation, the structural and building plans, zoning and land use approvals; and / or

(d) any other information applicable for the application,

accept or decline an application and may impose any conditions for the approval of an application.

CHAPTER 2:
GENERAL PROVISIONS FOR THE KEEPING OF ANIMALS

4. APPROVAL TO KEEP ANIMALS AND / OR BEES

(1) Nobody may without the written approval of the Municipality, keep any animals or allow them to be kept on any premises or properties not zoned for agricultural purposes, excluding pets, and the Municipality may also determine the type, the number and the gender of animals allowed to be kept, as well as the areas in which the keeping of such animals or the keeping of bees shall be totally prohibited.

(2) Any person who applies for a permit to keep a wild animal, shall when such application is submitted to the Municipality in terms of subsection 4(1) of this by-law, also supply the Municipality with the necessary permits issued and required by the competent authority.

(3) Bees may only be kept on premises zoned for agricultural purposes, and the Municipality may determine the desirability to keep bees in specific areas or to allow the repairing of beehives in an industrial or any other area, and may dictate the locality, positioning and the number of beehives that may be kept on a premises or the conditions in terms of which the repair of beehives on a premises shall be allowed.

(4) For purpose of considering an application in terms of subsection 4(1) of this by-law, the applicant shall also obtain the input and comments of the owners and occupants of surrounding premises, as determined by the Municipality.

(5) Any person who transgresses the provisions of subsection 4(1) of this by-law or who fails to comply with a determination in terms of subsections 4(2), 4(3) or 4(4) of this by-law, shall be guilty of an offence.

5. PLANS FOR STRUCTURES

The Municipality may require from any person who is of intention to keep animals, to submit an application for the keeping of animals on the prescribed application form, and to supply detailed structural and building plans for structures to be used for the lodging of such animals, which shall comply to the specifications determined by the Municipality and / or the District Municipality, as applicable.

6. CONSIDERATION OF APPLICATIONS AND THE IMPOSING OF CONDITIONS FOR THE KEEPING OF ANIMALS

(1) The Municipality may after consideration of –

(a) the input or comments received in terms of subsection 4(4) of this by-law, with regard to the proposed keeping of animals;

(b) the locality, geographical charactistics and size of a premises for which an application has been submitted;

(c) the documentation, the structural and building plans and the expositions submitted in terms of section 5 of this by-law; and / or

(d) any other information applicable for the application, including, but not limited to, the grazing potential of pastures, the type of existing fencing and the availability of water,

accept or decline an application.

(2) When an application is declined, the Municipality shall provide the reasons for the declining of the application, and notify the applicant of his or her right of appeal in terms of section 26 of this by-law.

(3) The Municipality may impose any conditions for the approval of an application.

7. VISIBILITY OF STUCTURES ON PREMISES

Structures in which animals are kept shall be properly screened from any street, as applicable in terms of policy for each area.

8. SUSPENSION OF CONDITIONS AND THE CANCELLATION OF APPROVALS

(1) Notwithstanding the provisions of this by-law, the Municipality may after consideration of all the conditions applicable for an approval, suspend any or all conditions of this by-law imposed for the approval of an application or as applicable impose other specific conditions for an approval, on condition that no owner or occupant of adjoining properties have submitted a valid objection against such an application, and that no vested or general rights of other residents are affected.

(2) The Municipality may cancel any approval provided in terms of subsection 6(1) of this by-law, when the stipulated conditions of the approval are not complied with.

9. VALIDITY OF PREVIOUS APPROVALS

All previous approvals to keep animals, issued in terms of any repealed by-law, shall be considered to be issued in terms of this by-law, and shall remain valid.

10. RESPONSIBILITIES OF THE OWNER OR KEEPER OF ANIMALS

(1) The owner of an animal or the person in charge of an animal –

(a) may not cause or allow that an animal disturb the convenience, comfort, peace and quiet of other persons;

(b) shall ensure that such animal has adequate sleeping accommodation, cover from the elements, water and food;

(c) shall ensure that the premises and / or structures and / or associated appurtenance where an animal is accommodated, are always in a neat and clean condition, to prevent the occurrence of a nuisance;

(d) shall exercise control over the animals in his or her custody, and prevent the animals concerned damaging other property or gardens; and

(e) may not allow any animal to enter or roam onto any portion of a public road.

(2) When any provision of subsection 10(1) of this by-law has been transgressed, the Municipality may remove the offending animal and serve a written notice on the owner or the person in charge of such animal, to comply too the provisions of subsection 10(1) of this by-law, within the period stipulated in the notification concerned.

(3) When any provision of this by-law or any legislation with regard to animal welfare have been transgressed, the Municipality may inform any official of an

animal welfare organization, to implement actions in terms of the Animal Protection Act, 1962 (Act No 71 of 1962), as amended, to address the transgression and / or matter.

(4) When the owner or person in charge of an animal, give notice to the Municipality that a notification issued by the Municipality in terms of subsection 10(2) of this by-law has been complied with, the Municipality may hand over the offending animal to the owner or the person responsible for such animal, and recover the costs incurred by the Municipality for the removal, temporary safekeeping, care and transport of the animal, from such owner or person responsible for the animal concerned.

(5) When a notification issued in terms of section 10(2) of this by-law has not been complied with, and without limiting the right of the Municipality to institute further prosecution, any animal removed from a premises in terms of subsection 10(2) of this by-law, shall be considered to be impounded in terms of provisions of the Impoundment of Animals By-law of the Theewaterskloof Municipality.

11. THE KEEPING OF ANIMALS

(1) When animals that are kept on a premises becomes a public nuisance, the Municipality may by means of written notification to the owner or the occupant of such a premises, instruct such owner or occupant of the premises concerned to attend to the nuisance created.

(2) The Municipality may dictate steps to be implemented or work to be undertaken, to address or resolve or mitigate or prevent the nuisance concerned.

(3) All actions undertaken by the person concerned in terms of subsection 10(1) of this by-law, to attend to the reported nuisance, shall be for the account of the person concerned.

(4) When the owner of an animal fail to implement the measures required in terms of subsection 10(1) of this by-law, the Municipality may implement the required steps to rectify the situation or may impound such an animal in terms of the provisions of the Impoundment of Animals By-law of the Theewaterskloof Municipality, and recover the costs therefore from the owner of the animal concerned.

(5) The Municipality may enter into a service delivery agreement with any organization or institution to render any service with regard to the control of the keeping of animals, including the licensing of dogs.

12. THE DESTRUCTION AND STERILIZATION OF ANIMALS

(1) The Municipality may order the destruction of an animal in a humane manner, when it –

(a) has been found by a veterinary surgeon, that an animal is to dangerous, wild, uncontrollable, injured or malicious, to return it to the owner or the person in charge of such animal, and that such animal pose a danger to people, other animals or property, and on condition that –

(i) a written notice containing all the particulars and reasons for the intended action, is served on the owner of such an animal, where the contact particulars of the owner is known, and / or where the owner can be traced by means of the identification marks or a micro-chip on the animal; or

(ii) when it is an emergency situation, and it is impractital or impossible to give written notice to the owner of such animal, a verbal notification or any other practical method shall suffice as formal notification; and

(b) has been found by a veterinary surgeon, that an animal is injured in such a way or is so critically ill or totally out of control, that the most humane action shall be to destroy such animal.

(2) When animals are to be destroyed in terms of subsection 12(1) of this by-law, it shall be done by a registered veterinary surgeon, on condition that the finishing off of such animal shall be in an acceptable and humane manner, with the minimum suffering for the animal concerned.

(3) An authorized official may be means of a written notification, instruct the owner of a dog or cat, that such animal must be sterilized, or request a veterinary surgeon to sterilize a dog or cat, when considered necessary for the following reasons -

(a) for the well-being of a dog or a cat

(b) to prevent a nuisance;

(c) when such dog or cat is a vagrant animal; or

(d) when requested by the owner of an animal,

on condition that a written notice containing all the particulars and reasons for the intended action, is served on the owner of such animal, where the contact particulars of the owner is known, and / or where the owner can be traced by means of the identification marks or a micro-chip on the animal concerned, and the costs of sterilization may be recovered from the owner of the animal

concerned, and when the owner cannot be traced, an authorized official may instruct that the sterilization of such an animal must proceed.

(4) When the owner of a dog or cat has been instructed to sterilize an animal, the owner concerned shall adhere to the instruction and provide proof of the sterilization of the animal concerned by a registered veterinary surgeon to an authorized official.

(5) Any person who fail to comply with a notification, as contemplated in subsection 12(1) of this by-law, or who contravenes subsections 12(2), 12(3) or 12(4) of this by-law, is guilty of an offence and the Municipality may impound the animal concerned in terms of the provisions of the Impoundment of Animals By-law of the Theewaterskloof Municipality.

13. TRADING WITH ANIMALS

No person may trade with animals from a mobile unit or a vehicle, or on a public road or a public place.

CHAPTER 3:
PROVISIONS WITH REGARD TO THE KEEPING OF DOGS, CATS AND PETS

Part 1 – General Provisions regarding Dogs and Cats

14. NUMBER OF DOGS AND CATS

(1) Subject to the provisions of section 15 of this by-law, nobody may keep without the prior written approval of the Municipality –

(a) more than two (2) dogs; and

(b) more than two (2) cats,

on any premises.

(2) An application for exceeding the number of animals to be kept on a premises, as contemplated in subsection 14(1) of this by-law, shall include an exposition of the breed, gender, age and the additional number of dogs and / or cats for which an application is submitted, as well as the consent and / or comments of the adjoining property owners or occupants of premises.

(3) The conditions and restrictions imposed in terms of section 17 of this by-law, with regard to the number of animals that may be kept on a premises, shall not

be applicable for a period of ten (10) weeks from the date of birth of the progeny of a female animal, which is kept in terms of the provisions of this by-law.

15. BREEDERS OF DOGS AND CATS

(1) An owner or a breeder of dogs or cats, who wish to keep more than two (2) dogs or cats on a premise for breeding purposes, shall obtain the approval of the Municipality therefore.

(2) Any person who fails to obtain the approval of the Municipality, as contemplated in subsection 15(1) of this by-law, shall be guilty of an offence.

(3) The provisions of section 5 of this by-law shall be *mutis mutandis* applicable on an application in terms of section 15(1) of this by-law.

16. BREEDERS OF PETS

(1) A person who intent to breed with other kinds of pets shall submit an application for approval to the Municipality, prior to such breeding activities.

(2) The provisions of section 5 of this by-law shall be *mutis mutandis* applicable on an application in terms of section 16(1) of this by-law.

17. CONDITIONS AND RESTRICTIONS FOR APPROVALS

The approvals of the Municipality in terms of section 4, and subsections 14(1), 15(1) and 16(1) of this by-law, may be subject to such restrictions and conditions as deemed necessary by the Municipality, after consultation with other responsible authorities and institutions.

18. WITHDRAWAL OF APPROVALS

(1) When a person contravenes any condition or restriction imposed in terms of section 17 of this by-law, or fail to adhere thereto, the Municipality may after the expostulations of the person has been heard, withdraw any or all the approvals for the keeping of animals and may remove the animals concerned from the involved premises for safe keeping by an animal welfare organization or at a pound.

(2) All costs incurred by the Municipality for such removal and / or safekeeping of animals, as contemplated in subsection 18(1) of this by-law, shall be recovered from the owner or person in charge of such animals.

19. DOGS, CATS AND OTHER ANIMALS ON PUBLIC PLACES AND PUBLIC ROADS

(1) Subject to the provisions of the Public Amenities By-law of the Theewaterskloof Municipality, the owner or the person in charge of any dog, cat, cattle, horse or any other animal, may not bring such animal or allow such animal on a public place or a public road, except in the case of a dog when it is held by a responsible person on a lease or in a harness, or in the case of other animals when such animal is under the physical control of the owner or another responsible person in charge of such animal.

(2) Nobody may disregard a notice board at a public place, prohibiting the access of any dog or horse or any other animal to such public place.

(3) Except in the case of a blind person who is accompanied by a guide dog, any person in charge of a dog on a public road or a public place, shall remove the faeces of such dog, by wrapping it in plastic or paper and placing it in any container provided for waste.

Part 2 – Spesific provisions with regard to dogs

20. CONTROL OVER AND THE LICENSING OF DOGS

(1) Nobody who is the owner of a dog may –

(a) keep a dog, without paying a license fee for dogs as required when imposed by the Municipality, and when the licensing of dogs are applicable, the owner of a dog shall provide proof of the payment for a dog license on request of an authorized official;

(b) allow any lewd bitch on a public road or a public place, without being under any type of control or without a lease or a harness;

(c) incite any dog to attack or to inconvenience or to chase any person or other animal;

(d) keep any dog for the use of such animal for dog fights;

(e) keep a dog on a premises which is not properly fenced in;

(f) allow a dog to –
(i) trespass on private property;
(ii) be a danger for traffic and pedestrians on any public road;

(iii) be a danger for persons outside the premises on which such dog is kept; or

(iv) be a danger for officials of the Municipality who must enter the premises concerned in the execution of their duties;

(g) neglect to post notices on conspicuous places on a premises, that a vicious dog is kept on such a premises; and

(h) allow that any dog kept on a premises –

(i) by continuous barking, yapping , whining or howling, and exceeding the maximum sound level of eighty five (85) dBA;

(ii) by charging out of habit at vehicles, other animals, poultry, birds or persons outside the premises where the animal is kept; or

(iii) by revealing any other bad habits,

disturb the convenience, comfort, peace and quiet of adjacent neighbours.

(2) The Municipality may impound any dog found on a public road or a public place, or who contravenes the provisions of this by-law by creating a nuisance, in terms of the stipulations of the Impoundment of Animals By-law of the Theewaterskloof Municipality.

(3) A dog impounded in terms of subsection 20(2) of this by-law, may only be released in the care of the owner or the person responsible for such dog, on payment of the prescribed amount determined by the Municipality and on submission of reasonable proof of ownership.

CHAPTER 4:
ACCOMMODATION FOR DOGS AND CATS, PET PARLOURS AND PETSHOPS

21. APPROVAL TO TRADE

(1) No place of accommodation for dogs, place of accommodation for cats, pet parlour or pet shop may be operated without the approval of the Municipality, and such approval may be subject to certain conditions.

(2) A person who wishes to operate a place of accommodation for dogs, a place of accommodation for cats, a pet parlour or a pet shop may not allow that the operation of such a business, create a public nuisance or a nuisance for other persons.

CHAPTER 5:
CO-OPERATION BETWEEN MUNICIPALITIES

22. ARRANGEMENTS FOR SERVICE DELIVERY

For purpose of ensuring optimal service delivery, the Municipality may enter into service delivery agreements with the District Municipality, any other municipality or any organization or institution.

CHAPTER 6:
GENERAL PROVISIONS

23. RIGHT OF ACCESS AND INSPECTION

(1) Any properly authorized official of the Municipality, is authorized to enter any premises within the area of jurisdiction of the Municipality, and to inspect such premises for purpose of determining whether the provisions of this by-law have been adhered to, subject thereto that a private residence may not be entered for routine inspection purposes without the explicit approval of the owner or occupant of such residence.

(2) When a premise is accessed for an inspection in terms of subsection 23(1) of this by-law, the authorized official shall provide proof of his or her identification on request of any person, by showing a written authorization and proof of identification.

(3) The authorized official may be accompanied by any person, who may assist with any inspection.

(4) Any person who refuse to grant access to a premises to a properly authorized official of the Municipality, when access is requested by such authorized official, or who obstructs or inhibits an authorized official in the execution of his or her duties in terms of the provisions of this by-law, or any person who refuse to provide information lawfully requested by an authorized official or deliberately provide false and misleading information to an authorized official, shall be gulity of an offence.

24. 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 24(2)(a), 24(2)(b) or 24(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.

25. TRANSITIONAL ARRANGEMENTS

A person who on the operative date of this by-law, is keeping more animals than the number contemplated in subsection 4(1) of this by-law, may not replace such animals, when one or more of them pass away or are done away with.

26. 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 such a 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.

27. 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 officer or posted on a notice board, 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.

28. EXEMPTION FROM PROVISIONS

Notwithstanding the provisions of this by-law, the Municipality may exempt any person or group of persons, from any or all the provisions of this by-law, in terms of the principles as contemplated in subsection 8(1) of this by-law.

29. COMMUNITY LIAISON FORUMS

(1) The Municipality may establish liaison forums in a community for the purpose of –

(a) creating opportunities for the community to participate in the affairs of the Municipality;

(b) advising the Municipality on matters, referred to a liaison forum by the Municipality, and

(c) promoting a safe and healthy environment .

(2) A liaison forum may consist of –

(a) a member or members of an interested group, or affected persons;

(b) a member or members of the 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, 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 29(2) of this by-law, may on their own initiative provide input to the Municipality for consideration.

30. 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.

31. 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 6234 dated 8 March 2005	By-laws regarding Public Nuisances and the Keeping of Animals	As a whole

32. SHORT TITLE

This by-law shall be called the Public Nuisances and Nuisances resulting from the Keeping of Animals By-law of the Theewaterskloof Municipality.

33. OPERATIVE DATE

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

MUNISIPALITEIT VAN THEEWATERSKLOOF

VERORDENING INSAKE OPENBARE OORLASTE EN OORLASTE WAT SPRUIT UIT DIE AANHOU VAN DIERE

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

AANHEF

Die doel van die verordening is om –

i) die grondwetlike reg wat elke persoon het op 'n omgewing wat nie skadelik is vir sy of haar gesondheid of welsyn nie, te beskerm en te bevorder, deur 'n omgewing te skep waarin die algemene publiek vrede en harmonie kan geniet; en
ii) die dienslewering, maatskaplike en ekonomiese ongelykhede van die vorige plaaslike regeringbestel te oorkom, deur die nuwe doelwitte vir plaaslike regering, soos uiteengesit in artikel 152 van die Grondwet van die Republiek van Suid-Afrika, 1996, na te streef.

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3. Openbare oorlaste

HOOFSTUK 2: ALGEMENE BEPALINGS INSAKE DIE AANHOU VAN DIERE

4. Toestemming om diere en / of bye aan te hou
5. Planne vir strukture
6. Oorweging van aansoeke en die oplê van voorwaardes vir die aanhou van diere
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32. Kort titel
33. Inwerkingtreding

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 -

"agent", wat optree namens die eienaar van 'n eiendom, 'n persoon wat deur die eienaar aangestel en gemagtig is om -

(a) die huurgelde vir of ander betalings ten opsigte van sodanige eiendom, namens die eienaar te ontvang; of
(b) betalings namens die eienaar, ten opsigte van sodanige eiendom te maak;

"*bona fide* landboudoeleindes", 'n landbou of landbou verwante aktiwiteit, wat vir winsbejag beoefen word en as sulks, as besigheid by die Suid-Afrikaanse Inkomstediens geregistreer is;

"diere", enige perd, bees, donkie, muil, kameel, skaap, bok, vark, hoender of ander voël, pluimvee, volstruis, haas, konyn, hond, kat of ander huisdier of voël, of 'n wilde dier, voël of reptiel wat in gevangenisskap aangehou word of onder iemand se beheer is, of insekte soos bye, maar nie beperk daartoe, wat deur 'n persoon aangehou of beheer word;

"Distriksmunisipaliteit", die Overberg Distriksmunisipaliteit gestig in terme van artikel 12 van die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet No 117 van1998), soos gewysig, ingevolge Provinsiale Kennisgewing 486 van 2000, gedateer 22 September 2000, en soos gewysig per Provinsiale Kennisgewing 162 van 2004, gedateer 20 Augustus 2004, wat insluit enige verwysing na behoorlike gemagtigde en / of aangestelde beamptes en / of diensverskaffers in terme van diensleweringooreenkomste van die Overberg Distrikmunisipaliteit;

"eienaar", is -

(a) met betrekking tot 'n dier, iemand wat in besit is van sodanige dier, of belas is met of verantwoordelik is vir die sorg, bewaring of beheer van sodanige dier; en
(b) met betrekking tot eiendom, die geregistreerde eienaar van 'n eiendom, en sluit in, die okkupeerder, huurder, serwituuthouer, trustee, eksekuteur, kurator of aangewysde agent of administrateur van sodanige eiendom;

"**gemagtigde beampte", 'n** beampte, gemagtig ingevolge artikel 8 van die Wet op Dierebeskerming, 1962 (Wet No 71 van 1962), 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 deur die Munisipaliteit van Theewaterskloof gemagtig is om die bepalings van hierdie verordening af te dwing;

"honde herberg", wat insluit enige verwysing na **"hondehokke"**, enige inrigting waar die teel, versorging of afrigting van honde plaasvind, wat 'n verwysing insluit na 'n skut, hetsy dit deur 'n openbare instelling of op 'n ander manier bedryf word;

"implement", enige elektriese of meganiese werktuig of implement , of 'n werktuig of implement met 'n alternatiewe aandrywing, wat vir konstruksie, kommersiële of landbou doeleindes, of enige ander doeleindes gebruik word;

"katte herberg", enige inrigting waar katte geteel, versorg of aangehou word;

"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;

"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 homself 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 homself of haarself of ander persone inhou, of as sodanig inbreek maak op die grondwetlike regte van ander persone nie;

"openbare oorlas", wat die begrip **"oorlas"** insluit, enige handeling, versuim of toestand op of by enige perseel of 'n openbare plek of openbare pad, met inbegrip van enige verwysing na enige gebou, struktuur of gewas op sodanige perseel of openbare plek of openbare pad, wat die veiligheid van persone of eiendom in gevaar kan stel of wat onooglik, hinderlik, aanstootlik of 'n steuring vir ander mense is;

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

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

"perseel", enige grond, geleë binne die regsgebied van die Munisipaliteit van Theewaterskloof, waarvan die buitegrense afgebaken is op 'n algemene plan of diagram of deeltitelplan, wat ingevolge die toepaslike wetgewing geregistreer is;

"pluimvee", enige hoender, gans, eend, kalkoen, makou, hetsy mak of wild;

"ras", beteken 'n populasie van diere wat aanteel, met 'n hoë mate van genetiese stabiliteit, soos gekenmerk deur identifiseerbare uniformiteit in raskenmerke en -voorkoms;

"teler", die persoon wat as geregistreerde teler, die eienaar van 'n vroulike teeldier is ten tyde van haar herhaaldelike natuurlike of kunsmatige bevrugting, of by geboorte van haar nageslag;

"struktuur", enige houer, stal, skuur, varkhok, kraal, voëlhok, hoenderhok, hok, kamp, duiwehok of gebou wat gebruik word vir die aanhou van diere;

"troeteldier", enige mak dier wat normaalweg in 'n huishouding aangehou word vir kameraadskap of vermaak, en sluit in, maar is nie beperk tot, enige kanarie, budjie, papegaai, enige ander tipe voël, of enige hond, kat ,hamster, konyn, of enige ander huisdier;

"troeteldiersalon", 'n onderneming of fasiliteit waar troeteldiere versorg word;

"troeteldierwinkel", 'n onderneming waar troeteldiere aangehou word vir die koop en / of verkoop daarvan;

"verantwoordelike owerheid", die Munisipaliteit van Theewaterskloof of enige nasionale of provinsiale department of instelling, wat uit hoofde van hul funksies en bevoegdhede, beperking of voorwaardes ten opsigte van die aanhou van diere mag oplê;

"veearts", 'n persoon wat ooreenkomstig die bepalings van die Wet op Veterinêre en Para-Veterinêre Beroepe, 1982 (Wet 19 van 1982), as sodanig gekwalifiseer is en as sulks praktiseer; en

"voël", enige duif, pou, swaan, fisant, patrys, tarentaal, volstruis en enige ander mak of wilde voël wat in gevangenskap is of onder beheer van iemand is;

2. TOEPASSING

(1) Die bepalings van subartikels 4(1), 14(1), 15(1) en 21(1) van hierdie verordening, is nie van toepassing op –

(a) 'n perseel of grond wat vir *bona fide* landboudoeleindes aangewend word of gesoneer is nie; of

(b) 'n perseel of eiendom wat deur die Munisipaliteit geïdentifiseer word, waar die aanhou van diere of die versorging van diere vir handelsdoeleindes, of die bedryf van troeteldiersalonne, troeteldierwinkels, of honde en katte herberge, in terme van 'n goedgekeurde soneringskema, plaasvind en toelaatbaar is.

(2) 'n Persoon wie diere aanhou op persele soos bedoel in subartikel 2(1), van hierdie verordening, word nie vrygestel van die bepalings van enige ander verordening van die Munisipaliteit of ander wetgewing, met betrekking tot die ontstaan of veroorsaking van 'n openbare oorlas nie.

HOOFSTUK 1
ALGEMENE BEPALINGS INSAKE OPENBARE OORLASTE

3. OPENBARE OORLASTE

(1) Niemand mag 'n openbare oorlas veroorsaak nie.

(2) Die volgende situasies en handelinge word geag om openbare oorlaste te wees of oorlaste te veroorsaak, indien bewyse daarvoor verskaf kan word, en sluit in, maar is nie beperk tot –

(a) die aanhou van diere of reptiele op 'n perseel, uitgesluit diere en reptiele wat as troeteldiere aangehou word, tensy die perseel ingevolge 'n toepaslike soneringskema voorsiening maak vir 'n gebruik om sodanige diere of reptiele aan te kan hou;

(b) enige persoon wat toelaat, dat enige dier, reptiel of hond –
  (i) buite 'n perseel waarop dit aangehou word, rondloop of ronddwaal op openbare of privaat eiendom, terwyl dit nie onder enige vorm van beheer is nie, of in die geval van 'n hond nie aan 'n leiband of harnas is nie;
  (ii) aan 'n besmetlike of aansteeklike siekte ly, sonder die nodige mediese behandeling vir sodanige siekte; of
  (iii) op openbare of privaat eiendom 'n oorlas veroorsaak of aanstoot gee of 'n gevaar inhou vir ander diere, aangrensende grondeienaars of die algemene publiek;

(c) enige persoon in beheer van 'n dier wat toelaat, dat sodanige dier op 'n openbare pad of op openbare grond ontlas, en versuim om die ontlasting van sodanige dier onmiddelik te verwyder;

(d) die aanhou van troeteldiere deur 'n persoon op so 'n wyse, dat dit 'n oorlas veroorsaak of 'n potensiële oorlas kan veroorsaak;

(e) die oornag parkering van meer as een swaar voertuig of boot of vaartuig op 'n perseel, wat vir residensiële doeleindes gesoneer is;

(f) die parkering van 'n implement op 'n perseel, wat vir residensiële doeleindes gesoneer is;

(g) die herstel, onderhoud of diens van 'n swaar voertuig, enige ander voertuig, boot, vaartuig of implement op 'n perseel, wat vir residensiële doeleindes gesoneer is;

(h) afloopwater wat die gevolg is van die was van 'n swaar voertuig, enige ander voertuig, boot, vaartuig of implement, wat besmet is met olies, chemiese middels of enige ander vloeistof, afval, menslike of dierlike afval, of enige ander middel, wat 'n gesondheidsgevaar vir mense of 'n besoedelingsgevaar vir die omgewing inhou of sleg ruik;

(i) die parkering van 'n voertuig, sleepwa, karavaan, swaar voertuig, boot, vaartuig of implement op sodanige wyse op 'n perseel, dat dit die grense van die perseel waarop dit geparkeer staan oorskry;

(j) die afvuur van vuurwerke op of oor privaat eiendom, sonder die vereiste toestemming van die Munisipaliteit, en op so 'n wyse dat die vuurwerke of brokstukke daarvan op aangrensende of ander persele mag land, wat 'n brandgevaar vir sodanige persele mag inhou;

(k) die bedryf van 'n besigheid op 'n residensiële perseel op so 'n wyse, dat nieteenstaande die vasgestelde voorwaardes vir goedkeuring, soos verleen deur die Munisipaliteit vir die afwyking of die nuwe of addisionele grondgebruikregte op die perseel, 'n oorlas vir aangrensende grondeienaars veroorsaak word –
  (i) deurdat aktiwiteite op die perseel tot so 'n mate toegeneem het, dat die beperkinge en voorwaardes soos neergelê deur die Munisipaliteit met die oorspronklike goedkeuring, oorskry word;
  (ii) weens die berging of stoor van goedere of materiale op die perseel op so 'n wyse dat dit algemeen sigbaar is van buite;
  (iii) weens die vibrasie of geraas, wat die maksimum geraasvlak van vyf-en-tagtig (85) dBA oorskry, van pompe, kompressors, waaiers of soortgelyke masjinerie in bedryf op die perseel;
  (iv) weens die speel van harde musiek, wat die maksimum geraasvlak van vyf-en-tagtig (85) dBA oorskry;
  (v) deur die gebruik van spuitverf of ander vlugtige stowwe op so 'n wyse, dat die sproei, reuke of gasse na aanliggende persele versprei;
  (vi) deur die vervaardiging van bepaalde goedere, of die aktiwiteite verbandhoudend tot sodanige vervaardiging prosesse, of die materiaal gebruik vir sodanige vervaardiging prosesse;
  (vii) deur die frekwensie van aflewerings, of die aantal persone wat die perseel besoek;
  (viii) deur die frekwensie van oplaai en aflaai van goedere op voertuie in die straat of op die perseel;
  (ix) deur die samedromming van werknemers op of naby die perseel;
  (x) deur die frekwensie van die aankoms, vertrek of parkering van voertuie op die perseel of in die aanliggende openbare pad, as gevolg van die aktiwiteite wat op die perseel beoefen word;
  (xi) enige stoep, veranda of steeg van 'n perseel of onbeboude grond wat aan sodanige perseel grens of enige gedeelte daarvan wat vir

die publiek toeganklik of sigbaar is, gebruik word vir die stoor, opstapel of storting of wegdoen van goedere, afval van sodanige perseel en afvalmateriaal, wat onooglik is en 'n brand- en / of gesondheidsrisiko inhou; of

(xii) enige stoep, veranda of steeg van 'n perseel of onbeboude grond wat aan sodanige perseel grens of enige gedeelte daarvan wat vir die publiek toeganklik of sigbaar is gebruik word vir die doel om enige goedere, artikels, dienste of handelsware uit te stal, te hou, te verkoop of vir verkoop aan te bied, sonder die skriftelike toestemming van die munisipaliteit.

(l) enige persoon wat toelaat dat vakante persele of geboue –

(i) onooglik raak of aanstootlik voorkom of tot so 'n mate vervalle raak, dat die markwaardes van aangrensende eiendomme nadelig beïnvloed word;

(ii) 'n skuiling vir leegleêrs en rondlopers word, en onwettig bewoon of beset word;

(iii) onbeheerd oorgroei raak met gras, bome, struike of ander gekweekte of ongekweekte plantmateriaal;

(iv) onooglik word weens die voorkoms van papiere, kartonne, tuinafval, bourommel en ander materiale daarop; of

(v) 'n stortingsterrein word vir afvalmateriaal;

(m) enige persoon wat toelaat dat -

(i) afval wat op besigheidspersele gegenereer word, in houers vir straatvullis gestort word;

(ii) afval wat op besigheidspersele gegenereer word, gestort of gestoor word op 'n gedeelte van sodanige perseel wat sigbaar is vanaf enige straat of sypaadjie, tensy dit gestort of gestoor word in 'n vullishouer goedgekeur deur die Munisipaliteit;

(iii) reklame of promosie aktiwiteite op besigheidspersele verwarring of gevaar veroorsaak vir verbygaande verkeer of voetgangers, of dat voetgangers verhinder word om die sypaadjie voor sodanige besigheidsperseel te gebruik;

(iv) winkeltrollies van 'n besigheid in strate, op sypaadjies of in publieke parkeerareas tot so 'n mate ophoop, dat voertuig- en / of voetgangerverkeer daardeur benadeel word;

(v) 'n verkoeler, 'n kompressor, 'n waaier of ander masjienerie van 'n besigheid op so 'n wyse bedryf word, dat die vibrasie of geraas, wat die maksimum geraasvlak van vyf-en-tagtig (85) dBA oorskry, daarvan 'n oorlas vir aangrensende persele veroorsaak;

(vi) aflewerings by of kliënte van 'n besigheidsperseel, die okkupeerders van aangrensende persele se normale toegang tot hulle eie persele belemmer;

(vi) enige stoep, veranda of steeg van 'n besigheidsperseel of onbeboude grond wat aan sodanige perseel grens of enige gedeelte daarvan wat vir die publiek toeganklik of sigbaar is, gebruik word vir die stoor, opstapel, storting of wegdoen van goedere, afval van sodanige besigheid en afvalmateriaal, wat onooglik is en 'n brand- en / of gesondheidsrisiko inhou;

(vii) enige stoep, veranda of steeg van 'n besigheidsperseel of onbeboude grond wat aan sodanige perseel grens of enige gedeelte daarvan wat vir die publiek toeganklik of sigbaar is, gebruik word vir die doel om enige goedere, artikels, dienste of handelsware uit te stal, te hou, te verkoop of vir verkoop aan te bied, sonder die skriftelike toestemming van die munisipaliteit.

(n) die algemene gedrag van persone in en op openbare paaie en openbare plekke -

(i) deur te skree, te gil, te fluit of enige ander geraas te maak, wat die maksimum geraasvlak van vyf-en-tagtig (85) dBA oorskry, en dat 'n oorlas daardeur veroorsaak word;

(ii) deur 'n voertuig op so 'n wyse te bestuur of daarmee stil te hou, dat voetganger- of voertuigverkeer belemmer word;

(iii) deur voetganger- of voertuigverkeer te belemmer, met fietse of soortgelyke vervoermiddele;

(iv) deur trollies of soortgelyke toestelle op so 'n wyse te stoot of te parkeer, dat dit voetganger- en / of voertuigverkeer belemmer;

(v) deur doelbewus in groepe te loop of te staan, sodat voetganger- of voertuigverkeer daardeur belemmer word;

(vi) deur op so 'n wyse goedere by padkruisings te koop aan bied, dat dit die aandag van voertuigbestuurders aftrek, wat aanleiding gee tot verkeersrisiko's;

(vii) deur op so 'n wyse dienste of goedere langs 'n openbare pad aan te bied vir verkoping, dat voetganger- of voertuigverkeer belemmer word of die aandag van voertuigbestuurders afgetrek word, wat aanleiding gee tot verkeersrisiko's;

(viii) deur 'n voertuig wat deur diere getrek word, in spitsverkeer te gebruik, of op paaie waar druk voertuigverkeer voorkom;

(ix) deur onder die invloed van drank en / of dwelms te wees, en daardeur 'n oorlas vir ander persone te veroorsaak;

(x) deur wanordelik of oproerig op te tree;

(xi) deur te vloek of onbetaamlike taal te gebruik; of

(xii) deur te veroorsaak dat ander persone deur sigaretrook of enige ander tipe rook gehinder word;

(o) die vertoning van enigiets wat ingevolge algemene publieke mening visueel aanstootlik is;

(p) die gebruik van enige toestel wat radio- en televisieontvangs versteur;

(q) die uitlokking of oorreding van enige persoon vir die doeleindes van prostitusie of enige ander onsedelike daad;

(r) om aan te hou om te bedel van 'n persoon of om 'n persoon te agtervolg, nadat sodanige persoon reeds afkeurend gereageer het op die bedelary;

(s) om op enige perseel harde musiek te speel of op so 'n wyse megafone, musiekinstrumente of luidsprekers te gebruik, dat die maksimum geraasvlak van vyf-en-tagtig (85) dBA oorskry word en dat dit 'n steurnis en 'n oorlas veroorsaak;

(t) 'n persoon wat homself of haarself of enige dier was of bad in 'n openbare stroom, poel, watertrog, standkraan, fontein of op enige plek waar sodanige handeling spesifiek verbied word deur 'n kennisgewingbord; of

(u) enige persoon wat 'n voertuig was of diens op of in 'n openbare pad of 'n openbare plek.

(3) In die geval waar daar 'n oortreding van enige van die bepalings van subartikel 3(2) van hierdie verordening voorkom, kan die Munisipaliteit -

(a) 'n kennisgewing op sodanige eienaar of okkupeerder of beweerde oortreder beteken, om binne 'n bepaalde tyd die handeling te staak of die oorlas uit die weg te ruim; en

(b) by versuim van die eienaar of die okkupeerder van 'n perseel, of die beweerde oortreder om aan 'n kennisgewing gevolg te gee, en sonder inkorting van die Munisipaliteit se reg om vervolging in te stel, kan die Munisipaliteit alle nodige maatreëls tref om die oorsaak of die bron van sodanige oorlas te verwyder en mag die Munisipaliteit enige kostes in verband daarmee aangegaan, van die persoon wat verantwoordelik vir die oorlas was of van die eienaar of okkupeerder van die perseel waarop die oorlas ontstaan of moontlik nog voortgesit word verhaal, deur 'n rekening daarvoor te lewer aan die eienaar of die okkupeerder van die betrokke perseel te lewer, ongeag wie ook al vir die betrokke oorlas verantwoordelik was.

(4) In die geval waar enige beboude of onbeboude of perseel ongemagtig deur persone gebruik word vir enige doel wat aanleiding kan gee tot 'n oorlas of indien enige van die oorlaste soos in subartikel 3(2) van hierdie verordening voorsien, op sodanige perseel voorkom, kan die Munisipaliteit 'n skriftelike kennisgewing aan die eienaar of die okkupeerder van sodanige perseel beteken, waarin daar vereis word –

(a) dat die betrokke eiendom of perseel voor 'n bepaalde datum tot die

bevrediging van die Munisipaliteit behoorlik skoongemaak, en afgesluit of omhein word; en

(b) dat die afsluiting of omheining van sodanige aard en struktuur moet wees, dat dit die toegang van ongemagtigde persone tot die betrokke perseel en die onwettige storting of ophoping van materiale of die herhaling van enige ander oorlaste daarop sal verhoed.

(5) Vir die toepassing van hierdie verordening word enige handeling of toestand op enige perseel of openbare pad of openbare plek, wat die veiligheid van enige persoon of ander eiendom in gevaar stel, of wat wanordelik, ergerlik, lastig, aanstootlik of rusversteurend is vir ander mense, as 'n openbare oorlas beskou.

(6) Die Munisipaliteit kan na oorweging van -

(a) insette of kommentaar verkry, met verwysing na situasies en handelinge in terme van artikel 3(2);

(b) die ligging, geografiese kenmerke of grootte van die perseel ten opsigte waarvan 'n aansoek gerig word;

(c) die dokumentasie, struktuur- en bouplanne, sonering en grondgebruik goedkeurings; en / of

(d) enige ander inligting wat op die aansoek betrekking het,

'n aansoek weier of goedkeur en mag enige voorwaardes oplê met die goedkeuring van 'n aansoek.

HOOFSTUK 2:
ALGEMENE BEPALINGS INSAKE DIE AANHOU VAN DIERE

4. TOESTEMMING OM DIERE EN / OF BYE AAN TE HOU

(1) Niemand mag sonder die skriftelike toestemming van die Munisipaliteit enige diere, met uitsondering van troeteldiere, op enige perseel of eiendom wat nie vir landboudoeleindes gesoneer is nie, aanhou of toelaat dat dit aangehou word nie, en die Munisipaliteit mag ook die tipe, die getal, en die geslag van diere wat aldus aangehou mag word bepaal, asook die areas waarbinne die aanhou van sodanige diere of die aanhou van bye in totaal verbied sal word.

(2) Enige persoon wat aansoek doen om 'n permit om 'n wilde dier aan te hou, moet wanneer so 'n aansoek ingevolge subartikel 4(1) van hierdie verordening ingedien word by die Munisipaliteit, die Munisipaliteit voorsien van die nodige permitte wat deur die bevoegde owerhede uitgereik en vereis word.

(3) Bye mag slegs aangehou word op persele wat vir landboudoeleindes gesoneer is, en die Munisipaliteit mag die wenslikheid om bye in 'n spesifieke area aan te hou of om bykorwe in 'n industriële of ander area te herstel bepaal, en die ligging, plasing en aantal byekorwe wat aangehou mag word op 'n perseel en die voorwaardes in terme waarvan die herstel van byekorwe op 'n perseel toegelaat sal word, voorskryf.

(4) Ten einde 'n aansoek ingevolge subartikel 4(1) van hierdie verordening te kan oorweeg moet die aansoeker, ook die insette en kommentaar van die eienaars of okkupeerders van omliggende persele bekom, soos deur die Munisipaliteit bepaal.

(5) Enige persoon wat die bepalings van subartikel 4(1) van hierdie verordening oortree of versuim om aan 'n vasstelling in terme van subartikels 4(2), 4(3) of 4(4) van hierdie verordening te voldoen, is skuldig aan 'n oortreding.

5. PLANNE VIR STRUKTURE

Die Munisipaliteit mag van persone wat aansoek doen om diere aan te hou, vereis om 'n aansoek op die voorgeskrewe aansoekvorm in te dien en om gedetailleerde struktuur- en bouplanne van die strukture waarin diere gehuisves sal word te verskaf, wat aan die Munisipaliteit en / of die Distriksmunisipaliteit se spesifikasies, soos toepaslik, moet voldoen.

6. OORWEGING VAN AANSOEKE EN DIE OPLê VAN VOORWAARDES VIR DIE AANHOU VAN DIERE

(1) Die Munisipaliteit kan na oorweging van -

(a) insette of kommentaar verkry ingevolge subartikel 4(4) van hierdie verordening, oor die voorgestelde aanhou van diere;

(b) die ligging, geografiese kenmerke of grootte van die perseel ten opsigte waarvan 'n aansoek gerig word;

(c) die dokumentasie, struktuur- en bouplanne, en uiteensettings ingevolge artikel 5 van hierdie verordening ingedien; en / of

(d) enige ander inligting wat op die aansoek betrekking het, insluitend, maar nie beperk tot, die weidingsdrakrag van grond, die bestaande tipe omheinings en die beskikbaarheid van water,

'n aansoek weier of goedkeur.

(2) Indien 'n aansoek geweier word, moet die Munisipaliteit die redes vir sodanige

weiering aan die applikant verstrek en die applikant kennis gee van die reg tot appèl ingevolge artikel 26 van hierdie verordening.

(3) Die Munisipaliteit mag enige voorwaardes oplê met die goedkeuring van 'n aansoek.

7. SIGBAARHEID VAN STRUKTURE OP PERSELE

Strukture waarin diere aangehou word, moet soos toepaslik in terme van beleid per area, afgeskerm word.

8. OPSKORTING VAN VEREISTES EN DIE INTREKKING VAN GOEDKEURINGS

(1) Nieteenstaande die bepalings van hierdie verordening, mag die Munisipaliteit, na oorweging van alle voorwaardes ten opsigte van 'n aansoek, enige of alle vereistes van hierdie verordening te opsigte van 'n aansoek opskort en indien toepaslik ander spesifieke voorwaardes vir die spesifieke aansoek instel, met die spesifieke voorwaarde dat geen geldige beswaar van die eienaars of bewoners van omliggende eiendomme teen die betrokke aansoek ontvang was nie.

(2) Die Munisipaliteit kan enige goedkeuring verleen ingevolge hierdie verordening intrek, indien daar nie aan enige voorwaarde vir sodanige goedkeuring voldoen word nie.

9. GELDIGHEID VAN VORIGE GOEDKEURINGS

Alle vorige goedkeurings om diere aan te hou, wat uitgereik was ingevolge enige verordening wat herroep word, sal geag word as sou dit ingevolge hierdie verordening uitgereik gewees het, en sal geldig bly.

10. VERANTWOORDELIKHEDE VAN DIE EIENAAR OF BEWAARDER VAN DIERE

(1) Die eienaar van 'n dier of die persoon in beheer van 'n dier –

(a) mag nie veroorsaak of toelaat dat 'n dier die gerief, gemak, vrede en rus van ander mense versteur nie;

(b) moet toesien dat sodanige dier van behoorlike slaapplek, skuiling, water en kos voorsien word;

(c) moet ten alle tye die perseel waarop 'n dier aangehou word, die strukture waarbinne 'n dier gehuisves word en alle gepaardgaande toebehore, in 'n goeie en netjiese toestand hou om die ontstaan van 'n oorlas te voorkom;

(d) moet beheer uitoefen oor die diere in sy of haar bewaring, ten einde skade aan ander eiendom of tuine te verhoed; en

(e) mag nie enige dier op enige gedeelte van 'n openbare pad laat kom of toelaat dat dit op enige deel van 'n openbare pad ronddwaal nie.

(2) Waar enige van die bepalings van subartikel 10(1) van hierdie verordening oortree word, mag die Munisipaliteit enige dier betrokke laat verwyder en 'n skriftelike kennisgewing beteken aan die eienaar of die persoon in beheer van sodanige dier, om aan die bepalings van subartikel 10(1) van hierdie verordening te voldoen, binne die tydperk soos in sodanige kennisgewing gestipuleer word.

(3) Waar enige van die bepalings van hierdie verordening, of enige ander wetgewing met betrekking tot die beskerming van diere oortree word, mag die Munisipaliteit enige beampte van 'n dierebeskermingsvereniging versoek om optredes in terme van die Wet op Dierebeskerming, 1962 (Wet No 71 van 1962), soos gewysig, te implementeer, om die betrokke oortreding en / of situasie aan te spreek.

(4) Wanneer die eienaar of persoon in beheer van 'n dier, die Munisipaliteit in kennis stel dat daar voldoen is aan die kennisgewing uitgereik deur die Munisipaliteit in terme van subartikel 10(2) van hierdie verordening, kan die Munisipaliteit die betrokke dier terugbesorg aan die eienaar of die persoon in beheer daarvan, en die koste aangegaan deur die Munisipaliteit vir die verwydering, tussentydse bewaring, versorging en vervoer van die dier van sodanige eienaar of persoon in beheer van die betrokke dier verhaal.

(5) In die geval van die nie-nakoming van die kennisgewing beteken in terme van subartikel 10(2) van hierdie verordening, en sonder benadeling van die Munisipaliteit se reg om verdere vervolging in te stel, sal enige dier wat ingevolge subartikel 10(2) van hierdie verordening verwyder word as geskut geag word en sal die bepalings van die Verordeninge insake die Skut van Diere van die Munisipaliteit van Theewaterskloof van toepassing wees.

11. AANHOU VAN DIERE

(1) Wanneer ookal diere wat op enige perseel aangehou word, 'n openbare oorlas word, kan die Munisipaliteit by wyse van 'n skriftelike kennisgewing, die eienaar of die okkupeerder van sodanige perseel aansê om die oorsaak van sodanige oorlas te verwyder.

(2) Die Munisipaliteit mag die stappe voorskryf wat onderneem moet word, of die werk wat uitgevoer moet word vir die aanspreek of oplossing of vermindering of verhindering van die betrokke oorlas.

(3) Alle handelinge wat deur die betrokke persoon in terme van subartikel 10(1) van hierdie verordening onderneem moet word, sal vir die betrokke persoon se rekening wees.

(4) Indien die eienaar van 'n dier versuim om die maatreëls wat in terme van subartikel 10(1) van hierdie verordening gelas was te implementeer, kan die Munisipaliteit die vereiste stappe onderneem of in terme van die bepalings van die Verordening insake die Skut van Diere van die Munisipaliteit van Theewaterskloof optree, en die kostes van die eienaar van die betrokke dier verhaal.

(5) Die Munisipaliteit mag 'n dienslewering ooreenkoms met enige organisasie of instelling aangaan om enige diens met betrekking tot die beheer oor die aanhou van diere te lewer, insluitend die lisensiëring van honde.

12. AFMAAK EN STERILISASIE VAN DIERE

(1) Die Munisipaliteit mag die vernietiging van 'n dier op 'n menslike wyse gelas, wanneer dit –

(a) deur 'n veearts bevind word dat 'n dier te gevaarlik, wild, onbeheerbaar, beseer of boosaardig is om dit terug te besorg aan die eienaar of die persoon in beheer van sodanige dier, en dat sodanige dier 'n gevaar inhou vir mense, ander diere en eiendom, en op voorwaarde dat –

(i) 'n skriftelike kennisgewing met verstrekking van besonderhede en redes op die eienaar van sodanige dier bestel word, in die geval waar die kontakbesonderhede van die eienaar bekend is, en / of die eienaar opgespoor kan word deur middel van die identifikasiemerke op of 'n mikroskyfie aan die dier; of

(ii) indien daar 'n noodsituasie bestaan en dit onprakties of onmoontlik sal wees om 'n skriftelike kennisgewing aan die eienaar van sodanige dier uit te reik, 'n mondelingse kennisgewing of 'n kennisgewing op 'n ander praktiese manier aanvaarbaar sal wees; en

(b) deur 'n veearts bevind word dat 'n dier sodanig beseer of siek of buite beheer is, dat dit die menslikste sou wees om sodanige dier af te maak.

(2) Wanneer diere ingevolge subartikel 12(1) van hierdie verordening afgemaak moet word, moet dit gedoen word deur 'n geregistreerde veearts, op sodanige menslike wyse as wat nodig en aanvaarbaar mag wees, en wat so min as moontlik lyding vir die betrokke dier sal veroorsaak.

(3) 'n Gemagtigde beampte mag 'n hond of kat laat steriliseer deur 'n veearts of per kennisgewing gelas dat sodanige sterilisasie plaasvind, indien dit nodig geag word vir die volgende redes -

(a) vir die welsyn van 'n hond of 'n kat;

(b) om 'n oorlas te voorkom;

(c) waar die betrokke hond of kat 'n rondloperdier is; of

(d) op versoek van die eienaar van 'n dier,

en onderhewig daaraan dat 'n skriftelike kennisgewing met verstrekking van die besonderhede en redes vir die beoogde optredes op die eienaar van die dier beteken word, in die geval waar die besonderhede van sodanige eienaar bekend is en / of die eienaar opgespoor kan word deur middel van die identifikasiemerke op of 'n mikroskyfie aan die betrokke dier, met dien verstande dat die koste van sodanige sterilisasie van die betrokke eienaar verhaal mag word en indien die eienaar nie geïdentifiseer of opgespoor kan word nie, 'n gemagtigde beampte kan gelas dat die sterilisasie van sodanige dier moet voortgaan.

(4) Indien die eienaar van 'n hond of kat per kennisgewing gelas was om 'n dier te steriliseer, moet die eienaar van die dier die sterilisasie laat uitvoer en die bewys van sodanige sterilisasie van 'n geregistreerde veearts verkry en dit op versoek van 'n gemagtigde beampte toon.

(5) Enige persoon wat versuim om aan 'n kennisgewing, soos beoog in subartikel 12(1) van hierdie verordening te voldoen, of subartikel 12(2), 12(3) of 12(4) van hierdie verordening oortree, begaan 'n oortreding, en die Munisipaliteit mag in terme van die bepalings van die Verordening insake die Skut van Diere van die Munisipaliteit van Theewaterskloof, beslag lê op sodanige dier en dit laat skut.

13. HANDELDRYF MET DIERE

Geen persoon mag met 'n dier handeldryf op 'n openbare pad of openbare plek, of vanuit 'n mobiele eenheid of 'n voertuig nie.

HOOFSTUK 3:
BEPALINGS MET BETREKKING TOT DIE AANHOU VAN HONDE, KATTE EN TROETELDIERE

Deel 1 – Algemene Bepalings ten opsigte van honde en katte

14. GETAL HONDE EN KATTE

(1) Behoudens die bepalings van artikel 15 van hierdie verordening mag niemand op enige perseel –

(a) meer as twee (2) honde; en

(b) meer as twee (2) katte,

aanhou sonder die vooraf skriftelike toestemming van die Munisipaliteit nie.

(2) 'n Aansoek soos voorsien in subartikel 14(1) van hierdie verordening, om meer diere op 'n perseel aan te hou as wat toegelaat word, moet 'n uiteensetting bevat van die ras, geslag, ouderdom en die addisionele getal honde en / of katte waarvoor aansoek gedoen word, asook die toestemmings en / of kommentare van omliggende eienaars van eiendomme of okkupeerders van persele.

(3) Voorwaardes en beperkinge wat ingevolge artikel 17 van hierdie verordening opgelê word, met betrekking tot die getal diere wat op 'n perseel aangehou mag word, geld nie vir 'n tydperk van tien (10) weke vanaf die datum van geboorte van 'n werpsel van 'n vroulike dier, wat in terme van die bepalings van hierdie verordening aangehou word.

15. TELERS VAN HONDE EN KATTE

(1) 'n Eienaar of 'n teler van honde of katte, wat meer as twee (2) honde of katte wil aanhou op 'n perseel vir teeldoeleindes, moet die toestemming van die Munisipaliteit daarvoor verkry.

(2) Enige persoon wat versuim om die Munisipaliteit se goedkeuring in terme van subartikel 15(1) van hierdie verordening te bekom, begaan 'n oortreding.

(3) Die bepalings van artikel 5 van hierdie verordening is *mutis mutandis* op 'n aansoek ingevolge subartikel 15(1) van hierdie verordening van toepassing.

16. TELERS VAN TROETELDIERE

(1) 'n Persoon wat met ander tipes troeteldiere wil teel, moet voordat teel aktiwiteite in aanvang neem, 'n aansoek vir toestemming daarvoor by die Munisipaliteit indien.

(2) Die bepalings van artikel 5 van hierdie verordening is *mutis mutandis* op 'n aansoek ingevolge subartikel 16(1) van hierdie verordening van toepassing.

17. VOORWAARDES EN BEPERKINGE VIR TOESTEMMINGS

Die Munisipaliteit se toestemmings ingevolge artikels 4, en subartikels 14(1), 15(1) en 16(1) van hierdie verordening, mag onderhewig wees aan sodanige beperkinge en voorwaardes, as wat die Munisipaliteit nodig mag ag, na oorlegpleging met ander verantwoordelike owerhede en instansies.

18. TERUGTREKKING VAN TOESTEMMINGS

(1) Waar 'n persoon enige voorwaarde of beperking soos opgelê ingevolge artikel 17 van hierdie verordening oortree of versuim om daaraan te voldoen, sal die Munisipaliteit geregtig wees, om nadat die persoon se vertoë aangehoor is, enige en alle toestemmings vir die aanhou van diere terug te trek, en die betrokke diere van die betrokke perseel te laat verwyder vir veilige bewaring deur 'n dierewelsynsorganisasie of by 'n skut.

(2) Alle kostes wat deur die Munisipaliteit aangegaan word vir sodanige verwydering en / of veilige bewaring van diere, soos bedoel in subartikel 18(1) van hierdie verordening, sal van die eienaar of persoon in beheer van sodanige diere verhaal word.

19. HONDE, KATTE EN ANDER DIERE OP OPENBARE PLEKKE EN OPENBARE PAAIE

(1) Onderworpe aan die bepalings van die Verordening insake Openbare Geriewe, van die Munisipaliteit van Theewaterskloof, mag die eienaar of die persoon in beheer van enige hond, kat, bees, perd of enige ander dier, dit nie op 'n openbare pad of 'n openbare plek bring of dit toelaat om daar te wees nie, tensy 'n hond deur 'n verantwoordelike persoon aan 'n leiband of 'n harnas gehou word, of in die geval van enige ander dier, indien sodanige dier onder die fisiese beheer van die eienaar of 'n ander verantwoordelike persoon is.

(2) Niemand mag `n kennisgewingbord by ’n publieke plek of enige ander area, wat `n hond of perd of enige ander dier verbied op sodanige publieke plek of enige ander area, verontagsaam nie.

(3) Behalwe in die geval van ’n blinde persoon wat deur ’n gidshond begelei word, moet ’n persoon in beheer van ’n hond op ’n openbare pad of ’n openbare plek, die ontlasting van sodanige hond verwyder, deur dit in plastiek of papier toe te draai en te plaas in ’n houer wat vir afval voorsien word.

Deel 2 – Spesifieke bepalings met betrekking tot honde

20. BEHEER OOR EN DIE LISENSIëRING VAN HONDE

(1) Niemand wat die eienaar van ’n hond is, mag –

(a) ’n hond aanhou, sonder die betaling van ’n lisensiefooi vir honde soos vereis indien die lisensiëring van honde deur die Munisipaliteit ingestel word, en die eienaar van ’n hond moet wanneer die lisensiëring van honde van toepassing is, op aanvraag van ’n gemagtigde beampte die bewys van sodanige betaling toon;

(b) toelaat dat enige hitsige teef, sonder enige tipe toesig of sonder ’n leiband of ’n harnas, op ’n openbare pad of ’n openbare plek kom nie;

(c) enige hond aanspoor om enige persoon of ander dier aan te val, lastig te val of bang te maak nie;

(d) enige hond aanhou vir die gebruik van sodanige dier vir honde gevegte nie;

(e) ’n hond aanhou op ’n perseel wat nie behoorlik omhein is nie;

.

(f) toelaat dat ’n hond -
  (i) op private eiendom oortree;
  (ii) ’n gevaar vir verkeer en voetgangers wat enige openbare pad gebruik, inhou;
  (iii) ’n gevaar inhou vir enige persoon buite die perseel waarop sodanige hond aangehou word, of
  (iv) ’n gevaar inhou vir die Munisipaliteit se beamptes, wat sodanige perseel moet betree in die uitvoering van hulle pligte.

(g) versuim om waar ’n kwaai hond op ’n perseel aangehou word, op ’n opvallende plekke by sodanige perseel waarskuwingkennisgewings oor sodanige hond te vertoon; en

(h) toelaat dat enige hond wat op 'n perseel aangehou word –
  (i) deur aanhoudend te blaf, te kef, te tjank of te huil, wat die maksimum geraasvlak van vyf-en-tagtig (85) dBA sal oorskry;
  (ii) deur uit gewoonte af te storm op voertuie, ander diere, pluimvee, voëls, of persone buite die perseel waarop die dier aangehou word, of
  (iii) deur enige ander onuithoudbare gedrag te openbaar,
  die gemak, gerief, vrede of rus van aanliggende bure wesenlik versteur.

(2) Die Munisipaliteit kan op enige hond, wat op 'n openbare pad of openbare plek gevind word of wat strydig met die bepalings van hierdie verordening 'n oorlas veroorsaak, beslag lê en die dier aldus skut in terme van die bepalings van die Verordening insake die Skut van Diere van die Munisipaliteit van Theewaterskloof.

(3) 'n Hond wat ingevolge subartikel 20(2) van hierdie verordening geskut word, kan slegs aan die eienaar of die bewaarder van so 'n hond vrygestel word, teen betaling van die voorgeskrewe bedrag soos deur die Munisipaliteit bepaal en by lewering van redelike bewyse van eienaarskap.

HOOFSTUK 4:
HONDEHERBERGE, KATTE HERBERGE, TROETELDIERSALONNE EN TROETELDIERWINKELS

21. TOESTEMMING VIR BEDRYF

(1) Geen honde herberg, katte herberg, troetediersalon of troeteldierwinkel mag bedryf word sonder die toestemming van die Munisipaliteit nie, welke goedkeuring aan bepaalde voorwaardes onderworpe mag wees.

(2) 'n Persoon wat 'n honde herberg, 'n katte herberg, 'n troeteldiersalon of 'n troeteldierwinkel bedryf, mag nie toelaat dat die bedryf van sodanige besigheid, aanleiding gee tot 'n openbare oorlas of 'n ongerief vir ander persone nie.

HOOFSTUK 5:
SAMEWERKING TUSSEN MUNISIPALITEITE

22. DIENSLEWERING REÊLINGS

Ten einde optimale dienslewering ingevolge hierdie verordening te verseker, kan die Munisipaliteit diensleweringooreenkomste met die Distriksmunisipaliteit, enige ander munisipaliteit, of enige organisasie of instelling aangaan.

HOOFSTUK 6:
ALGEMENE BEPALINGS

23. REG VAN TOEGANG EN INSPEKSIE

(1) Enige behoorlik gemagtigde beampte van die Munisipaliteit is geregtig, om enige perseel binne die gebied van jurisdiksie van die Munisipaliteit te inspekteer, ten einde te bepaal of daar aan die bepalings van hierdie verordening voldoen word, met dien verstande dat 'n private woning nie vir roetine inspeksie doeleindes betree mag word nie, sonder die uitdruklike toestemming van die eienaar of okkupeerder van sodanige woning nie.

(2) Wanneer 'n perseel ingevolge subartikel 23(1) van hierdie verordening betree word om 'n inspeksie uit te voer, moet die gemagtigde beampte op versoek van enige persoon, hom of haarself indentifiseer, deur 'n geskrewe bewys van magtiging en identifikasie te toon.

(3) Die gemagtigde beampte mag vergesel word van enige persoon, wie van hulp mag wees met die uitvoer van enige inspeksie.

(4) Enige persoon wat weier om toegang te verleen aan 'n behoorlik gemagtigde beampte van die Munisipaliteit, wanneer toegang versoek word, of wat sodanige beampte dwarsboom of hinder in die uitvoering van sy of haar pligte ingevolge hierdie verordening, of wat versuim of weier om inligting te verstrek wat wettiglik versoek word, of doelbewus vals of misleidende inligting aan sodanige behoorlik gemagtigde beampte verstrek, begaan 'n oortreding.

24. 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 24(1)(a), 24(1)(b) of 24(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, 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.

25. OORGANGSBEPALINGS

'n Persoon wat tydens die inwerkingtrede van hierdie verordening, meer diere aanhou as die getal diere ingevolge subartikel 4(1) van hierdie verordening bepaal, mag nie die betrokke diere vervang wanneer een of meer daarvan te sterwe kom of weggemaak word nie.

26. 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 van die appèl te gee, en redes vir die appèl te verstrek.

27. STRAFBEPALINGS

'n Persoon wat enige bepaling van hierdie verordening oortree, of versuim om daaraan te voldoen of versuim om te voldoen aan 'n kennisgewing uitgereik ingevolge hierdie verordening, of 'n instruksie uitgereik deur 'n gemagtigde beampte of aangebring op 'n kennisgewingbord, 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 of 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 aangegaan was, as gevolg van sodanige oortreding.

28. VRYSTELLING VAN BEPALINGS

Nieteenstaande die bepalings van die verordening, mag die Munisipaliteit enige persoon of groep van persone vrystel van enige of al die bepalings van hierdie verordening, ingevolge die beginsels soos uiteengesit in subartikel 8(1) van hierdie verordening.

29. GEMEENSKAPSKAKELFORUMS

(1) Die Munisipaliteit mag skakelforums in 'n gemeenskap instel met die doel om –

(a) geleenthede vir die gemeenskap te skep om deel te neem aan die sake van die Munisipaliteit;

(b) advies oor aangeleenthede te lewer, wanneer 'n skakelforum deur die Munisipaliteit versoek word om advies te lewer, en

(c) 'n veilige en gesonde omgewing te bevorder.

(2) 'n Skakelforum mag bestaan uit –

(a) 'n lid of lede van 'n belangegroep, of geaffekteerde persone;

(b) 'n lid of lede van die gemeenskap; en

(d) 'n aangewese beampte of beamptes van die Munisipaliteit, of ander owerheidsinstellings.

(3) (a) Die Munisipaliteit mag wanneer 'n aansoek om toestemming, permit of vrystelling ingevolge hierdie verordening oorweeg word, die insette van 'n skakelforum versoek.

(b) 'n Skakelforum of enige persoon of persone gedoel in subartikel 29(2) van hierdie verordening, mag op eie inisiatief, 'n inset aan die Munisipaliteit vir oorweging verskaf.

30. TEENSTYRYDIGHEDE 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.

31. 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 hiermee spesifiek herroep –

Datum gepubliseer	Naam van verordening	In die geheel of gedeeltelik
PK 6234 gedateer 8 Maart 2005	Verordening insake Openbare Oorlaste en die Aanhou van Diere	In die geheel

32. KORT TITEL

Hierdie verordening staan bekend staan as die Verordening insake Openbare Oorlaste en Oorlaste wat Spruit uit die Aanhou van Diere van die Munisipaliteit van Theewaterskloof.

33. INWERKINGTREDING

Hierdie verordening tree op datum van publikasie daarvan in werking

THEEWATERSKLOOF MUNICIPALITY

BY-LAW REGARDING STREETS

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 regulate streets in the area of jurisdiction of the Theewaterskloof Municipality, and to provide for matters related thereto.

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CHAPTER 1:
INTERPRETAION

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 -

"animals", means any equine, bovine, donkey, mule, camel, sheep, goat, fowl or other bird, poultry, ostrich, hare, rabbit, dog, cat or other domestic animal or bird, or a wild animal, bird or reptile which is in captivity or under the control of someone, or insects such as bees, but not restricted thereto, kept and controlled by someone;

"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;

"gross vehicle mass", means with regard to a motor vehicle, the maximum weight of a vehicle and the allowable freight thereoff, as specified by the manufacturer of the vehicle concerned, or in the absence of such a specification, the gross vehicle mass as determined by a registration authority;

"motor vehicle", means any self powered vehicle, and include a vehicle with pedals or an engine or an electric motor as integrated part thereof, which are adapted to be powered by such pedals, engine or motor, but excludes a vehicle which is specially designed and build for use by someone with a disability;

"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 a newspaper;

"object", means any goods, articles, structures, apparatus, equipment or other material;

"occupant", means a person who occupies and control land or a premises, and includes a resident of such a premises;

"organ of state", means:
(a) any department of state or administration in the national, provincial or local sphere of government; or
(b) any other functionary or institution –
    (i) exercising a power or performing a function in terms of the Constitution of the Republic of South Africa, 1996 or a provincial constitution; or
    (ii) exercising a public power or performing a public function in terms of any legislation,
but does not include a court or judicial officer;

"owner of a premises", means in relation to the ownership of any property, any person who as owner, legal lessee or occupant resides on a premises or a portion of a property, or use or utilize it for whatever purpose, or who as agent of the owner exercise control over it;

"owner of animals", means with regard to the ownership of an animal, any person who lawfully owns an animal or where such animal has to possess an identification mark in terms of the Animal Identification Act, 2002 (Act No 6 of 2002), as amended, is indicated as the registered owner of such an animal, or a person who as authorized agent of the owner of an animal is legally responsible for the care, safe keeping and control of an animal;

"parking", has the same meaning assigned to it in terms of the National Road Traffic Act, 1996 (Act No 93 of 1996), as amended, and the regulations promulgated in terms thereof;

"premises", means any portion of land situated within the area of jurisdiction of the Theewaterskloof Municipality, of which the outer boundaries are demarcated on a general plan or diagram or sectional title plan, registered in accordance with applicable legislation;

"public nuisance", means any action, omission or condition, on or at any premises or public place or public road, including any reference to any building, structure or growth on such premises, public place, or public road, which can put the safety of persons or property in jeopardy or which is unsightly, annoying, offensive or a disturbance for other persons, and includes **"nuisance"**;

"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;

''road reserve'', means the measured area contained within the statutory boundaries of a road, and includes the roadways, road shoulders, sidewalks and all other areas within the road reserve boundaries;

"trailer", means a vehicle which is not self powered, and which is designed or adapted, to be drawn by a suitable motor vehicle;

"sidewalk", means the portion of a street between the boundary of a roadway and the boundaries of adjacent premises or buildings;

"stop", the meaning allocated to it in terms of the National Road Traffic Act, 1996 (Act No 93 of 1996), as amended and the regulations promulgated in terms thereof;

"street", means any constructed street, road, cycle path, thoroughfare or any other place, including:

(a) the roadway of any street, road, cycle path or thoroughfare;
(b) the edge or verge of any such street, road, cycle path or thoroughfare;
(c) any foot path, sidewalk or similar pedestrian portion of a road reserve;
(d) any bridge, subway, flyover or drift, over or through which such street, road, cycle path or thoroughfare runs;
(e) any other portion, structure or object which form part of a street, road, cycle path or thoroughfare, which -
    (i) has been transferred for public use;

(ii) has been used by the public without interruption for a period of at least
thirty (30) years;
(iii) has been declared by the Theewaterskloof Municipality or any other competent road authority as a street, road, cycle path or thoroughfare;
(iv) has been constructed by a competent road authority;
(v) includes any land, with or without buildings or structures, which are indicated as a street on any approved subdivision plan or diagram, or any general plan as stipulated in legislation and registered in a registration office or the office of the Surveyor-General; or
(vi) any such land which is indicated on a subdivision plan or diagram as a private street;

"trailer", means a vehicle which is not self powered, and which is designed or adapted, to be drawn by a suitable motor vehicle;

"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;

"vehicle", means a device designed or addapted to run on wheels, tyres or crawler tracks, and includes, but is not limited to, horse carts, donkey carts, trailers or any other vehicle, which is not self powered; and

"work", means any construction work undertaken on any municipal property or municipal street, within the area of jurisdiction of the Theewaterskloof Municipality, which may include, but is not restricted to, the erection of a new building, any alterations or additions to an existing building or structure, the erection of structures or tents for any purpose or an event, the installation of cabels or pipes, any other civil engineering construction work, the excavation and backfill of any material, or the excavation or backfill of any trench, excavation or hole.

CHAPTER 2:
GENERAL PROVISIONS APPLICABLE FOR STREETS

2. SPECIFIC PROVISIONS FOR STREETS AND PUBLIC PLACES

Nobody may -

(a) build, construct or change a street or sidewalk -
(i) except with the written approval of the Municipality; or
(ii) except in terms of the specifications determined by the Municipality;

(b) without the approval of the Municipality, build a veranda, a wall, a stoep, steps or any other protuberance, or erect a pole in a street or a public place;

(c) without the approval of the Municipality implement any beautification or improvement of a sidewalk or a public place, including the planting of lawns, decorative plants or trees which shall create an obstruction for pedestrains or negatively impacts on road traffic safety;

(d) without the approval of the Municipality, display, park or advertise any motor vehicle, motorbike, boat, vessel, caravan, trailer or any other vehicle on a street or a sidewalk or a public place for purpose of the sale thereof; or

(e) leave or stock-pile any offensive objects, materials or items on a street, a sidewalk or a public place, which can create a public nuisance or is not acceptable for the residents of surrounding premises.

3. DISPLAY OF SIGNS, POSTERS AND HANDBILLS IN STREETS

Nobody may display an advertisement or any other sign, poster or pasted handbill in a street –

(a) except with the written approval of the Municipality; and

(b) subject to the conditions imposed by the Municipality in terms of the Outdoor Advertising and Signage By-law of the Theewaterskloof Municipality.

4. OBJECTS WHICH CREATES OBSTRUCTIONS IN STREETS

Nobody may –

(a) place or leave any goods or objects in a street, irrespective of the provision of a loading zone as an area in the street concerned for the loading and / or unloading of goods and other objects, and such goods and other objects may only be left on such loading zone in the process of loading or unloading, for a period of maximum one (1) hour;

(b) in any way impede pedestrian traffic on a sidewalk, by leaving any animal or object on a sidewalk or stopping or parking a vehicle on a sidewalk;

(c) allow or cause a blind, screen or any other object to protrude over a street, which may cause an impediment –
  (i) except with the written consent of the Municipality; and
  (ii) subject to to the conditions imposed by the Municipality; or

(d) park a vehicle in such a way in a street, that it creates an obstruction for other vehicles.

5. TREES AND PLANTS IN STREETS

(1) Nobody may -

(a) except with the written consent of the Municipality, plant a tree or a scrub or any other plant in a street;

(b) break or damage or cut down or remove a tree or a scrub or any other plant growing in a street; or

(c) paint or deface or affix an advertisement on a tree or a scrub or any other plant growing in a street.

(2) A tree or a scrub or any other plant which has been planted in a street by any person, shall be considered as the property of the Municipality.

6. TREES OR PLANTS CAUSING DAMAGE OR AN OBSTRUCTION

(1) When a tree or any other plant on a premises, conceals a traffic sign in a street, impede overhead electrical and telecommunication wires in a street or public place, or create an annoyance or a danger or an inconvenience for persons using a street or a public place, or damage private property or municipal infrastructure, the Municipality may by written notice instruct the owner or occupant of the premises concerned to prune or remove the tree or other plant concerned, within the period indicated in such notice.

(2) When any person fails to adhere to the written notice contemplated in subsection 6(1) of this by-law, the Municipality may undertake the pruning or removing of the tree or plant concerned, or instruct a contractor to prune or remove the tree or plant concerned, and recover the costs from the person on which the original notice has been served.

7. THE DISPOSAL OF WASTE MATERIAL AND CAR WRECKS ON STREETS AND PUBLIC PLACES

Nobody may –

(a) stock-pile, dispose, place or accumulate any garden waste, car wrecks, car parts, building rubble, waste material, litter or any other waste products in or on a street, a sidewalk or a public place; and

(b) allow that waste as contemplated in section 7(a) of this by-law, be disposed or be placed in a street or on a sidewalk or a public place, by the owner or occupant of a premises, except with the written consent of the Municipality and subject to the conditions as may be determined by the Municipality.

8. PARKING OF HEAVY VEHICLES AND CARAVANS

(1) Nobody may within the area of jurisdiction of the Municipality, park –

(a) a motor vehicle with a tare weight which exceeds three thousand six hundred (3 600) kilogram;

(b) a trailer;

(c) a semi-trailer; or

(d) a caravan,

in or on a street or public place for a continous period, which exceeds four (4) hours, except at such places specifically designated for such vehicles.

(2) No vechicle with a gross vehicle mass of three thousand six hundred (3 600) kilogram or more, may be parked between the hours of 20:00 and 05:00 daily in a public street or on a public place, within the urban areas of the Municipality, except on such places specifically designated by the Municipality as parking places and overnight stops for such type of vehicles.

9. PARKING ATTENDANTS

(1) No person may, in exchange for money or in anticipation of any such remuneration -

(a) direct the driver of a motor vehicle to a public parking space; or

(b) provide any other parking or related services in a street or a public place,

except with the written approval of the Municipality.

(2) The Municipality may, subject to such requirements and conditions as determined by the Municipality, on application by a person or an organisation, permit such person or organisation to direct the drivers of vehicles to parking spaces or to provide any other parking or related services in a public street or a public place.

10. ENCROACHMENTS

(1) Subject to any provisions and conditions as the Municipality may determine, the Municipality may after the comments of all the applicable departments of the Municipality have been solicited, by agreement –

(a) approve an encroacment on a municipal property or a street or a public place, for the erection of a veranda, a balcony, a sign, a protrusive sign or a similar structure which protrude in or over any municipal property, street or public place, in terms of any technical and engineering norms, standards and guidelines as may be determined and be required by the Municipality; and

(b) approve an encroachment on a municipal property or a street or a public place, for the construction of a wall, a building or a similar structure, which encrouch on or over a municipal property or a street or a public place.

(2) When any immovable property owned by the Municipality or a street or public place has been encroached upon without permission, the Municipality may take the steps necessary to remove or to regulate such encroachment.

(3) The Municipality may reduce the extent of a public place or a street which has been encroached upon by the extent of the encroachment or by such greater extent as may be desirable.

(4) An authorization for encroachment issued in terms of subsection 10(1) of this by-law, shall for the purposes of subsection 10(2) of this by-law, deemed to be a regularization of the encroachment referred to in such authorization.

(5) Any person, who wishes to obtain the permission of the Municipality as contemplated in subsection 10(1) of this by-law, shall complete and submit to the Municipality the prescribed application form for encroachment.

(6) The Municipality may only issue an authorization for encroachment to an applicant on payment of the prescribed fee, as annually determined by the Municipality in terms of the Tariffs By-law of the Theewaterskloof Municipality.

(7) Any person who illegally encroach on a municipal property or a street or a public place, or who fails to comply with any condition imposed in terms of subsection 10(1) of this by-law, commits an offence and the Municipality -

(a) may demolish, remove or fill in the protrusion or encroaching structure concerned; and

(b) shall recover the costs incurred by the Municipality for such demolishing, removal or infill from the owner of the premises concerned or the person responsible for such illegal encroachment.

CHAPTER 3:
PROHIBITED AND REGULATED ACTIVITIES IN STREETS

11. REPAIR AND WASHING OF VEHICLES IN STREETS

Nobody may in a street –

(a) repair or service a vehicle, except where it is required to remove such vehicle from the place it broke down or where it was involved in an accident;

(b) leave or park a broken vehicle for longer than forty eight (48) hours in a street; or

(c) clean or wash a vehicle.

12. PUBLIC NUISANCES

Nobody may do anything in a street which is indecent in nature or can create a public nuisance or annoyance or which is a threat to public safety.

13. DISCHARGE OF FIREWORKS

Nobody may in or on a street or a public place discharge any fireworks, except in such areas which have been designated as places for the discharge of fireworks in terms of the Control of Fireworks By-law of the Theewaterskloof Municipality.

14. TRANSPORTATION OF ANIMAL CARCASSES AND OTHER SUBSTANCES

Nobody may in or on a street carry or transport the carcass of an animal, sewage, waste, garden waste, manure, gravel or sand, grain products or fruit or grapes or other agricultural products -

(a) unless it is properly covered by an untransparent and waterproof cover; or

(b) unless it is conveyed in a type of container that shall not allow the spillage of any offensive or other liquids or parts of the load in a street.

15. FENCES ON STREET BOUNDARIES

Nobody may without the written approval of the Municipality and in contravention with the provisions of the Fencing and Walls By-law of the Theewaterskloof Municipality, erect a barbed wire fence, razor wire fence, electrified fence or any other fence or barricade on the boundary of a street, which can be a danger for pedestrians in a street.

16. BUILDING ACTIVITIES AND BUILDING MATERIAL IN STREETS AND PUBLIC PLACES

No person may drill or cut stone or bricks, slake or sift lime, sift sand, or mix any building materials or concrete, or place or store building materials or any other materials in a street or a public place, except with the written permission of the Municipality, and subject to such requirements and conditions prescribed by the Municipality.

17. RESTRICTION ON THE USE OF ENCROACHING BALCONIES, STOEPS AND VERANDAS

No person may –

(a) use a balcony or a veranda encroaching on a street or a public place, for purposes of trading or the exhibition of any trading goods or the stock-piling of any goods, without written approval by the Municipality;

(b) use a balcony or veranda encroaching on a street or a public place for the washing or drying of clothes; or

(c) enclose or partition a balcony or veranda encroaching on a street or a public place, for the use thereof as a living room or a bedroom.

18. DAMAGE TO MUNICIPAL AND OTHER PROPERTY IN STREETS

Nobody may deface, damage or in any way interfere with any notice board, advertising sign, road traffic sign, street name sign, traffic signal equipment, electrical or service authority poles and / or distribution cabinets and / or structures, rocks and other natural elements, street furniture, waste bins or any other municipal property or any object, which have been erected by the Municipality or with the consent of the Municipality, in a street or a public place.

19. STREET COLLECTIONS AND THE DISTRIBUTION OF HANDBILLS

Nobody may –

(a) in any way collect or attempt to collect money in a street or organize such money collection, except with the written permission of the Municipality and subject to the payment of fees, and such requirements and conditions as may be determined by the Municipality;

(b) distribute a handbill or similar advertising material or cause it to be distributed in any street, or cause such handbill or advertising material to be placed on or in any vehicle, except with the written permission of the Municipality, and subject to the payment of fees and such requirements and conditions as may be determined by the Municipality; or

(c) undertake door tot door collections, except with the written permission of the Municipality and subject to the payment of fees, and such requirements and conditions as may be determined by the Municipality

20. SPRAYING OF SUBSTANCES IN STREETS AND PUBLIC PLACES

Nobody, except an authorized official of the Municipality or a service provider appointed by the Municipality, may spray herbicides or any other similar noxious substances in or on streets or public places.

21. ROLLER SKATES, SKATEBOARDS OR SIMILAR CONTRIVANCES

Nobody may use roller skates or skateboards or any similar contrivances or any electric version thereof in or on a street.

22. AMUSEMENT EVENTS IN STREETS

(1) No person may for the amusement or recreation of the public, utilize any street or public place for a circus, a roundabout, a merry-go-round, or any other amusement event, including the use, but not restricted to, of devices and facilities such as loudspeakers, sound equipment, structures, or other amusement devices or tents associated thereto –

(a) except on written application to the Municipality in terms of the By-law relating to the Holding of Events of the Theewaterskloof Municipality; and

(b) except with the written permission of the Municipality and subject to the payment of fees, or such requirements or conditions as may be determined by the Municipality.

(2) Authorized officials of the Municipality, shall have for the purpose of inspections of approvals and compliance to provisions, at all reasonable times free access to such events.

23. ANIMALS IN STREETS

(1) No owner or person in charge of -

(a) a wild or a ferocious animal, may allow that such animal at any time stray onto a street or is at large without supervision, or may keep such animal in such a manner that it becomes a danger or annoyance to the general public; or

(b) an animal, may allow or cause that such animal graze or stray in or about any street or public place.

(2) Any animal found grazing unlawfully in a road reserve or which is at large in a street, shall be impounded in terms of the provisions of the Impoundment of Animals By-law of the Theewaterskloof Municipality.

24. RESTRICTION OF ACCESS TO A STREET

Nobody may without the approval of the Municipality, close any street or restrict the access thereto.

25. PROHIBITED CONDUCT IN STREETS AND PUBLIC PLACES

Nobody may in a street or a public place -

(a) create a nuisance for other persons, as a result of his or her conduct;

(b) overnight in any place or erect any shelter, except on such place indicated by the Municipality;

(c) wash, clean or dry clothes, blankets or any other domestic artical;

(d) use abusive, offensive, indecent, threatening or blasphemous language;

(e) fight or act violently;

(f) discharge a firearm, airgun or air pistol, bow or slingshot, except an authorized official or a member of the South African Police Services in the execution of their duties, or when special consent has been granted;

(g) make any such noise that create noise pollution to the annoyance or inconvenience of other persons;

(h) defecate or urinate or undress in public;

(i) reveal himself or herself, or behave in an improper, indecent or unbecoming manner;

(j) break, damage, destroy, interfere, misuse or deface anything;

(j) remove, throw or roll a rock, stone or object;

(k) remove, pick, cut, brake, saw or damage any flora, or have any flora illegally in his or her possession;

(l) walk, stand, sit or recline in a flowerbed, or in contravention with a notice sit or recline on any place or area or grass;

(m) write, paint or draw graffiti or a symbol, on any steet furniture, structure, building, tree, rock or road;

(n) burn waste, or dump any waste, garden waste or building waste;

(o) lie on benches or seating provided, or use it in such a manner that other users or potential users are restricted or discouraged to make use thereof;

(p) perform any act that may detrimentally affect the health or safety of any other person;

(q) dance or sing or play a musical instrument, or use any loudspeakers for the reproduction or amplifying of sound, except with the written consent of the Municipality;

(r) elicite or endevour to persuade any person for purpose of prostitution or any other immoral deed; or

(s) be under the influence of liquor or drugs, or consume alcoholic beverages, drugs or other intoxicating substances.

CHAPTER 4:
WORK ON STREETS AND SIDEWALKS AND THE RELEASE OF WATER ON PUBLIC ROADS

26. VEHICLES AND EQUIPMENT THAT CAN DAMAGE SURFACES IN OR ON STREETS AND SIDEWALKS

(1) Nobody may –

(a) use a vehicle or allow it to be used in any street that may cause damage to a street;

(b) drive, push, roll, pull or propel any equipment or machine through or along a street or a sidewalk in such a way, that such equipment or machine

damage, break or destroy the surface of a street or a sidewalk in any way;

(2) The Municipality shall when the person responsible for any such damages caused by any such actions referred to in subsection 26(1) of this by-law, has been identified, determine the cost of repairs of such street or sidewalk and recover the costs incurred from the transgressor.

27. THE UNDERTAKING OF WORK IN OR ON STREETS, SIDEWALKS AND PUBLIC PLACES

Nobody may, including any organ of state, undertake any work in or on a street or a sidewalk or a public place or any other property belonging to the Municipality –

(a) in the instance of a registered servitute or a wayleave, without a prior written notification to the Municipality, indicating the nature, magnitude and date of the work to be undertaken; and

(b) in any other instance, without the prior approval of the Municipality, the payment of applicable fees and the determination of requirements and conditions of the Municipality that shall be complied with.

28. NORMS, STANDARDS AND GUIDELINES FOR WORK IN OR ON STREETS, SIDEWALKS AND PUBLIC PLACES

(1) The Municipality may determine and introduce any technical and engineering norms, standards and guidelines, which dictate appropriate measures and standards for work to be undertaken in and on streets, sidewalks, public places or any other property belonging to the Municipality.

(2) The technical and engineering norms, standards and guidelines contemplated in subsection 28(1) of this by-law, may differentiate between communities, geographical areas and different kinds of premises in terms of zoning.

29. RELEASE OF WATER ON A PUBLIC ROAD

(1) Nobody may, without prior written permission of the Municipality -

(a) release or discharge any water, except storm water on or over a public road; or

(b) by any means whatever, raise the level of water in a river, dam or watercourse, that cause the flooding of a street.

(2) Any person who wish to perform the actions as contemplated in subsection 29(1) of this by-law, shall submit an application to the Municipality in the prescribed format, which contains the full technical details of the proposed action, and the Municipality may refuse or grant such permission, subject thereto -

(a) that should the Municipality refuse permission, the Municipality shall supply the applicant with the written reasons for such refusal; or

(b) should the Municipality grant permission, such permission may be subject to written conditions and requirements.

(3) The Municipality may, subject to any statutory or legal provision that may be applicable and after obtaining permission from the owner or the occupant of the premises concerned -

(a) deviate a watercourse, stream or river where the deviations is necessary for -
(i) the protection of a street or any structure related to such a street; or
(ii) the construction of a structure connected with or to a street; and

(b) divert storm water from or underneath a street, onto vacant private property not containing any buildings, other structures or improvements.

(4) The Municipality shall compensate the owner or occupant of a premise for any such damages caused as a result of such actions taken in terms of 29(3) of this by-law, and the amount shall be determined between the Municipality and the owner or occupant of the premises concerned, by means of mutual agreement.

CHAPTER 5:
GENERAL COMPETENCIES OF THE MUNICIPALITY

30. DISPLAY OF STREET NUMBERS

(1) The Municipality may prescribe by written notice to the owner or occupant of any premises, that a number allocated by the Municipality to such premises in terms of section 34(c) of this by-law, shall be displayed on such premises.

(2) A number allocated to a premises, shall be -

(a) displayed on a premises in a conspicuous position, and shall at all times be visible and legible from the adjacent street; and

(b) replaced by the owner or occupant of the premises concerned, as often as such numbers gets defaced or illegible.

31. RECOVERY OF COSTS

(1) Notwithstanding any other provisions of this by-law, the Municipality shall –

(a) when the permission of the Municipality is required, before a person may perform a certain action or build or erect anything, and such permission has not been obtained; and

(b) when any provision of this by-law is contravened, under circumstances in which the contravention may be terminated by the removal of any structure, object, material or substance, serve a written notice on the owner of the premises or the offender, as the case may be, to terminate such contravention or to remove the structure, object, material or substance, or to take such other steps as the Municipality may require to rectify such contravention, within the period stated in such notice.

(2) Any person who fails to comply with a notice in terms of subsection 31(1) of this by-law, shall be guilty of an offence and the Municipality may, without prejudice to its powers to take action against the transgressor, take the necessary steps to implement the removal of the structure, object, material or substance or to take other steps, at the expense of the owner of the premises or the transgressor, as the case may be.

32. CLOSURE OF STREETS AND PUBLIC PLACES

(1) The Municipality may close any street or public place or any portion of a street or a public place permanently, or may divert a street or restrict access to a street or a public place.

(2) Any action intended as contemplated in subsection 32(1) of this by-law, shall be announced by means of an applicable official notice in at least two official languages in an official gazette and a local newspaper.

(3) Any objections against the intended action, shall be submitted in writing to the Municipality, within thirty (30) days after the date of the official notice, as contemplated in subsection 32(2) of this by-law.

33. TEMPORARY CLOSURE OF STREETS AND PUBLIC PLACES

(1) The Municipality may temporary close any street or public place or any portion of a street or a public place –

(a) for purpose of or in expectation of the building, rebuilding or repair of a street or a public place;

(b) for purpose of or in expectation of the building, construction, installation, repair, extention, maintenance or demolising of any building, structure, work or service adjoining to, on, over, through or under a street, when –

(i) such street is in the opinion of the Municipality, in such a dilapidated condition, that it may pose a danger for vehicular traffic to use the road concerned; and

(ii) the nature of the work to be carried out is in the opinion of the Municipality so extensive, that it may pose a danger for vehicular traffic to use the road concerned;

(c) as a result of any emergency situation or a public event, which in the opinion of the Municipality warrants special measures for the control of traffic or special provisions for the accommodation of crowds; or

(d) for any other reason, which in the opinion of the Municipality, warrants the temporary closing of any street or public place.

(2) The Municipality may temporarily divert a street, which in terms of subsection 33(1)(a) of this by-law, has been temporarily closed.

(3) Any action intended as contemplated in subsection 33(1) of this by-law, shall be announced by means of an applicable official notice in at least two official languages in an official gazette and a local newspaper.

(4) Any objections against the intended action, shall be submitted in writing to the Municipality, within thirty (30) days after the date of the official notice, as contemplated in subsection 33(3) of this by-law.

34. BUILDING, MAINTENANCE AND NAMING OF STREETS

The Municipality may within the area of jurisdiction of the Municipality –

(a) build, rebuild, change and maintain streets;

(b) name and rename streets; and

(c) allocate or re-allocate numbers to premises bordering on streets, in terms of an adopted policy.

35. PROCLAMATION OF PUBLIC STREETS, PUBLIC ROADS AND PUBLIC PLACES

(1) The Municipality may -

(a) declare any land or a portion of land under the control of the Municipality as a municipal street;

(b) declare any municipal street or portion thereof as a public place; and

(c) declare any private street or portion thereof as a municipal street or as a public road.

(2) Any action intended as contemplated in subsection 35(1) of this by-law, shall be announced by means of an applicable official notice in at least two official languages in an official gazette and a local newspaper.

(3) Any objections against the intended action, shall be submitted in writing to the Municipality, within thirty (30) days after the date of the official notice, as contemplated in subsection 35(2) of this by-law.

CHAPTER 6:
PROCESSIONS

36. HOLDING OF PROCESSIONS

(1) No person may hold, organize or participate in a procession or gathering in any street or public place, or do anything which shall within reason cause a gathering of people or an obstruction of traffic in such a street and / or public place, without the written approval of the Municipality in terms of the provisions of the By-law relating to the Holding of Events of the Theewaterskloof Municipality and/or the relevant legislation.

(2) An event, procession or demonstration, as contemplated in terms of the Regulation of Gatherings Act, 1993 (Act No 205 of 1993), as amended, shall always take place in accordance with the statutory stipulations of the act concerned.

CHAPTER 7:
GENERAL PROVISIONS

37. 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 such a 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.

38. EXEMPTIONS

(1) Any person may by means of a written application, in which the reasons for the application are provided in detail, apply to the Municipality for exemption of any provision of this by-law.

(2) The Municipality may –

(a) provide written approval for exemption to an applicant, and stipulate in the approval, the conditions in terms of and period for which such exemption is granted;

(b) amend or withdraw any exemption or condition of exemption; or

(c) refuse in writing to provide exemption, and provide the reasons for such refusal.

(3) For purpose of considering an application in terms of subsection 38(1) of this by-law, the Municipality may invite the input and comments of owners and occupants of adjacent premises, and / or a community liaison forum.

(4) An exemption do not come into force, until the applicant accepted the conditions in writing, which have been imposed in terms of subsection 38(2) of this by-law, and when an activity related to the concerned application for exemption, commence before such undertaking of compliance has been provided to the Municipality, the exemption shall lapse.

(5) When an applicant do not comply to any of the imposed conditions of approval for exemption, the exemption shall immediately lapse.

39. 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) when 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 39(2)(a), 39(2)(b) or 39(2)(c) of this by-law;

(e) when 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 must for purpose of authentication, be properly signed by the Municipality.

40. OFFENSES 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 officer or posted on a notice board, or 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 –

(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.

41. COMMUNITY LIAISON FORUMS

(1) The Municipality may establish liaison forums in a community for the purpose of –

(a) creating opportunities for the community to participate in the affairs of the Municipality, in relation to matters in this by-law;

(b) advising the Municipality on matters, referred to the liaison forum by the Municipality,

(c) promoting a safe environment; and

(d) promoting the achievement of properly controlled and administered streets.

(2) A liaison forum may consist of –

(a) a member or members of an interested group, or affected persons;

(b) a member or members of the 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, 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 41(2) of this by-law, may on their own initiative provide input to the Municipality for consideration.

42. 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.

43. 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 are hereby specifically repealed –

Date of publication	Name of by-law	As a whole or partially
PG 6234 dated 8 March 2005	By-law regarding Streets	As a whole

44. SHORT TITLE

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

45. JURISDICTION OF A MAGISTRATES COURT

Notwithstanding any other provision referred to in any legislation with regard to the jurisdiction of a magistrates court, a magistrate has the jurisdiction to issue an order on application by the Municipality, for the implementation of any provision of this by-law, or for any approval, refusal or condition granted or applicable in terms thereof.

46. OPERATIVE DATE

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

MUNISIPALITEIT VAN THEEWATERSKLOOF

VERORDENING INSAKE STRATE

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 strate in die gebied van jurisdiksie van die Munisipaliteit van Theewaterskloof, te reguleer en voorsiening te maak vir aangeleenthede wat daarmee verband hou.

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HOOFSTUK 1: INTERPRETASIE

1. INTERPRETASIE

In hierdie verordening, geniet die Engelse teks voorrang in die geval van ’n teenstrydigheid met die Afrikaanse teks, en beteken -

"bruto voertuigmassa", met betrekking tot 'n motorvoertuig, die maksimum gewig van 'n voertuig en die toelaatbare vrag daarvan, soos deur die vervaardiger van die betrokke voertuig gespesifiseer word, of in die afwesigheid van so 'n spesifikasie, die bruto voertuigmassa soos deur 'n registrasie owerheid bepaal;

"diere", enige perd, bees, donkie, muil, kameel, skaap, bok, vark, hoender of ander voël, pluimvee, volstruis, haas, konyn, hond, kat of ander huisdier of voël, of 'n wilde dier, voël of reptiel wat in gevangenisskap aangehou word of onder iemand se beheer is, of insekte soos bye, maar nie beperk daartoe, wat deur 'n persoon aangehou of beheer word;

"eienaar van 'n perseel", met betrekking tot die eienaarskap van enige perseel, enige persoon wat as eienaar, wettige huurder of okkupeerder 'n perseel of 'n gedeelte van 'n eiendom bewoon of gebruik of benut vir watter doeleindes ook al, of as agent namens die eienaar daaroor beheer uitoefen;

"eienaar van diere", met betrekking tot die eienaarskap van 'n dier, enige persoon wat wetlik besit het van 'n dier of waar sodanige dier in terme van die Wet op die Identifisering van Diere, 2002 (Wet No 6 van 2002), soos gewysig, oor 'n identifikasiemerk moet beskik, as die geregistreerde eienaar van sodanige dier aangedui word, of 'n persoon wat as agent van die eienaar wetlik belas is met die sorg, bewaring of beheer van 'n dier;

"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;

"motorvoertuig", enige selfgedrewe voertuig, en sluit in 'n voertuig met pedale of 'n enjin of 'n elektriese motor as 'n integrerende deel daarvan, wat ontwerp of aangepas is om deur middel van sodanige pedale, enjin of motor aangedryf te word, maar sluit 'n voertuig wat spesiaal ontwerp en gebou is vir gebruik deur iemand wat aan die een of ander liggaamlike gestremdheid ly, uit;

"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", enige koerant wat as nuusblad geregistreer is;

"okkupeerder", 'n persoon wat grond of 'n perseel okkupeer en beheer daaroor het, wat insluit 'n bewoner van sodanige perseel;

"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 homself of haarself of ander persone inhou nie, of as sodanig inbreek maak op die grondwetlike regte van ander persone nie;

"openbare oorlas", wat die begrip **"oorlas"** insluit, enige handeling, versuim of toestand op of by enige perseel of 'n openbare plek of openbare pad, met inbegrip van enige verwysing na enige gebou, struktuur of gewas op sodanige perseel of openbare plek of openbare pad, wat die veiligheid van persone of eiendom in gevaar kan stel of wat onooglik, hinderlik, aanstootlik of 'n steuring vir ander mense is;

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

"openbare plek", enige perseel of eiendom of grond waartoe die publiek toegang het, wat insluit, maar nie beperk is tot, enige plein; openbare gerief; 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, waaaroor die Munisipaliteit van Theewaterskloof jurisdiksie het;

"padreserwe", die opgemete gebied wat binne die kadestrale grense van 'n pad geleë is, en sluit die ryvlakke, padskouers en sypaadjies, en al die ander gebiede binne sodanige padreserwe in;

"parkeer", die betekenis wat ingevolge die Nasionale Padverkeerswet, 1996 (Wet No 93 van 1996), soos gewysig, en die regulasies daarvolgens uitgevaardig, daaraan toegeskryf word;

"perseel", enige gedeelte grond, geleë binne die regsgebied van die Munisipaliteit van Theewaterskloof, waarvan die buitegrense afgebaken is op 'n algemene plan of diagram of deeltitelplan, en wat ingevolge die toepaslike wetgewing geregistreer is;

"sleepwa", 'n voertuig wat nie selfgedrewe is nie en wat ontwerp of aangepas word om deur 'n geskikte motorvoertuig gesleep te word;

"staatsinstelling", is:

(a) enige staatsdepartement of administrasie in die nasionale, provinsiale of plaaslike sfeer van regering; of

(b) enige funksionaris of instelling –

(i) wat 'n mag uitoefen of 'n funksie vervul in terme van die Grondwet van die Republiek van Suid-Afrika, 1996 of 'n provinsiale grondwet; of

(ii) wat 'n mag uitoefen of 'n publieke funksie vervul in terme van wetgewing,

maar sluit 'n hof of regterlike beampte uit;

"stilhou", die betekenis wat ingevolge die Nasionale Padverkeerswet, 1996 (Wet No 93 van 1996), soos gewysig, en die regulasies daarvolgens uitgevaardig, daaraan toegeskryf word;

"straat", enige gekonstrueerde straat, pad, steeg, fietspad, deurgang of enige ander plek, wat insluit:

(a) die ryvlak van enige straat, pad, fietspad of deurgang;
(b) die soom of padskouer van enige sodanige straat, pad, fietspad of deurgang;
(c) enige voetpad, sypaadjie of soortgelyke voetgangergedeelte van 'n padreserwe;
(d) enige brug, duikweg, oorbrug of drif, waaroor of waardeur of waaronder enige sodanige straat, pad, fietspad of deurgang loop;
(e) enige ander gedeelte, struktuur of voorwerp wat 'n deel uitmaak van sodanige straat, pad, fietspad of deurgang, wat -
    (i) vir publieke gebruik oorgedra is;
    (ii) sonder onderbreking deur die publiek gebruik is vir 'n tydperk van minstens dertig (30) jaar;
    (iii) deur die Munisipaliteit van Theewaterskloof of enige ander bevoegde owerheid as straat, pad, fietspad of deurgang verklaar is;
    (iv) deur 'n bevoegde owerheid aangelê is,
    (v) enige grond insluit, met of sonder geboue of strukture daarop, wat as 'n straat aangetoon word op enige goedgekeurde onderverdelingplan of diagram, of enige algemene plan soos omskryf in wetgewing en wat in 'n registrasiekantoor of die Landmeter-Generaal se kantoor geregistreer is; of
    (vi) sodanige grond wat op 'n onderverdelingsplan of diagram of 'n algemene plan as 'n private straat aangedui word;

"sypaadjie", dié gedeelte van 'n straat tussen die buitegrens van die ryvlak van 'n pad en die grenslyne van aanliggende persele of geboue;

"voertuig", 'n toestel ontwerp of aangepas om op wiele, bande of rusperbande te loop, en sluit in, maar is nie beperk tot, perdekarre, donkiekarre, sleepwaens en enige ander voertuig wat nie selfaangedrewe is nie;

"voorwerp", enige goedere, artikels, strukture, apparate , toerusting of ander materiaal; en

"werk", enige konstruksiewerk wat onderneem word op enige munisipale eiendom of munisipale straat binne die gebied van jurisdiksie van die Munisipaliteit van Theewaterskloof, wat kan insluit, maar nie beperk is tot, die oprigting van 'n nuwe gebou, enige veranderings of aanbouings aan enige bestaande gebou of struktuur, die oprigting van strukture of tente vir enige doeleindes of 'n byeenkoms, die lê van kabels of pype, enige ander siviele ingenieurskonstruksie werksaamhede, die uitgrawe en terugvul van enige materiaal, of die grawe of terugvulling van enige sloot, uitgrawing of gat.

HOOFSTUK 2:
ALGEMENE BEPALINGS VAN TOEPASSING OP STRATE

2. SPESIFIEKE BEPALINGS VIR STRATE EN OPENBARE PLEKKE

Niemand mag –

(a) 'n straat of 'n sypaadjie bou, aanlê, of verander -
  (i) behalwe met die skriftelike toestemming van die Munisipaliteit nie; of
  (ii) behalwe ingevolge die vereistes wat die Munisipaliteit bepaal;

(b) sonder die toestemming van die Munispaliteit, 'n veranda, 'n muur, 'n stoep, trappe of enige ander uitsteeksel bou, of 'n paal oprig in 'n straat of 'n openbare plek nie;

(c) sonder die toestemming van die Munispaliteit enige verfraaiing of verbetering op 'n sypaadjie of 'n openbare plek aanbring, wat die aanplant van grasperke, sierplante of bome op sodanige wyse insluit, wat enige obstruksie vir voetgangers veroorsaak of negatief impakteer op padverkeersveiligheid;

(d) sonder die toestemming van die Munisipaliteit, in of op 'n straat, 'n sypaadjie of 'n openbare plek enige motorvoertuig, motorfiets, boot, vaartuig, karavaan, sleepwa of enige ander voertuig uitstal, parkeer of adverteer vir verkoping nie; of

(e) enige aanstootlike voorwerpe, materiaal of items op 'n straat of 'n sypaadjie of 'n openbare plek laat of stoor, wat aanleiding kan gee tot 'n openbare oorlas of wat onaanvaarbaar vir inwoners van omliggende persele sal wees nie.

3. VERTOON VAN TEKENS, PLAKKATE EN BILJETTE IN STRATE

Niemand mag 'n advertensie- of enige ander teken, plakkaat of aanplakbiljet in 'n straat vertoon nie –

(a) behalwe met die skriftelike toestemming van die Munisipaliteit; en

(b) onderworpe aan die voorwaardes wat die Munisipaliteit in terme van die bepalings van die Verordening insake Buitereklame en Advertensietekens van die Munisipaliteit van Theewaterskloof bepaal.

4. VOORWERPE WAT 'n VERSPERRING IN STRATE VEROORSAAK

Niemand mag –

(a) in 'n straat enige goedere of voorwerpe neersit of laat bly nie, ongeag of daar in die betrokke straat voorsiening gemaak word vir 'n laaisone as area vir die oplaai en / of aflaai van goedere en ander voorwerpe, en goedere en ander

voorwerpe mag slegs tot 'n maksimum van een (1) uur op sodanige laaisone gelaat word, terwyl dit vir verwydering op- of afgelaai word;

(b) op enige wyse die voetgangerverkeer op 'n sypaadjie belemmer deur enige dier, voorwerp of voertuig daarop te laat of daarop stil te hou of te parkeer nie;

(c) 'n blinding, skerm of ander voorwerp oor 'n straat laat uitsteek of toelaat dat dit daaroor uitsteek, wat 'n versperring tot gevolg kan hê nie –
(i) behalwe met die skriftelike toestemming van die Munisipaliteit, en
(ii) onderworpe aan die voorwaardes wat die Munisipaliteit bepaal; of

(d) 'n voertuig in 'n straat parkeer dat dit 'n versperring veroorsaak vir ander voertuie nie.

5. BOME EN PLANTE IN STRATE

(1) Niemand mag —

(a) behalwe met die skriftelike toestemming van die Munisipaliteit, 'n boom of struik of enige ander plant, in 'n straat plant nie;

(b) 'n boom of struik of enige ander plant wat in 'n straat groei, breek of beskadig of afkap of verwyder nie, of

(c) 'n boom of struik of enige ander plant wat in 'n straat groei, op enige wyse merk of beskilder of ontsier of 'n advertensie daarop aanbring nie.

(2) 'n Boom of struik of enige ander plant wat in 'n straat geplant word deur enige persoon, sal as die eiendom van die Munisipaliteit beskou word.

6. BOME OF PLANTE WAT SKADE OF 'n VERSPERRING VEROORSAAK

(1) Indien 'n boom of enige ander plant op 'n perseel, 'n verkeersteken in 'n straat verberg, elektriese of telekommunikasie lugdrade in 'n straat of op 'n openbare plek belemmer, of 'n ergernis of 'n ongerief veroorsaak of 'n gevaar inhou vir persone wat 'n straat of 'n openbare plek gebruik, of enige privaat eiendom of munisipale infrastruktuur beskadig, kan die Munisipaliteit by skriftelike kennisgewing, die eienaar of okkupeerder van sodanige perseel gelas om die betrokke boom of ander plant te snoei of te verwyder, binne die tydperk wat in sodanige kennisgewing bepaal word.

(2) Indien enige persoon versuim om te voldoen aan 'n skriftelike kennisgewing,
soos uitgereik ingevolge subartikel 6(1) van hierdie verordening, mag die Munisipaliteit self die betrokke boom of plant snoei of verwyder, of laat snoei of verwyder deur 'n kontrakteur aangestel deur die Munisipaliteit op die koste van die persoon aan wie die oorspronklike kennisgewing beteken was.

7. DIE STORT VAN AFVALMATERIAAL EN VOERTUIGWRAKKE OP STRATE EN OPENBARE PLEKKE

Niemand mag –

(a) enige tuinvullis, voertuigwrakke of motoronderdele, bou- of afvalmateriaal, rommel of enige ander afvalprodukte in of op 'n straat, 'n sypaadjie of 'n openbare plek, stoor, stort of laat lê of ophoop nie; of

(b) toelaat dat afval soos voorsien in artikel 7(a) van hierdie verordening, deur die eienaar of okkupeerder van 'n perseel, in 'n straat of op 'n sypaadjie of 'n openbare plek gestort of geplaas word nie, behalwe met die skriftelike toestemming van die Munisipaliteit en onderworpe aan die voorwaardes wat die Munisipaliteit mag bepaal.

8. PARKERING VAN SWAAR VOERTUIE EN KARAVANE

(1) Niemand mag binne die gebied van jurisdiksie van die Munisipaliteit -

(a) 'n motorvoertuig met 'n tarra-gewig wat drieduisend seshonderd (3 600) kilogram oorskry;

(b) 'n sleepwa;

(c) 'n leunwa; of

(d) 'n woonwa,

in of op 'n straat of 'n openbare plek parkeer vir 'n ononderbroke tydperk wat vier (4) ure oorskry nie, buiten op sodanige plekke wat spesifiek vir sodanige voertuie ge-oormerk is.

(2) Geen voertuig met 'n bruto voertuigmassa van drieduisend seshonderd (3 600) kilogram of meer, mag tussen 20:00 en 05:00 daagliks in 'n openbare straat of 'n openbare plek binne die stedelike gebiede van die Munisipaliteit geparkeer wees nie, behalwe op sodanige plekke deur die Munisipaliteit geïdentifiseer vir die parkering en oornag van sodanige tipe voertuie.

9. PARKEERPLEK AANWYSERS

(1) Niemand mag, hetsy teen vergoeding of anders in afwagting van enige vergoeding –

(a) die bestuurder van 'n motorvoertuig aanwys waar 'n parkeerruimte is nie; of

(b) enige ander parkering of verwante dienste in 'n straat of openbare plek verrig nie,

behalwe met die skriftelike toestemming van die Munisipaliteit.

(2) Die Munisipaliteit mag, onderworpe aan enige vereistes en voorwaardes wat die Munisipaliteit mag bepaal, by die ontvangs van 'n aansoek van enige persoon of 'n organisasie, sodanige persoon of organisasie toelaat om parkeerruimtes aan te wys vir bestuurders van voertuie, of enige ander parkering of verwante dienste in 'n openbare straat of 'n openbare plek te lewer.

10. OORSKRYDINGS

(1) Onderworpe aan enige bepalings en voorwaardes wat die Munisipaliteit mag bepaal, mag die Munisipaliteit nadat die kommentaar van alle toepaslike departemente van die Munisipaliteit ingewin is, by ooreenkoms –

(a) 'n oorskryding op 'n munisipale eiendom of 'n straat of 'n openbare plek, vir die oprigting van 'n veranda, 'n balkon, 'n teken, 'n uitsteekteken of 'n soortgelyke struktuur wat in of oor enige munisipale eiendom, straat of openbare plek, hang of uitsteek, goedkeur ingevolge enige tegniese en ingenieurs norme, standaarde en riglyne, wat die Munisipaliteit mag bepaal en daarstel; en

(b) 'n oorskryding op 'n munisipale eiendom of 'n straat of 'n openbare plek, vir die oprigting van 'n muur, 'n gebou of 'n soortgelyke struktuur wat in of oor 'n munisipale eiendom of 'n straat of 'n openbare plek oorskry, goedkeur.

(2) Wanneer daar sonder die toestemming van die Munispaliteit op enige onroerende eiendom van die Munisipaliteit of 'n straat of 'n openbare plek oorskry word, mag die Munisipaliteit die nodige stappe onderneem om sodanige oorskryding te verwyder of te reguleer.

(3) Die Munisipaliteit mag die omvang van 'n straat of openbare plek waarop daar oorskry word, verminder tot die mate van die oorskryding of tot enige groter omvang as wat wenslik geag word.

(4) 'n Magtiging vir oorskryding wat in terme van subartikel 10(1) van hierdie verordening uitgereik word, word vir die doeleindes van subartikel 10(2) van hierdie verordening, geag die nodige regulering ten opsigte van die oorskryding in sodanige magtiging vir oorskryding vermeld, te wees.

(5) Enige persoon wat die Munisipaliteit se toestemming vir oorskryding, soos beoog in subartikel 10(1) van hierdie verordening wil bekom, moet die voorgeskrewe aansoekvorm vir oorskryding voltooi en by die Munisipaliteit indien.

(6) Die Munisipaliteit mag slegs 'n magtiging vir oorskryding uitreik aan 'n aansoeker, indien die voorgeskrewe fooi soos jaarliks ingevolge die Tariewe Verordening van die Theewaterskloof Munisipaliteit bepaal word, betaal is.

(7) Enige persoon wat ongemagtig oorskry op 'n munisipale eiendom, 'n straat of 'n openbare plek, of wat enige voorwaarde opgelê ingevolge subartikel 10(1) van hierdie verordening, verontagsaam, pleeg 'n misdryf en die Munisipaliteit -

(a) mag die uitsteeksel of die struktuur wat oorskry, afbreek, verwyder of invul; en

(b) sal die kostes aangegaan deur die Munisipaliteit vir die betrokke afbreek, verwydering of invulling, van die eienaar van die perseel of die persoon wat vir sodanige ongemagtigde oorskryding verantwoordelik was verhaal.

HOOFSTUK 3:
VERBODE EN GEREGULEERDE AKTIWITEITE IN STRATE

11. HERSTEL EN WAS VAN VOERTUIE IN STRATE

Niemand mag in 'n straat –

(a) 'n voertuig herstel of versien nie, behalwe waar sodanige aksie nodig is om die betrokke voertuig te kan verwyder van die plek waar dit onklaar geraak het of in 'n ongeluk betrokke was;

(b) 'n onklaar voertuig vir 'n periode van langer as agt-en-veertig (48) uur in 'n straat laat of parkeer nie; of

(c) 'n voertuig skoonmaak of was nie.

12. OPENBARE OORLASTE

Niemand mag enigiets in 'n straat doen wat onwelvoeglik van aard is, of 'n openbare oorlas of 'n ergernis vir die publiek kan veroorsaak, of wat 'n bedreiging vir publieke veiligheid inhou nie.

13. AFVUUR VAN VUURWERKE

Niemand mag in of op 'n straat of 'n openbare plek enige vuurwerke afvuur nie, behalwe op sodanige plekke wat as aangewese plekke in terme van die Verordening insake die Beheer van Vuurwerke van die Munisipaliteit van Theewaterskloof, vir die afvuur van vuurwerke aangewys word.

14. VERVOER VAN DIERE KARKASSE EN ANDER STOWWE

Niemand mag die karkas van 'n dier of enige afval, riool, afval, tuinafval, mis, gruis of sand, graanprodukte of vrugte of druiwe of ander landbouprodukte, deur of in 'n straat dra of vervoer nie –

(a) tensy dit behoorlik bedek is met 'n ondeursigtige en waterdigte bedekking nie, of

(b) tensy dit in 'n houer vervoer word, wat sal verhoed dat enige aanstootlike of ander vloeistowwe of dele van die vrag in 'n straat stort nie.

15. HEININGS OP STRAATGRENSE

Geen persoon mag sonder die Munisipaliteit se skriftelike toestemming en strydig met die bepalings van die Verordening insake Omheinings en Mure van die Munisipaliteit van Theewaterskloof, 'n doringdraadheining, 'n lemmetjiesdraadheining, 'n geëlektrifiseerde heining of enige ander heining of versperring wat 'n gevaar kan inhou vir verbygaande voetgangers, op die grens van 'n straat oprig nie.

16. BOU AKTIWITEITE EN BOUMATERIAAL IN STRATE EN OPENBARE PLEKKE

Niemand mag in 'n straat of 'n openbare plek, klippe of stene boor of kap, kalk blus of sif, sand sif, of enige boumateriaal of beton meng, of enige boumateriaal of bourommel opberg of plaas of stort nie, behalwe met die skriftelike toestemming van die Munisipaliteit, en onderworpe aan sodanige vereistes en voorwaardes soos deur die Munisipaliteit bepaal.

17. BEPERKINGE OP DIE GEBRUIK VAN BALKONNE, STOEPE EN VERANDAS WAT OORSKRY

Geen persoon mag –

(a) 'n balkon, 'n stoep of 'n veranda wat oorskry op 'n straat of 'n openbare plek, vir die dryf van handel of die vertoon van enige handelsgoedere of die opberg van enige goedere gebruik, sonder die skriftelike toestemming van die Munisipaliteit nie;

(b) 'n balkon, 'n stoep of 'n veranda wat oorskry op 'n straat of 'n openbare plek, vir die was of droog van klere gebruik nie, of

(c) 'n balkon, stoep of veranda wat oorskry op 'n straat of 'n openbare plek, as 'n woon- of slaapvertrek omskep of afskort nie.

18. BESKADING VAN MUNISIPALE EN ANDER EIENDOM IN STRATE

Niemand mag enige kenningsgewingbord, reklameteken, verkeersteken, straatnaamteken, verkeerseintoerusting, elektriese of diensowerheid pale en / of distribusiekaste en / of strukture, rotse en ander natuurlike elemente, straatmeubelment, vullishouers of enige ander munisipale eiendom of ander voorwerp, wat deur of met die toestemming van die Munisipaliteit in 'n straat of 'n publieke plek opgerig was, ontsier of beskadig of daarmee peuter nie.

19. STRAATKOLLEKTES EN DIE VERSPREIDING VAN STROOIBILJETTE

Niemand mag –

(a) op enige wyse in 'n straat geld insamel of 'n geldinsameling organiseer, behalwe met die skriftelike toestemming van die Munisipaliteit en onderworpe aan die betaling van fooie, en die vereistes en voorwaardes soos deur die Munisipaliteit bepaal;

(b) 'n strooibiljet of soortgelyke advertensiemateriaal op enige wyse versprei of laat versprei in enige straat, of sodanige strooibiljet of advertensiemateriaal op of in voertuie plaas nie, behalwe met die skriftelike toestemming van die Munisipaliteit en onderworpe aan die betaling van fooie, en die vereistes en voorwaardes soos deur die Munisipaliteit bepaal; of

(c) deur tot deur kollektes doen nie, behalwe met die skriftelike toestemming van die Munisipaliteit en onderworpe aan die betaling van fooie, en die vereistes en voorwaardes soos deur die Munisipaliteit bepaal.

20. UITSPUIT VAN STOWWE IN STRATE EN OPENBARE PLEKKE

Niemand, behalwe 'n gemagtigde beampte van die Munisipaliteit of 'n diensverskaffer deur die Munisipaliteit aangestel, mag onkruiddoders of enige soortgelyke skadelike stowwe in of op strate of openbare plekke uitspuit nie.

21. ROLSKAATSE, SKAATSPLANKE OF SOORTGELYKE TOESTELLE

Niemand mag rolskaatse of skaatsplanke of enige soortgelyke toestel of 'n elektriese aangedrewe weergawe daarvan, in of op 'n straat gebruik nie.

22. VERMAAKLIKHEID GELEENTHEDE IN STRATE

(1) Niemand mag 'n sirkus, 'n draaimeule, 'n mallemeule of enige ander soortgelyke vermaaklikheid geleentheid, ingesluit die gebruik, maar nie beperk tot, van toerusting en fasiliteite soos luidsprekers, klankstelsels, strukture, of ander vermaaklikheidstoerusting of tente verbandhoudend daarmee, of ander aktiwiteite vir die vermaak of ontspanning van die publiek in 'n straat oprig of inrig vir gebruik nie –

(a) behalwe op skriftelike aansoek aan die Munisipaliteit in terme van die bepalings van die Verordening insake die Hou van Geleenthede van die Munisipaliteit van Theewaterskloof; en

(b) behalwe met die skriftelike toestemming van die Munisipaliteit en onderworpe aan die betaling van fooie, vereistes en voorwaardes soos deur die Munisipaliteit bepaal.

(2) Gemagtigde beamptes van die Munisipaliteit het vir doeleindes van inspeksies van goedkeurings en die nakoming van voorwaardes, te alle redelike tye vrye toegang tot sodanige geleenthede.

23. DIERE IN STRATE

(1) Geen eienaar of 'n persoon in beheer van –

(a) 'n wilde of 'n kwaai dier, mag toelaat dat sodanige dier te eniger tyd in 'n straat sonder toesig of los rondloop, of mag sodanige dier op so 'n wyse aanhou dat dit 'n gevaar of 'n ergernis vir die algemene publiek inhou nie; en

(b) 'n dier, mag toelaat of veroorsaak dat enige dier in of op enige straat wei of rondloop nie.

(2) Enige dier wat onwettig in 'n padreserwe wei of in 'n straat rondloop sal in terme van die bepalings van die Verordening insake die Skut van Diere van die Munisipaliteit van Theewaterskloof, geskut word.

24. BEPERKING VAN TOEGANG TOT 'n STRAAT

Niemand mag sonder die Munisipaliteit se goedkeuring, enige straat sluit of die toegang daartoe beperk nie.

25. VERBODE GEDRAG IN STRATE EN OPENBARE PLEKKE

Niemand mag in 'n straat of 'n openbare plek –

(a) 'n oorlas vir ander persone, weens sy of haar gedrag veroorsaak nie;

(b) oornag of enige skuiling oprig nie, behalwe op 'n plek deur die Munisipaliteit vir sodanige doeleindes aangewys;

(c) klere, komberse of ander huishoudelike artikels was, skoonmaak of droogmaak nie;

(d) skeltaal, of beledigende, onwelvoeglike, dreigende of godslasterlike taal besig nie;

(e) baklei of geweldadig optree nie;

(f) enige vuurwapen, windbuks, lugpistool, boog of slingervel gebruik of afvuur nie, behalwe 'n gemagtigde beampte of 'n lid van die Suid-Afrikaanse Polisiediens, in die uitvoering van hulle pligte, of ingevolge 'n spesiale permit daartoe gemagtig;

(g) tot die ergernis of ongemak van enige ander persone sodanige lawaai maak, dat dit geraas besoedeling tot gevolg het nie;

(h) in die openbaar ontlas of urineer of ontklee nie;

(i) hom of haar op 'n onbehoorlike, onbetaamlike of ontoepaslike wyse gedra, of sy of haar liggaam ontbloot nie;

(j) enigiets breek, beskadig, vernietig, daarmee peuter, wangebruik of ontsier nie;

(j) 'n klip, rots of voorwerp verwyder, gooi of rol nie;

(k) enige flora uittrek, pluk, afkap, afbreek, afsaag, afsny of beskadig of enige flora onwettig in besit hê nie;

(l) in 'n blombedding loop, staan, sit of lê, of strydig met enige kennisgewing op enige plek of area of gras loop, staan, sit of lê nie;

(m) graffiti of 'n simbool op enige straatmeubelment, struktuur, gebou, boom, rots of pad skryf, verf, of teken nie;

(n) vullis verbrand of enige afval, tuinafval of bourommel stort nie;

(o) op banke of sitplekke, lê of dit op so 'n wyse gebruik dat dit ander gebruikers of potensiële gebruikers verontrief of van gebruik verhinder nie;

(p) enige handeling verrig wat die gesondheid of veiligheid van 'n ander persoon nadelig mag raak nie;

(q) dans of sing of 'n musiekinstrument bespeel, of enige luidspreker of ander toestel vir die reproduksie of versterking van klank gebruik nie, behalwe met die skriftelikte toestemming van die Munisipaliteit;

(r) met die oog op prostitusie of onsedelikheid 'n ander persoon lastig val nie; of

(s) onder die invloed van drank of dwelms wees, of alkoholiese verversings of verdowingsmiddels of ander bedwelmende middels gebruik nie.

HOOFSTUK 4:
WERK AAN STRATE EN SYPAADJIES EN DIE UITLAAT VAN WATER OP OPENBARE PAAIE

26. VOERTUIE EN TOERUSTING WAT OPPERVLAKTES IN OF OP STRATE EN SYPAADJIES KAN BESKADIG

(1) Niemand mag –

(a) 'n voertuig in 'n straat gebruik of toelaat dat dit gebruik word, indien sodanige voertuig skade aan 'n straat kan veroorsaak nie, en

(b) enige toerusting of masjien op of in 'n straat of 'n sypaadjie bestuur, stoot, rol, trek of laat voortbeweeg op so 'n wyse dat sodanige toerusting of masjien die oppervlaktes van 'n straat of 'n sypaadjie, op enige wyse beskadig, breek of vernietig nie.

(2) Die Munisipaliteit sal wanneer die persoon geïdentifiseer word wat verantwoordelik is vir enige skade wat ontstaan het as gevolg van enige handelinge soos in subartikel 26(1) van hierdie verordening vermeld, die herstelkoste bereken en sodanige kostes van die betrokke oortreder verhaal.

27. DIE ONDERNEEM VAN WERK IN OF OP STRATE, SYPAADJIES EN OPENBARE PLEKKE

Niemand mag, insluitend enige staatsinstelling, enige werk in of op 'n straat of 'n sypaadjie of 'n openbare plek of 'n ander eiendom wat aan die Munisipaliteit behoort, onderneem –

(a) in die geval van enige geregistreerde servituut of reg-van-weg, sonder vooraf skriftelike kennisgewing aan die Munisipaliteit, wat die aard, omvang en datum van die werk wat onderneem gaan word, weergee; en

(b) in enige ander geval, sonder die vooraf skriftelike goedkeuring van die Munisipaliteit, die betaling van die vereiste fooie, en die bepaling van vereistes en voorwaardes van die Munisipaliteit waaraan voldoen moet word.

28. NORME, STANDAARDE EN RIGLYNE VIR WERK ONDERNEEM IN OF OP STRATE, SYPAADJIES EN OPENBARE PLEKKE

(1) Die Munisipaliteit mag enige tegniese en ingenieurs norme, standaarde en riglyne bepaal, wat geskikte maatreëls en standaarde vir werk wat in en op 'n straat of 'n sypaadjie of 'n openbare plek of 'n eiendom wat aan die Munisipaliteit behoort onderneem word, daarstel.

(2) Die tegniese en ingenieurs norme, standaarde en riglyne waarna in subartikel 28(1) van hierdie verordeninge verwys word, mag tussen gemeenskappe, geografiese gebiede en verskillende persele ingevolge sonering differensieer.

29. UITLAAT VAN WATER OP 'n OPENBARE PAD

(1) Niemand mag sonder vooraf skriftelike goedkeuring vanaf die Munisipaliteit –

(a) enige water, behalwe stormwater, op of oor 'n openbare pad lei of vrystel of uitlaat nie; of

(b) op welke wyse ookal die vlak van water in 'n rivier, dam of enige waterwerke op so 'n wyse verhoog, dat dit 'n straat oorstroom nie.

(2) Enige persoon wat 'n handeling wil verrig wat die uitkomste soos voorsien in subartikel 29(1) van hierdie verordening tot gevolg sal hê, moet 'n skriftelike aansoek in die voorgeskrewe formaat, met die volledige tegniese besonderhede van die voorgenome optrede by die Munisipaliteit indien, welke aansoek deur die Munisipaliteit goed- of afgekeur sal word, met dien verstande dat –

(a) indien die Munisipaliteit toestemming sou weier, die skriftelike redes vir sodanige weiering verstrek sal word aan die aansoeker; of

(b) indien die Munisipaliteit toestemming sou verleen, die skriftelike voorwaardes en vereistes vir die goedkeuring verskaf sal word.

(3) Die Munisipaliteit mag onderworpe aan enige statutêre en regsbepaling wat van toepassing mag wees, en nadat die eienaar of die okkupeerder van 'n perseel se toestemming verkry is –

(a) 'n stroom of rivier of enige ander waterwerke se vloei verander, indien so 'n verandering in vloei noodsaaklik is vir -
(i) die beskerming van 'n straat of enige struktuur wat met 'n straat verband hou; of
(ii) die oprigting van 'n struktuur wat verband hou met of deel vorm van 'n straat; en

(b) stormwater van of onderdeur 'n straat op 'n onbeboude privaat eiendom aflei, wat nie reeds enige geboue, ander strukture of verbeterings bevat nie.

(4) Die Munisipaliteit moet die eienaar of okkupeerder van 'n perseel wat skade gelei het as gevolg van sodanige optrede ingevolge subartikel 29(3) van hierdie verordening, vergoed vir enige sodanige skade en die bedrag moet by wyse van ooreenkoms tussen die Munisipaliteit en die eienaar of okkupeerder van die betrokke perseel bepaal word.

HOOFSTUK 5:
ALGEMENE BEVOEGDHEDE VAN DIE MUNISIPALITEIT

30. VERTONING VAN STRAATNOMMERS

(1) Die Munisipaliteit kan by wyse van skriftelike kennisgewing aan die eienaar of okkupeerder van enige perseel voorskryf, dat 'n nommer wat deur die Munisipaliteit ingevolge artikel 34(c) van hierdie verordening, aan so 'n perseel toegeken word op sodanige perseel vertoon moet word.

(2) 'n Nommer wat vertoon word op 'n perseel moet –

(a) op 'n opsigtelike plek op die perseel vertoon word en moet te alle tye sigbaar en leesbaar vanaf die aangrensende straat wees; en

(b) elke keer vervang word deur die eienaar of okkupeerder van sodanige perseel as dit uitgewis of onleesbaar word.

31. VERHALING VAN KOSTES

(1) Ondanks enige ander bepalings van hierdie verordening, sal die Munisipaliteit –

(a) waar die toestemming van die Munisipaliteit benodig word, alvorens 'n persoon 'n sekere handeling mag verrig of iets mag bou of oprig, en sodanige toestemming nie verkry is nie; en

(b) waar enige bepaling van hierdie verordening oortree word in omstandighede waar die oortreding beëindig kan word deur die verwydering van enige struktuur, voorwerp of materiaal,

'n skriftelike kennisgewing aan die eienaar van die perseel of die oortreder te beteken, na gelang van die geval, om sodanige oortreding te beëindig, of die struktuur, voorwerp of materiaal te verwyder, of enige ander stappe te doen wat die Munisipaliteit mag vereis om sodanige oortreding reg te stel, binne die tydperk in sodanige kennisgewing vermeld.

(2) Enige persoon wat versuim om aan 'n kennisgewing ingevolge subartikel 31(1) van hierdie verordening te voldoen, sal skuldig wees aan 'n misdryf, en die Munisipaliteit mag sonder inkorting van enige bevoegdhede om teen die oortreder op te tree, die nodige stappe onderneem om op koste van die eienaar van die perseel of die oortreder, na gelang van die geval, uitvoering aan sodanige kennisgewing te gee.

32. SLUITING VAN STRATE EN OPENBARE PLEKKE

(1) Die Munisipaliteit kan enige straat of openbare plek permanent sluit, of enige gedeelte van 'n straat of 'n openbare plek sluit of 'n straat verlê of toegang na 'n straat of 'n openbare plek beperk.

(2) Enige voorgenome handeling ingevolge subartikel 32(1) van hierdie verordening, sal deur middel van 'n toepaslike offisiële kennisgewing in minstens twee amptelike tale in 'n offisiële koerant en 'n plaaslike nuusblad bekend gemaak word.

(3) Enige besware teen die voorgenome handeling moet binne dertig (30) dae na datum van die offisiële kennisgewing, soos voorsien in subartikel 32(2) van hierdie verordening, skriftelik by die Munisipaliteit ingedien word.

33. TYDELIKE SLUITING VAN STRATE EN OPENBARE PLEKKE

(1) Die Munisipaliteit kan 'n straat of 'n openbare plek of enige gedeelte van 'n straat of 'n openbare plek tydelik sluit –

(a) vir die doeleindes of in afwagting van die aanleg, heraanleg, onderhoud of herstel van 'n straat of 'n openbare plek;

(b) vir die doeleindes of in afwagting van die bou, oprigting, aanleg, herstel, uitbreiding, onderhoud of sloping van enige gebou, struktuur, of werke of diens aanliggend aan, op, oor, deur, of onder 'n straat, indien –

(i) sodanige straat na die mening van die Munisipaliteit in so 'n vervalle toestand is, dat dit gevaarlik vir voertuigverkeer word om die betrokke pad te gebruik; en

(ii) die aard van werksaamhede na die mening van die Munisipaliteit van sodanige omvang sal wees, dat dit gevaarlik vir voertuigverkeer word om die betrokke pad te gebruik;

(c) as gevolg van enige noodtoestand of 'n openbare geleentheid wat na die mening van die Munisipaliteit spesiale maatreëls vir die beheer van verkeer of spesiale voorsiening vir die akkommodasie van skares vereis, of

(d) om enige ander rede wat na die mening van die Munisipaliteit die tydelike sluiting van enige straat of openbare plek wenslik maak.

(2) Die Munisipaliteit mag 'n straat wat ingevolge subartikel 33(1)(a) van hierdie verordening tydelik gesluit is, tydelik verlê.

(3) Enige voorgenome handeling ingevolge subartikel 33(1) van hierdie verordening, sal deur middel van 'n toepaslike offisiële kennisgewing in minstens twee amptelike tale in 'n offisiële koerant en 'n plaaslike nuusblad bekend gemaak word.

(4) Enige besware teen die voorgenome handeling moet binne dertig (30) dae na datum van die offisiële kennisgewing, soos voorsien in subartikel 33(3) van hierdie verordening, skriftelik by die Munisipaliteit ingedien word.

34. AANLEG, ONDERHOUD EN BENAMING VAN STRATE

Die Munisipaliteit kan binne die gebied van jurisdiksie van die Munisipaliteit –

(a) strate aanlê, heraanlê, verander en onderhou;

(b) strate benoem en herbenoem; en

(c) ingevolge 'n vooraf bepaalde beleid nommers toeken en hertoeken aan persele wat aan strate grens.

35. VERKLARING VAN MUNISIPALE STRATE, OPENBARE PAAIE EN OPENBARE PLEKKE

(1) Die Munisipaliteit kan -

(a) enige grond of gedeelte grond onder die beheer van die Munisipaliteit tot 'n munisipale straat verklaar;

(b) enige munisipale straat of gedeelte daarvan tot 'n openbare plek verklaar; en

(c) enige privaat straat of gedeelte daarvan, tot 'n munisipale straat of tot 'n tot 'n openbare pad verklaar.

(2) Enige voorgenome handeling ingevolge subartikel 35(1) van hierdie verordening, sal deur middel van 'n toepaslike offisiële kennisgewing in minstens twee amptelike tale in 'n offisiële koerant en 'n plaaslike nuusblad bekend gemaak word.

(3) Enige besware teen die voorgenome handeling moet binne dertig (30) dae na datum van die offisiële kennisgewing, soos voorsien in subartikel 35(2) van hierdie verordening, skriftelik by die Munisipaliteit ingedien word.

HOOFSTUK 6:
OPTOGTE

36. HOU VAN OPTOGTE

(1) Geen persoon mag in enige straat of openbare plek 'n optog of byeenkoms hou, organiseer of daaraan deelneem, of enigiets doen wat waarskynlik 'n byeenkoms van persone of 'n versperring van verkeer in sodanige straat en / of openbare plek sal veroorsaak, sonder die skriftelike toestemming van die Munisipaliteit ingevolge die bepalings van die Verordening insake die Hou van Geleenthede van die Munisipaliteit van Theewaterskloof en/of die relevante wetgewing.

(2) 'n Byeenkoms, optog of betoging, soos voorsien ingevolge die bepalings van die Wet op die Reëling van Byeenkomste, 1993 (Wet No 205 van 1993), soos gewysig, moet altyd ingevolge die statutêre bepalings van die betrokke wet plaasvind.

HOOFSTUK 7:
ALGEMENE BEPALINGS

37. 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 die redes vir die appèl te verstrek.

38. VRYSTELLINGS

(1) Enige persoon mag by wyse van 'n skriftelike aansoek, waarin die redes volledig verstrek word, by die Munisipaliteit om vrystelling van enige bepaling van hierdie verordening aansoek doen.

(2) Die Munisipaliteit mag –

(a) skriftelik goedkeuring vir vrystelling verleen aan 'n aansoeker, en die voorwaardes waarvolgens vrystelling verleen word en die tydperk waarvoor sodanige vrystelling verleen word, moet in die goedkeuring uiteengesit word;

(b) enige vrystelling of voorwaarde vir 'n vrystelling verander of kanselleer; of

(c) skriftelik weier om 'n vrystelling te verleen, met verstrekking van die redes vir sodanige weiering.

(3) Ten einde 'n aansoek ingevolge subartikel 38(1) van hierdie verordening te oorweeg, mag die Munisipaliteit die insette en kommentaar van die eienaars of okkupeerders van omliggende persele en / of 'n gemeenskapskakelforum bekom.

(4) 'n Vrystelling tree nie in werking voordat die aansoeker skriftelik onderneem het om aan alle voorwaardes wat die Munisipaltieit ingevolge subartikel 38(2) van hierdie verordening opgelê het, te voldoen nie, en indien daar met 'n aktiwiteit in aanvang geneem word wat verband hou met die aansoek om vrystelling, voordat sodanige onderneming aan die Munisipaliteit verskaf word, sal sodanige vrystelling verval.

(5) Indien 'n aansoeker nie aan enige van die voorwaardes van 'n vrystelling voldoen nie, sal sodanige vrystelling onmiddellik verval.

39. 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 39(1)(a), 39(1)(b) of 39(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, 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.

40. STRAFBEPALINGS

'n Persoon wat enige bepaling van hierdie verordening oortree of versuim om daaraan te voldoen of versuim om te voldoen aan 'n kennisgewing uitgereik ingevolge hierdie verordening, 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 in die uitvoering van sy of haar pligte in terme van hierdie verordening verhinder, begaan 'n oortreding en kan by skuldigbevinding –

(a) 'n boete of gevangenisstraf opgelê word, of gevangenisstraf sonder die keuse van 'n boete, of beide sodanige boete en sodanige gevangenisstraf, opgelê word;

(b) in die geval van 'n voortgesette misdryf, 'n bykomende boete of 'n 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.

41. GEMEENSKAPSKAKELFORUMS

(1) Die Munisipaliteit mag skakelforums in 'n gemeenskap instel met die doel om -

(a) geleenthede vir die gemeenskap te skep om deel te neem aan die aangeleenthede van die Munisipaliteit, wat met hierdie verordening verband hou;

(b) advies oor aangeleenthede te lewer, wanneer 'n skakelforum deur die Munisipaliteit versoek word om advies te lewer,

(c) 'n veilige omgewing te bevorder; en
(d) behoorlik gekontroleerde en geadministreerde strate, te bevorder.

(2) 'n Skakelforum mag bestaan uit —

(a) 'n lid of lede van 'n belangegroep, of geaffekteerde persone;

(b) 'n lid of lede van die gemeenskap; of

(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, die insette van 'n skakelforum versoek.

(b) 'n Skakelforum of enige persoon of persone bedoel in subartikel 41(2) van hierdie verordening mag op eie inisiatief, 'n inset aan die Munisipaliteit vir oorweging verskaf.

42. TEENSTRYDIGHEDE MET ANDER WETGEWING

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

43. HERROEPING VAN VERORDENINGE

(1) Die bepalings van enige ander verordeninge, voorheen uitgevaardig deur die Munisipaliteit of deur enigeen van die afgeskafte munisipaliteite wat nou in die Munisipaliteit geïnkorporeer is, word hiermee herroep insoverre dit betrekking het op aangeleenthede waarvoor daar in hierdie verordening voorsiening gemaak word.

(2) Die volgende verordening van die Theewaterskloof Munisipaliteit word hiermee spesifiek herroep -

Datum van publikasie	Naam van verordening	In die geheel of gedeeltelik
PK 6234 gedateer 8 Maart 2005	Verordening insake Strate	In die geheel

44. KORT TITEL

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

45. JURISDIKSIE VAN LANDDROSHOF

Ondanks enige ander bepaling wat in enige wet met betrekking tot 'n landdroshof vervat is, het 'n landdros jurisdiksie om by aansoek deur die Munisipaliteit, 'n bevel uit te reik, vir die toepassing van enige van die bepalings van hierdie verordening, of oor enige goedkeuring, weiering of voorwaardelike goedkeuring wat ingevolge hierdie verordening verleen of van toepassing was.

46. INWERKINGTREDING

Hierdie verordening tree op datum van publikasie daarvan in werking.

THEEWATERSKLOOF MUNICIPALITY

STORM WATER MANAGEMENT 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 regulate storm water management and related activities in the area of jurisdiction of the Theewaterskloof Municipality, that may have an adverse impact on the development, safety and well-being of the community, and to provide for matters related thereto and the maintenance and / or operation of storm water systems.

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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;
"built-up area", means the portions of the area of jurisdiction of a municipality, which by actual survey have been subdivided into erven or is surrounded by

surveyed erven, and includes the public roads abutting such erven or an area where there is a permanent concentration of people, buildings and other man-made structures;

"development", means the construction of a building or a structure on a vacant premises;

"**flood plain**", means the land adjoining a watercourse, which is predisposed to flooding at a hundred year recurrence interval;

"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;

"organ of state", means -
(a) any department of state or administration in the national, provincial or local sphere of government; or
(b) any other functionary or institution –
    (i) exercising a power or performing a function in terms of the Constitution of the Republic of South Africa, 1996 or a provincial constitution; or
    (ii) exercising a public power or performing a public function in terms of any legislation,
but does not include a court or judicial officer;

"owner", means with regard to property, the registered owner of a property, who can be either or a natural or a juristic person, and include the occupant, lessee, holder of a servitude right, holder of a land tenure right, holder of a letter of land rights, trustee, executor, curator or appointed agent or administrator of a property;

"pollute", bears the meaning assigned to it in the National Water Act, 1998 (Act No 36 of 1998), as amended;

"premises", means any portion of land situated within the area of jurisdiction of the Theewaterskloof Municipality, of which the outer boundaries are demarcated on a general plan or a diagram or a sectional title plan registered in accordance with applicable legislation;

"pollute", bears the meaning assigned to it in the National Water Act, 1998 (Act No 36 of 1998), as amended;

"**private storm water system",** means a storm water system which is owned, operated or maintained by a person or an entity, and not the Theewaterskloof Municipality;

"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;

"public storm water system", means a storm water system which is owned, operated and maintained by the Theewaterskloof Municipality;

"storm water", means water accumulated as a result of natural rainfall, and includes ground water and spring water, ordinarily conveyed by a storm water system, but excludes potable water in a drinking water reticulation system or grey water in a waste water system;

"**storm water system",** means both constructed systems and natural watercourses, including, but not limited to, roadways, hardened surfaces, pipes, culverts, channels, waterways, natural watercourses and their associated floodplains, whether over or under public or privately owned property, used or required for the management, collection, conveyance, temporary storage, control, monitoring, use or disposal of storm water;

"watercourse", has the meaning assigned to it in the National Water Act, 1998 (Act No 36 of 1998), as amended;

2. APPLICATION OF BY-LAW

This by-law shall be –

(a) binding on the owner of any premises in a built-up area;

(b) binding on any organ of state; and

(c) applicable for storm water systems in built-up areas.

3. PROHIBITED CONDUCT

(1) No person may, except with the written consent of the Municipality –

(a) drain, discharge, dispose or permit the draining, discharging or disposal of –
  (i) anything other than water;
  (ii) anything likely to damage a storm water system or interfere with the operation thereof;
  (iii) anything likely to pollute the water in a storm water system,
into a storm water system;

(b) drain or discharge from any place, or drain or discharge onto any hard surface, any substance other than water, where that substance could reasonably be expected to drain into a storm water system;

(c) drain or discharge any storm water into a sanitation system; or

(d) undertake any action that is likely to impair, alter or limit the free flow of water in a storm water system, or interfere with the operation or the maintenance of a storm water system as such, which actions may include, but are not limited to -
  (i) obstructing or reducing the capacity of a storm water system;
  (ii) opening a pipe, culvert or canal which forms part of a storm water system;
  (iii) constructing or erecting any structure or object in such a way or in such a manner, that it may endanger or interfere with a storm water system or the operation thereof;
  (iv) abstracting or diverting any water directly from a storm water system or to drain any water directly into a storm water system;
  (v) filling, excavating or landscaping the soil above, within, under or immediately next to any part of a storm water system;
  (vi) changing the design or the use of, or otherwise modify any part of a storm water system, which in itself or in combination with other existing or potential land uses, may cause an increase in storm water volumes and a change in flood levels, or create a potential flood risk; or
  (vii) any activity which in itself or in combination with other existing or proposed activities, may cause an increase in storm water volumes and a change in flood levels, or create a potential flood risk.

(2) When any incident occurs or any unauthorized action has been undertaken, as contemplated in subsection 3(1)(a), 3(1)(b), 3(1)(c) or 3(1)(d) of this by-law, without the written consent of the Municipality –

(a) when the incident is not the result of natural causes, the person responsible for the incident; or

(b) the owner of the premises, on which the incident or action occurred or took place or is occurring or is taking place,

shall immediately report the occurrence to the Municipality and undertake at own cost, all reasonable measures to contain and / or minimize the effects of the incident or the action, which measures may include, but are not limited to the undertaking of cleaning-up operations, the repair of damaged water courses and / or storm water systems, and the rehabilitation of the environment.

4. APPLICATIONS FOR CONSENT

(1) Any person who wishes to obtain the consent of the Municipality as contemplated in subsection 3(1) of this by-law, shall submit an application for consent, on the prescribed form obtainable from the Municipality.

(2) The Municipality may in writing, after consideration of an application –

(a) grant a consent, with or without any pre-determined conditions; or

(b) refuse approval of any approval for consent, and provide the reasons therefore to the applicant.

(3) When considering an application for consent, the Municipality may require from an applicant to provide the Municipality, at the cost of the applicant, with environmental studies, structural engineering designs and environmental impact assessments, as required by statutory stipulations.

(4) The Municipality may also require from an applicant to determine and document the flood lines applicable for a premises.

5. STORM WATER SYSTEMS ON PRIVATE PROPERTY

(1) The owner of a premises on which a private storm water system is located –

(a) shall not carry out or undertake any activity or action which may impair the effective functioning of the public storm water system or which could reasonably be expected to impair the effective functioning of the public storm water system, into which accumulated storm water of the premises concerned, is drained, disposed or discharged; and

(b) shall at the cost of the owner keep such private storm water system functioning effectively, including undertaking on written instruction by the Municipality, the refurbishment and reconstruction of such a private storm water system, when deemed necessary by the Municipality.

(2) Subsection 5(1)(b) of this by-law, does not apply where the Municipality has accepted responsibility for any of the maintenance and / or operational duties for a private storm water system, as contained in an approval for consent or a maintenance agreement or in terms of the conditions of a servitude.

(3) When an owner of a premises fail or refuse to comply with an instruction issued by the Municipality in terms of subsection 5(1)(b) of this by-law, the Municipality may undertake the required work, and the Municipality may recover from the owner of the premises involved, all reasonable costs incurred as a result of actions undertaken.

6. POWERS OF THE MUNICIPALITY

(1) An authorized official of the Municipality may at all reasonable times enter any premises or any portion thereof, with the aim of carrying out any inspection or test to determine the current status of a storm water system, or for purpose of the repair of a storm water system.

(2) The Municipality may for the purpose of managing, operating and maintaining infrastructure for a storm water system –

(a) construct, expand, alter, maintain or install any drain, pipe or other structure related to a storm water system on or under any premises, and may undertake any other actions necessary or desirable or incidental or supplementary or ancillary to such construction, expansion, alteration or maintenance of such a storm water system;

(b) drain or discharge storm water from any municipal storm water system into any watercourse;

(c) repair any damage resulting from contraventions of this by-law, by –
(i) demolishing, altering or otherwise dealing with any building, structure or any other object constructed, erected or installed; and
(ii) back-filling any soil excavated, and removing any filling of soil;

(d) remove from a storm water system, anything –
(i) drained, discharged, disposed or spilled into such a storm water system, and considered to be undesirable; and
(ii) that may damage or endanger any part of a storm water system;

(e) seal or block off any point of discharge from any premises into a storm water system;

(f) cancel any consent granted by the Municipality in terms of section 4 of this by-law, when any condition in terms of which a consent was granted has not been complied with;

(g) by written notice and with mutual consent from adjoining and affected property owners instruct any owner of a premises –

(i) to retain storm water on such premises or to install at the cost of such an owner, a storm water drain pipe or storm water drain gutter on a suitable place indicated by the Municipality, irrespective whether such drainage pipe or drainage gutter shall run over private property or not; or

(ii) to allow the owner of another higher lying premises to install a storm water drain pipe or storm water drain gutter over his or her property, for the draining of concentrated storm water from the higher lying property concerned; and

(h) discharge storm water into any watercourse, whether on private or public property or not.

(3) When an owner of a premise fail to comply with an instruction as contemplated in subsection 6(2)(g) of this by-law, the Municipality may undertake any measures required, to retain such storm water or to install such storm water drain pipes or storm water drain gutters.

(4) When it can be determined without reasonable doubt, that any actions or neglect by a person or an owner of a premises, may lead to a contravention of the provisions of this by-law, the Municipality may in writing notify such person or owner of a premises to comply with any such requirement as may be necessary to prevent the occurrence of such a contravention.

(5) The Municipality may recover all reasonable costs incurred as a result of actions taken –

(a) in terms of subsections 6(2)(c) or 6(2)(d) of this by-law, from the person who was responsible for a contravention of the provisions of this by-law or the owner of the premises on which a contravention occurred; or

(b) in terms of subsection 6(3) of this by-law, from the owner of a premises.

(6) The ownership of any drain, pipe or structure installed or constructed in terms of subsection 6(2)(a) of this by-law, shall be vested in the Municipality, irrespective whether such drain, pipe or structure is on private or public property.

7. LEVIES FOR STORM WATER

(1) When an owner of a premises or any person acting on behalf of any owner of property, submits an application for the development or rezoning or subdivision of any premises, or for special consent in relation to the use of any premises, which –

(a) necessitates the installation of storm water infrastructure on such premises; or

(b) when the development of a premises as a result of a projected increase in volumes of storm water, shall increase the burden on an existing storm water system,

the Municipality may levy a once off storm water services development levy for such premises.

(2) The levy referred to in subsection 7(1) of this by-law shall be payable by the owner of a premises, on such terms and conditions as may be determined by the Municipality, when approving the rezoning, subdivision or an application for special consent, and such levy shall be determined in terms of the Tariff By-law of the Theewaterskloof Municipality.

(3) The levy referred to in subsection 7(1) of this by-law, shall be payable by the owner of a premises to the Municipality within a period and on such conditions, as may be determined by the Municipality.

8. WATER DISCHARGES

No person may without the written permission of the Municipality, discharge or cause the discharge of any water from a swimming pool or a fountain or a water reservoir or any dam, either directly or indirectly into any public storm water system, sanitation system, public road or onto any public place or any premises, other than onto the premises upon which such pool, fountain, water reservoir or dam are situated.

9. 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 such a 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.

10. APPLICATION FOR EXEMPTIONS

(1) Any person may by means of a written application, in which the reasons for the application for exemption are stated, apply to the Municipality for exemption from any provision of this by-law.

(2) The Municipality may –

(a) grant an exemption in writing, and stipulate in writing in such exemption, the conditions and period in terms of which such exemption shall be granted, as applicable;

(b) alter or cancel any exemption or condition for an exemption; or

(c) refuse to grant an exemption.

(3) An exemption does not take effect before the applicant has undertaken in writing to comply with all the conditions imposed by the Municipality, as contemplated in subsection 10(2) of this by-law, and when any action or activity related to the exemption applied for, is commenced before such undertaking has been submitted to the Municipality by the applicant, the exemption granted shall lapse.

(4) When any condition of an exemption is not complied with, the exemption granted shall lapse immediately.

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. OFFENCES AND PENALTIES

Any person who -

(a) fails to comply with 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 / or expenses, deemed by the Court, to have been incurred by the Municipality as a result of such contraventions.

13. 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.

14. 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 –

Name of by-law	Date published	As a whole or partially
Storm Water Management Bylaw	PG 7020 dated 5 October 2012	As a whole

15. SHORT TITLE

This by-law shall be called the Storm Water Management By-law of the Theewaterskloof Municipality.

16. OPERATIVE DATE

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

MUNISIPALITEIT VAN THEEWATERSKLOOF

VERORDENING INSAKE STORMWATER BESTUUR

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 die bestuur van stormwater en verwante aktiwiteite in die gebied van jurisdiksie van die Munisipaliteit van Theewaterskloof te reguleer, en om voorsiening te maak vir aangeleenthede verbandhoudend daartoe wat 'n moontlike ongunstige impak op die ontwikkeling, die veiligheid en die welsyn van die gemeenskap kan hê, en die instandhouding en / of bedryf van stormwaterstelsels kan benadeel.

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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 beteken -

"beboude gebied", die gedeeltes in die gebied van jurisdiksie van die Munisipaliteit van Theewaterskloof, wat by wyse van formele opmetings in erwe verdeel is of deur opgemete erwe omring word, en sluit die openbare paaie aangrensend aan sodanige erwe of 'n area waar daar 'n permanente konsentrasie van mense, geboue of ander mensgemaakte strukture is in;

"besoedel", het die betekenis daaraan toegeken deur die Nasionale Waterwet, 1998 (Wet No 36 van 1998), soos gewysig;

"eienaar", is met betrekking tot eiendom, die geregistreerde eienaar van 'n eiendom, wie of 'n natuurlike persoon of 'n regspersoon kan wees, en sluit die okkupeerder, huurder, serwituuthouer, huurpaghouer, grondbriefhouer, trustee, eksekuteur, kurator of aangewysde agent of administrateur van sodanige eiendom in;

"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 behoorlike gemagtigde en / of aangestelde beamptes en / of diensverskaffers in terme van diensleweringsooreenkomste van die Munisipaliteit van Theewaterskloof;

"ontwikkeling", die konstruksie van 'n gebou of 'n struktuur op 'n vakante perseel;

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

"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 eiendom; of 'n begraafplaas, waaroor die Munisipaliteit van Theewaterskloof jurisdiksie het;

"perseel", enige gedeelte grond, geleë binne die regsgebied van die Munisipaliteit van Theewaterskloof, waarvan die buitegrense afgebaken is op 'n algemene plan of diagram of deeltitelplan, en wat ingevolge die toepaslike wetgewing geregistreer is;

"private stormwaterstelsel", 'n stormwaterstelsel wat besit, bedryf en instand gehou word deur 'n persoon of 'n entiteit, en nie die Munisipaliteit van Theewaterskloof nie;

"publieke stormwaterstelsel", 'n stormwaterstelsel wat besit, bedryf en instand gehou word deur die Munisipaliteit van Theewaterskloof;

"staatsinstelling", is:
(a) enige staatsdepartement of administrasie in die nasionale, provinsiale of plaaslike sfeer van regering; of
(b) enige funksionaris of instelling –
    (i) wat 'n mag uitoefen of 'n funksie vervul in terme van die Grondwet van die Republiek van Suid-Afrika, 1996 of 'n provinsiale grondwet; of
    (ii) wat 'n mag uitoefen of 'n publieke funksie vervul in terme van wetgewing,
maar sluit 'n hof of regterlike beampte uit;

"stormwater", die water wat versamel weens natuurlike reënval, en sluit enige grondwater en fonteinwater in wat normaalweg deur 'n stormwaterstelsel gekanaliseer sal word, maar sluit gesuiwerde water in 'n drinkwater retikulasiestelsel of gryswater in 'n sanitasiestelsel uit;

"stormwaterstelsel", die geboude stelsels en natuurlike waterlope gebruik en benodig vir die bestuur, versameling, afvoer, tydelike stoor, beheer, monitoring en wegdoening van stormwater, en sluit in, maar is nie beperk tot, paaie, verharde oppervlaktes, pype, duikslote, kanale, waterweë, natuurlike waterlope en hul ge-assosieerde vloedvlaktes, ongeag of dit op publieke of privaat grond geleë is of nie;

"vloedvlakte", die area aanliggende tot 'n waterloop, waarop 'n honderd jaar herhalende vloed gewoonlik sal voorkom;

"waterloop", die betekenis daaraan toegeken in die Nasionale Waterwet, 1998 (Wet No 36 van 1998), soos gewysig.

2. TOEPASSING VAN DIE VERORDENING

Hierdie verordening -

(a) bind die eienaar van enige perseel in 'n beboude gebied;

(b) bind alle staatsinstellings; en

(c) is op alle stormwaterstelsels in beboude gebiede van toepassing.

3. VERBODE GEDRAG

(1) Geen persoon mag, behalwe met die skriftelike goedkeuring van die Munisipaliteit –

(a) in 'n stormwaterstelsel -
  (i) enigiets anders as water;
  (ii) enigiets wat moontlik 'n stormwaterstelsel kan beskadig of kan inmeng met die werking daarvan; of
  (iii) enigiets wat die water in 'n stormwaterstelsel kan besoedel,
laat dreineer, uitlaat, of wegdoen daarmee of die dreinering, uitlating of wegdoening daarvan toelaat nie;

(b) enige middel anders as water, dreineer of uitlaat vanaf enige plek, of dit laat dreineer of uitlaat op enige harde oppervlak, indien 'n redelike kans bestaan dat sodanige middel na 'n stormwaterstelsel kan dreineer;

(c) enige stormwater in 'n sanitasiestelsel dreineer of uitlaat nie; of

(d) enige handeling onderneem, wat tot gevolg kan hê dat die vrye vloei van water in 'n stormwaterstelsel benadeel, gewysig of beperk sal word, of wat inmeng met die werking of instandhouding van 'n stormwaterstelsel, welke aksies kan insluit, maar nie beperk is tot –
  (i) om die kapasiteit van 'n stormwaterstelsel te belemmer of te verminder;
  (ii) die oopmaak van 'n pyp, duiksloot of kanaal wat deel vorm van 'n stormwaterstelsel;
  (iii) die konstruksie of oprigting van enige struktuur of voorwerp, in sodanige posisie of op so 'n wyse, dat dit inmeng met 'n stormwaterstelsel of die werking daarvan in gevaar stel;
  (iv) deur water direk vanaf 'n stormwaterstelsel te ontrek of weg te keer, of om water direk na 'n stormwaterstelsel te laat dreineer;
  (v) deur die grond bo-op, in of langs enige deel van 'n stormwaterstelsel te versteur, deur opvullings, uitgrawings of landskapering;
  (vi) deur die gebruik of ontwerp van 'n stormwaterstelsel of enige element daarvan te wysig, wat op sigself of in kombinasie met ander bestaande en potensiële grondgebruike, 'n toename in stormwater volumes en 'n verandering in vloedvlakke tot gevolg kan hê, en 'n potensiële vloedgevaar kan meebring; of
  (vii) enige aktiwiteit wat op sigself of in kombinasie met ander bestaande of voorgestelde aktiwiteite, 'n toename in stormwater volumes, verandering in vloedvlakke en 'n potensiële vloedgevaar kan meebring.

(2) Wanneer enige insident voorkom of indien enige ongemagtigde handeling, soos voorsien in subartikels 3(1)(a), 3(1)(b), 3(1)(c) of 3(1)(d) van hierdie verordening, sonder die skriftelike toestemming van die Munisipaliteit onderneem word -

(a) moet die persoon verantwoordelik vir die insident, as die insident nie die resultaat is van natuurlike oorsake nie; of

(b) moet die eienaar van 'n perseel, waarop die insident of gebeurlikheid voorgekom of plaasgevind het of nog voorkom of nog plaasvind,

onmiddelik die gebeurlikheid aan die Munisipaliteit rapporteer, en op eie koste alle moontlike maatreëls implementeer om die gevolge van die insident of die handeling te beperk en / of te minimaliseer, welke maatreëls sal insluit, maar nie beperk is tot, die onderneem van opruimingsoperasies, die herstel van die beskadigde waterlope en stormwaterstelsels, en die rehabilitasie van die omgewing.

4. AANSOEKE VIR VERGUNNING

(1) Enige persoon wat die goedkeuring van die Munisipaliteit verlang, soos voorsien in subartikel 3(1) van hierdie verordening, sal 'n aansoek vir vergunning op die voorgeskrewe vorm, verkrygbaar vanaf die Munisipaliteit, indien.

(2) Die Munisipaliteit mag skriftelik, na die oorweging van 'n aansoek –

(a) 'n vergunning met of sonder voorafbepaalde voorwaardes toestaan; of

(b) die goedkeuring van enige aansoek om vergunning weier, en die redes vir sodanige weiering aan die applikant verskaf.

(3) Wanneer die Munisipaliteit 'n aansoek om vergunning oorweeg, mag die Munisipaliteit vereis dat die applikant op eie koste die Munisipaliteit voorsien van omgewingstudies, strukturele ingenieursontwerpe en omgewingsimpak asseserings, soos vereis deur statutêre bepalings.

(4) Die Munisipaliteit mag ook van 'n applikant verwag om die vloedlyne van toepassing op 'n perseel te laat bepaal en te laat dokumenteer.

5. STORMWATERSTELSELS OP PRIVAAT EIENDOM

(1) Die eienaar van 'n perseel, waarop 'n privaat stormwaterstelsel is –

(a) sal nie enige aktiwiteit of handeling onderneem wat die effektiewe funksionering van die publieke stormwaterstelsel sal benadeel nie, of wat dit na verwagting kan benadeel nie, as gevolg van die dreinering, wegdoening of uitlaat van die ge-akkumuleerde stormwater van die private stormwaterstelsel na die publieke stormwaterstelsel; en

(b) sal op eie koste, sodanige privaat stormwaterstelsel funksioneel onderhou en sal op 'n skriftelike instruksie deur die Munisipaliteit, enige instandhoudings- en rekonstruksie werksaamhede soos nodig geag deur die Munisipaliteit, op sodanige private stormwaterstelsel onderneem.

(2) Subartikel 5(1)(b) van hierdie verordening sal nie van toepassing wees, indien die Munisipaliteit verantwoordelikheid aanvaar het vir enige van die instandhouding en / of bedryfsverpligtinge ten opsigte van 'n privaat stormwaterstelsel nie, soos vervat in 'n vergunningsgoedkeuring of 'n instandhoudingooreenkoms of in terme van die voorwaardes vir 'n serwituut.

(3) Wanneer die eienaar van 'n perseel weier of nalaat om te voldoen aan 'n instruksie uitgereik deur die Munisipaliteit in terme van subartikel 5(1)(b) van hierdie verordening, mag die Munisipaliieit die nodige werksaamhede onderneem, en die kostes aangegaan vir sodanige werk van die eienaar van die betrokke perseel verhaal.

6. MAGTE VAN DIE MUNISIPALITEIT

(1) 'n Gemagtigde beampte van die Munisipaliteit mag te alle redelike tye, enige perseel of enige gedeelte daarvan betreë, met die oogmerk om 'n inspeksie of 'n toets uit te voer om die huidige status van 'n stormwaterstelsel te bepaal of om 'n stormwaterstelsel te herstel.

(2) Die Munisipaliteit mag vir doeleindes van die bestuur, bedryf en instandhouding van 'n stormwaterstelsel –

(a) enige afvoersloot, pyp of ander struktuur verbandhoudend to 'n stormwaterstelsel, op of onder enige perseel konstrueer, uitbrei, wysig, instandhou of installeer, of enige aksies onderneem wat nodig of wenslik of toevallig of aanvullend benodig word vir die bedryf en instandhouding van die betrokke stormwaterstelsel;

(b) stormwater vanaf enige stormwaterstelsel in enige waterloop laat dreineer of uitlaat;

(c) enige skade herstel wat ontstaan het weens oortredings van hierdie verordening, deur -
  (i) enige gebou struktuur of voorwerp wat gekonstrueer of opgerig of geïnstalleer is te verwyder of aan te pas of as sulks daarmee te handel; en
  (ii) grond wat verwyder is, terug te vul of grond wat opgevul is te verwyder;

(d) enigiets uit 'n stormwaterstelsel verwyder –
  (i) wat toegelaat was om in sodanige stormwaterstelsel te dreineer, of uitgelaat, weggegedoen of gestort was, en as ongewens beskou word; en
  (ii) wat skade kan aanrig aan of 'n gevaar inhou vir enige deel van 'n stormwaterstelsel;

(e) enige punt van uitlaat van 'n perseel in 'n stormwaterstelsel, seël of afblok;

(f) enige vergunning toegestaan deur die Munisipaliteit in terme van artikel 4 van hierdie verordening kanselleer, indien daar nie aan die voorwaardes van die vergunning voldoen word nie;

(g) deur middel van 'n skriftelike kennisgewing, en met wedersydse instemming van aanliggende en geaffekteerde eiendomseienaars, 'n instruksie aan 'n eienaar van 'n perseel uit te reik -
  (i) om stormwater terug te hou op sodanige perseel of om op eie koste vir die dreinering van stormwater, 'n dreineringspyp of –geut vir stormwater te installeer op 'n geskikte plek soos aangewys deur die Munisipaliteit te installeer, ongeag of sodanige ligging van die dreineringspyp of –geut op private of publieke eiendom is of nie; of
  (ii) om die eienaar van 'n ander hoër liggende perseel toe te laat om 'n stormwater dreineringspyp of -geut aan te bring oor sy of haar perseel, om gekonsentreerde stormwater vanaf die betrokke hoër liggende perseel te dreineer; en

(h) stormwater in enige waterloop, ongeag of dit op privaat of publieke eiendom is of nie, uitlaat.

(3) Wanneer 'n eienaar van 'n perseel versuim om te voldoen aan 'n instruksie, soos voorsien in subartikel 6(2)(g) van hierdie verordening, mag die Munisipaliteit die nodige maatreëls implementeer om die

stormwater terug te hou of om stormwater dreineringspype of –geute te installeer.

(4) Indien dit sonder enige redelike twyfel bepaal kan word, dat enige aksies of nalaat van 'n persoon of 'n eienaar van 'n perseel, aanleiding kan gee tot 'n oortreding van die bepalings van hierdie verordening, mag die Munisipaliteit 'n skriftelike kennisgewing op sodanige persoon of eienaar van 'n perseel beteken, waarin die persoon of eienaar van 'n perseel gelas word om aan die betrokke vereistes te voldoen om die betrokke oortreding te voorkom.

(5) Die Munisipaliteit mag alle redelike kostes verhaal, wat deur die Munisipaliteit aangegaan is as gevolg van aksies wat onderneem word -

(a) in terme van subartikels 6(2)(c) of 6(2)(d) van hierdie verordening, van die persoon wat verantwoordelik was vir die oortreding van die bepalings van hierdie verordening of die eienaar van die perseel waarop die oortreding voorgekom het; of

(b) in terme van subartikel 6(3) van hierdie verordening, van die eienaar van 'n perseel.

(6) Die eienaarskap van enige afvoersloot, pyp of struktuur geïnstalleer of gekonstrueer in terme van subartikel 6(2)(a) van hierdie verordening, sal in die Munisipaliteit gevestig wees, ongeag of sodanige afvoersloot, pyp of struktuur op private of publieke eiendom is.

7. HEFFINGS VIR STORMWATER

(1) Indien die eienaar van 'n perseel of enige persoon wat namens die eienaar van 'n perseel optree, 'n aansoek vir die ontwikkeling of hersonering of onderverdeling van enige perseel, of vir 'n spesiale vergunning met betrekking tot die gebruik van 'n perseel indien, wat –

(a) die installering van infrastruktuur vir stormwater op sodanige perseel noodsaak; of

(b) wanneer die ontwikkeling van 'n perseel as gevolg van 'n geprojekteerde toename in die stormwatervolumes, die las op 'n bestaande stormwaterstelsel sal laat toeneem,

mag die Munisipaliteit 'n eenmalige stormwater diensteheffing vir sodanige persele hef.

(2) Die heffing waarna in subartikel 7(1) van hierdie verordening verwys word, sal in terme van die bepalings van die Tariewe Verordening van die Munisipaliteit van Theewaterskloof bepaal word, en sal betaalbaar wees deur die eienaar van 'n perseel ingevolge die terme en voorwaardes deur die Munisipaliteit bepaal, wanneer die betrokke perseel se aansoek om hersonering, onderverdeling of spesiale vergunning goedgekeur word.

(3) Die heffing waarna in subartikel 7(1) van hierdie verordening verwys word, sal aan die Munisipaliteit deur die eienaar van 'n perseel betaal word, binne die voorgeskrewe periode en onderworpe aan die voorwaardes deur die Munisipaliteit bepaal.

8. UITLATING VAN WATER

Geen persoon mag direk of indirek sonder die skriftelike toestemming van die Munisipaliteit, water uitlaat of die uitlaat van water veroorsaak, vanaf 'n swembad of 'n fontein of 'n wateropgaardam of enige dam, in enige stormwaterstelsel, sanitasiestelsel, publieke pad, of op enige publieke plek of enige perseel, anders as die perseel waar sodanige swembad, fontein, wateropgaardam of dam geleë is nie.

9. 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.

10. AANSOEKE VIR VRYSTELLING

(1) Enige persoon mag by wyse van 'n geskrewe aansoek, waarin die redes vir die aansoek om vrystelling verstrek sal word, by die Munisipaliteit vir vrystelling van enige bepaling van hierdie verordening aansoek doen.

(2) Die Munisipaliteit mag –

(a) 'n aansoek om vrystelling skriftelik toestaan, en die voorwaardes en periode vir sodanige vrystelling, soos toepaslik, skriftelik in sodanige vrystelling aandui;

(b) enige vrystelling of voorwaarde vir vrystelling wysig of kanselleer; of

(c) weier om 'n vrystelling toe te staan.

(3) 'n Vrystelling tree nie in werking nie, alvorens 'n applikant skriftelik onderneem het om te voldoen aan die voorwaardes bepaal en ingestel deur die Munisipaliteit, soos voorsien in subartikel 10(2) van hierdie verordening, en indien enige aksie of handeling deur 'n applikant onderneem word wat verband hou met die vrystelling, alvorens sodanige skriftelike instemming van die applikant ontvang is, sal die vrystelling toegestaan verval.

(4) Indien enige voorwaarde van 'n vrystelling nie nagekom word nie, sal die vrystelling toegestaan onmiddelik verval.

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, 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 'n persoon 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. STRAFBEPALINGS

Enige persoon wat -

(a) versuim om te voldoen aan die instruksies van 'n gemagtigde beampte in terme van hierdie verordening of 'n kennisgewing aangebring op 'n kennisgewingbord;

(b) versuim om aan enige kennisgewing uitgereik in terme van hierdie verordening te voldoen;

(c) enige bepalings van hierdie verordening oortree; of

(d) doelbewus 'n gemagtigde beampte in die uitvoering van sy of haar pligte in terme van hierdie verordening verhinder,

is skuldig aan 'n oortreding en kan by skuldigbevinding –

(i) 'n boete of gevangenisstraf opgelê word, of gevangenisstraf sonder die keuse van 'n boete, of beide sodanige boete en sodanige gevangenisstraf, opgelê word;

(ii) 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

(iii) '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.

13. 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.

14. HERROEPING VAN VERORDENINGE

(1) Die bepalings van enige ander verordeninge, voorheen uitgevaardig deur die Munisipaliteit of deur enigeen van die afgeskafte munisipaliteite wat nou in die Munisipaliteit geïnkorporeer is, word hiermee herroep insoverre dit betrekking het op aangeleenthede waarvoor daar in hierdie verordening voorsiening gemaak word.

(2) Die volgende verordening van die Munisipaliteit van Theewaterskloof word hiermee spesifiek herroep –

Naam van verordening	Datum van Publikasie	In die geheel of gedeeltelik
Verordening insake Stormwater Bestuur	PK 7020 gedateer 5 Oktober 2012	In die geheel

15. KORT TITEL

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16. INWERKINGTREDING

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