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## **Cederberg Municipality**

### **By-law relating to the Control of Boats and Boating on the Clanwilliam dam**

**To provide for the control of boats and boating on the Clanwilliam dam; to provide for procedures, methods and practices to manage the use of boats and boating on the Clanwilliam dam; and to promote a safe and healthy environment for the benefit of residents within the area of jurisdiction of the Municipality.**

#### **PREAMBLE**

**WHEREAS** there is a need to identify and provide clarity on use of the Clanwilliam dam as a local amenity, within the area of jurisdiction of the Cederberg Municipality.

**WHEREAS** there is a need to ensure safe recreational use of the Clanwilliam dam, within the area of jurisdiction of the Cederberg Municipality.

**NOW THEREFORE** under the provisions of Section 156(2) of the Constitution of the Republic of South Africa, 1996 and Schedule 5B, Cederberg Municipality enacts as follows: -

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### 1. Definitions and interpretation

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

**“authorised officer”** means any person authorised by the Municipality to perform the functions of an authorised officer under this By-law or a member of the South African Police Service;

**“boat” or “vessel”** means any conveyance capable of floating on or in water or designed to navigate on or in water and includes, but is not restricted to a motor boat, sailing boat, rowing boat, canoe, paddle-ski, power boat, fishing boat, flat-bottomed boat, jet driven boat ferry, houseboat, water cycle and raft;

**“bow”** means the front part of a vessel;

**“canoe”** means a vessel designed to be propelled by means of paddles without any mechanical assistance;

**“Council”** means the Council of the Cederberg Municipality;

**“dam”** means the area within the Clanwilliam dam under jurisdiction of the Municipality;

**“helmsman”** means a person who steers or controls a vessel;

**“houseboat”** includes any vessel, irrespective of whether or not it is propelled under its own power, upon which facilities for day or night accommodation or for any kind of food preparation have been provided, or a vessel upon which any kind of toilet or washing facilities have been provided;

**“inland waters”** means that part of the dam which falls within the jurisdiction of the Municipality;

**“Merchant Shipping Act”** means the Merchant Shipping Act, 1951 (Act No. 57 of 1951);

**“Merchant Shipping (National Small Vessel Safety) Regulations”** means Merchant Shipping Regulations, 2007, Government Notice No R. 705 published in Government Gazette No.30151 dated 8 August 2007, made by the National Minister of the Department of Transport under section 356 of the Merchant Shipping Act, 1951 (Act No. 57 of 1951);

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

**“neighbourhood of dam”** includes the properties adjacent to or in the immediate vicinity of the dam;

**“operate” or “control”** , in relation to a boat, means to launch, use, sail, navigate or moor a boat or to permit a boat to be launched, used, sailed, navigated or moored in the dam, or to have a boat, or to permit a boat to be, in the dam;

**“permission”** means the written permission of the Municipality;

**“port”** means the left side of the boat as seen from the stern;

“**power boat**” means a vessel propelled by means of an engine or other mechanical apparatus, either in or outboard, irrespective of whether or not such engine or apparatus is the main source of power;

“**purchase line**” means the upper limit of the area expropriated by the state (Department of Water Affairs and Forestry) around the perimeter of the dam;

“**recreation activities**” means any activity practised in or on the water of the dam with or without the use of a boat or vessel;

“**registered boat**” a boat issued with an identification number and valid certificates;

“**rowing boat**” means a vessel designed to be propelled by means of oars without any mechanical assistance;

“**sail**” or “**under way**” means the situation of a vessel when it is not anchored or moored or on dry land;

“**sailing boat**” includes every boat which is under sail and is not propelled by mechanical power;

“**starboard**” means the right side of the boat as seen from the stern;

“**stern**” means the back part of a vessel;

“**SAMSA**” means South African Maritime Safety Authority established under the South African Maritime Safety Act, 1998 (Act No. 5 of 1998);

“**visible**” means visible by somebody with reasonable eyesight during a dark night when the atmosphere is clear;

“**water area**” means the area of open water below the purchase line;

“**water-ski**” means to ski or skate on or in the water with or without the assistance of any kind of skating apparatus and where the water-skier is towed by a vessel by means of a towing-rope;

“**water-skier**” or “**skier**” means a person who is water-skiing;

## 2. Operation or control of boats on the dam

(1) No person under the age of sixteen years shall operate a boat equipped with a motor of 4,5 kW or more on the dam, unless such person is accompanied by a person over the age of sixteen years.

(2) Where any licensee of a boat allows any person who, in the opinion of an authorised officer, is not competent to operate or control such boat efficiently, such officer may direct the licensee not to allow such person to operate or control such boat, and if the licensee thereafter continues to allow such person to operate or control such boat, he shall be guilty of an offence.

(3) No person shall operate a boat on the dam—

- (a) in a reckless or negligent manner;
- (b) while under the influence of intoxicating liquor or a narcotic drug, or while the percentage of alcohol in his blood is 0,04 or more, expressed in grams per hundred millilitres of blood;
- (c) while suffering from an infirmity which renders him unfit to do so;
- (d) in a manner dangerous to the public or to the occupants of such boat or in a manner calculated to endanger or damage any property or facility;
- (e) in a manner which constitutes a nuisance;
- (f) without reasonable consideration of the rights of other persons using such dam;
- (g) while it is leaking oil, petrol or any toxic or noxious substance;
- (h) if it has more persons or a bigger load on board than the vessel was designed or built to carry or stated on the licence;

- (i) if the boat is not registered and licensed in terms of the Merchant Shipping Act, 1951 (Act No. 57 of 1951) read with the Merchant Shipping (National Small Vessel Safety) Regulations, 2007,.

### **3. Permission to enter and operate a boat on the dam**

(1) The prescribed fee must be paid to the Municipality by any person entering and operating a boat on Clanwilliam dam, except for other Municipal agreements.

(2) The required SAMSA documentation to be provided as and where applicable for the respective vessel as read by the Merchant Shipping Act, 1951 (Act 57 of 1951) and Merchant Shipping (National Small Vessels Safety Regulations, 2007 as amended).

### **4. Equipment of vessels**

(1) Equipment on board of a vessel must comply with the specifications of the Merchant Shipping Act, 1951 (Act 57 of 1951) and Merchant Shipping (National Small Vessels Safety Regulations, 2007 as amended).

(2) All life-saving apparatus on board a vessel in the water must be in good working condition and within easy reach for immediate and effective use.

### **5. Rules for boating**

(1) No person shall leave a vessel unattended on the dam area unless it has been properly anchored, moored or removed to dry land a safe height above the water level.

(2) No vessel shall be moored or launched at any place other than the place approved by the Municipality and an authorised officer of the Municipality may move any vessel or moor it at any other place without the consent of the owner if he deems this to be in the public interest.

(3) No vessel shall be moored to any other vessel or to a marker, buoy or other navigational aid.

(4) The helmsman of any vessel must ensure that he can at all times exercise full control over the vessel while it is under way.

(5) The helmsman of any vessel towing a line, cable or rope for any purpose whatsoever, must ensure that he does not thereby endanger any other person or cause any inconvenience.

(6) No person shall operate a vessel or allow it to be operated in such a manner that it endangers or creates a nuisance to any other vessel or the occupants thereof or to other persons or property or installations in the water or at the water's edge.

(7) No power boat which is under way and no person practising water-skiing in the water area, shall approach closer than 50 meters from any spot where people are swimming or closer than 50 meters from the side of the water or closer than 10 meters from any other vessel, unless—

- (a) circumstances are such that the said distances cannot be maintained;
- (b) assistance is being given in an emergency situation; or
- (c) the power boat or any water-skier towed by it is landing or leaving the shore: Provided that when the prescribed distances are not maintained, the power boat must immediately reduce its speed to less than 10 km per hour.

(8) No person shall be on the bow, forward deck or gunwale of any power boat which is under way unless sufficient safety rails or guard rails have been installed, and no person shall jump or dive from any power boat which is under way, except when assistance is being given in an emergency or when it is necessary to moor or to land the power boat.

(9) Where it is possible, a vessel shall be piloted in such a manner that the median line of the sailing area shall always be on the port side of the vessel, in other words all power boats must move in an anticlockwise direction.



(10) Whenever two vessels approach each other head-on or approximately head-on, each must be piloted in such a manner that it passes the other on its own port side and, subject to the provisions of subsection (6) at such a distance and at such a speed that the wake of either of the vessels shall not endanger the other.

(11) (a) No vessel shall pass another vessel which is proceeding in the same direction, unless it is safe to do so and such vessel shall, when it does so, pass the other vessel on its port side and, subject to the provisions of subsection (6), at such a distance and at such a speed that its wake shall not endanger the other vessel.

(b) A vessel which is passed shall maintain its speed and direction until the passing vessel is safely past.

(12) Whenever two vessels approach each other in a manner other than referred to in subsections (10) and (11), the vessel which finds the other on its port side shall maintain its speed and direction and the vessel which finds the other on its starboard side shall stay out of the way of the other vessel by changing its direction to starboard so as to pass the other vessel from the stern and shall if necessary stop or reverse to avoid a collision.

(13) (a) Whenever two sailing boats are approaching one another in such a way as to involve risk of collision, notwithstanding the provisions of subsections (10), (11) and (12), they shall keep out of one another's way as follows:

- (i) When each has the wind on a different side, the vessel which has the wind on the port side shall keep out of the way of the other;
- (ii) When both have the wind on the same side, the vessel which is to the windward shall keep out of the way of the vessel which is to leeward.

(b) For the purpose of this subsection, the windward side shall be deemed to be the side opposite to that on which the mainsail is carried.

(14) To avoid a collision between vessels, a power boat shall give way to all other vessels, and a rowing boat or a canoe shall give way to a sailing boat when circumstances require it, notwithstanding the provisions of subsections (9), (10), (11), (12) and (13); provided that this By-law shall not give the right to the helmsman of any vessel to unnecessarily obstruct or interfere with the course of any other vessel.

(15) The helmsman of any vessel shall maintain a safe and cautious speed in the area where vessels are moored, where angling is taking place or where buoys are placed, and whenever visibility is obstructed due to fog or other causes he shall pilot the vessel under his control in such a manner that people, other vessels or other property are not endangered.

(16) No vessel shall follow closer than 100 meters in the wake of a water-skier.

(17) No vessel or vehicle which is propelled by means of a propeller above the water, shall be used in the water area.

(18) Except in the case of an emergency, no aeroplane shall land in or take off from the water area.

(19) No boat shall be left on any slip-way except for purposes of repair.

(20) No boats, except those on official business, may proceed beyond the buoys in front of the dam wall.

## **6. Water-skiing**

(1) No person shall practice water-skiing on the dam unless an effective life-belt or other floating device is attached to his body.

(2) No steel or metal cable or steel wire shall be used to tow a water-skier.

(3) The helmsman of any vessel which tows a water-skier shall, before such water skier is taken in tow, ensure that the water-skier is familiar with the distress signal for water skiers, namely drawing the hand across the throat.

(4) No water-skiing shall be practised between sunset and sunrise and the Municipality may also prohibit water-skiing at other times.

(5) No vessel shall tow a water-skier unless a second person older than 14 years is present in the vessel to observe the waterskier.

(6) No water-skier shall drop a water-ski except at a spot where the discarded water-ski does not constitute a danger to any other water-skier or vessel.

(7) As soon as a water-skier drops the towing-line, the helmsman of the vessel towing the water-skier shall pull in the towing line immediately and if the water-skier has dropped the towing line by accident, the said helmsman shall turn the vessel immediately and take the water-skier in tow again or take him aboard.

(8) When a skier drops the towing-line, a red flag measuring a minimum of 300 mm x 300 mm shall be held up and kept up until the skier boards the boat or resume skiing.

## **7. Prohibition of operating a vessel or a boat**

The Municipality may prohibit any vessel if—

- (a) it is satisfied that the vessel or boat is no longer safe or seaworthy, or is a source of pollution in the vicinity of the dam, or is operated in a manner which constitutes a nuisance or danger to other boats or to the public or any section of the public;
- (b) the vessel or the boat is transferred, sold or disposed of or if the Municipality is satisfied that the licensee has ceased to exercise control over the said boat or to supervise it, or
- (c) the licensee has been convicted of an offence relating to the operation or control of a boat in terms of this By-law.

## **8. Pollution of the dam**

- (1) No person must, while he is in the water area—
- (a) use indecent, offensive or improper language;
  - (b) behave in an offensive, improper or disorderly manner;
  - (c) stay, bathe or sunbathe in the nude or not properly clothed, whether on a vessel or not; or

- (d) wilfully or negligently do anything which will cause inconvenience to any other person using the water area, or which may disturb the peace.
- (2) No person shall allow any sewer pipe or tank to discharge into the dam or allow any other waste water from any other source to drain into the dam.
- (3) No substance such as petrol, oil or any toxic or noxious substance shall be deposited or disposed of in the dam.
- (4) No bottles, cans, garbage or refuse of any kind whatsoever shall be thrown into the dam or onto abutting land or any facility except in receptacles furnished for that purpose.
- (5) No person shall by any act or omission, whether directly or indirectly, allow a nuisance or the creation or continuation of a source of danger, or allow any interference with the convenience or comfort of persons in the vicinity of the dam.

#### **9. Powers of authorised officers**

- (1) Any person who operates an unlicensed boat in the dam or contravenes any provision of this By-law, may be ordered by an authorised officer to remove such boat forthwith from the dam or to cease such contravention, and non-compliance with such order shall constitute an offence.
- (2) An authorised officer has the right to board a boat at any time and to inspect it for the purposes of ensuring compliance with the provisions of this By-law.
- (3) An authorised officer or person who is authorised in writing by the Municipality may, in the water area: —
  - (a) investigate and test any vessel or part thereof or any equipment thereon in order to determine whether the vessel is suitable for navigation on or in the water and whether any particular provision of this By-law has been complied with;
  - (b) call for any information regarding the vessel from the helmsman and may, if the helmsman is unable to furnish the information, order him to

remove the vessel forthwith from the water area until such time as the request can be complied with;

- (c) require the helmsman to furnish his name and address or the name and address of the owner of the vessel and any other information required for identification purposes;
- (d) require any other person in the vessel other than the helmsman, to furnish his name and address as well as any other information required for the identification of the helmsman or the owner of the vessel;
- (e) if it appears to him that the helmsman of any vessel, owing to his physical or mental condition, irrespective of how this originated, is not capable of steering the vessel or of being in control of it, forbid the helmsman temporarily from continuing to steer or being in control of the vessel and may make any arrangements which in his opinion are necessary or advisable for the safe disposal of the vessel;
- (f) if it appears to him that the load or number of persons transported in any vessel is more than the vessel was designed or built to carry or more than can be transported in reasonable safety under prevailing conditions, forbid the helmsman of such a vessel to proceed until the load or the number of persons has been reduced in the manner he considers necessary or advisable;
- (g) if it appears to him that any vessel or part thereof is not navigable in or on the water, order the helmsman to remove the vessel forthwith from the water area until such time as the vessel or the part thereof has been made navigable in or on the water;
- (h) if it appears to him that any of the equipment prescribed by this By-law is not on board the vessel or in a good working condition or easily available for immediate use on board, order the helmsman to remove the vessel forthwith from the water area until such time as all the provisions of this By-law regarding equipment have been complied with;

- (i) remove any fishing rod or line that has been left unattended from the dam if in his opinion the rod or line constitutes a threat to the safety of others,
- (4) (a) No person shall obstruct or interfere with an authorised officer whilst the latter is engaged in the execution of his duties, and
- (b) No person shall refuse to furnish his or her correct name and address when requested to do so by an authorised officer.

#### **10. Delegation of power**

The Municipality may delegate and/or transfer any powers conferred on it under this By-law, with the exception of the power to levy or determine fees, to any person or persons or organisation, and such person or persons or organisation shall after such delegation or transfer have the same power as the Municipality would have had in terms of the provisions of this By-law.

#### **11. Removal of boats from the dam**

(1) If the owner of an unlicensed boat fails to remove his or her boat from the dam after having been requested to do so by the Municipality or an authorised officer, the Municipality may remove such boat forthwith.

(2) If the owner of a boat, of which the certificate/s has expired or lapsed or has been cancelled, fails to remove his or her boat from the dam within thirty days after such certificate has expired or lapsed or after notification to him of the said cancellation, he shall be guilty of an offence and the Municipality may remove such boat forthwith.

(3) If, in the opinion of the Municipality any boat constitutes a danger in the dam or causes pollution by the discharge of petrol or oil, such boat may be removed forthwith by the Municipality.

(4) Where the Municipality is entitled to remove a boat, an authorised officer may make any arrangements considered necessary by him to ensure the removal of

such boat and the Municipality may recover the cost of such removal from the owner.

(5) If a boat is removed from the dam in terms of the provisions of subsections (1), (2) or (4) is not claimed within ninety days after such removal, or within ninety days after the said written notice has been given and all fees in arrears have not been paid, the Municipality may confiscate such boat or boats by court order to claim fees in arrears.

## **12. Exception from liability in respect of injury and/or damage**

(1) The use of the Clanwilliam dam is by the owner's own risk and the Municipality shall not be liable for any injury which is sustained by any person using the dam or any facility, or for damage to any property thereon, whatever the cause may be.

(2) The Municipality shall not be liable for any loss or damage to property which is caused by or arises out of or in connection with anything which is done or performed in good faith in the exercise or performance of a power or duty conferred or imposed in terms of this By-law.

## **13. General**

(1) No person shall in the water area, without the prior written consent of the Municipality —

- (a) offer for reward or profit any show or entertainment or conduct any business or trade;
- (b) keep or use any house boat;
- (c) keep or use any vessel for the transport of passengers or goods for payment or reward;
- (d) hold any fishing competition, or (e) hold any race, meeting or regatta.

(2) When the Municipality grants the consent in terms of subsection (1), the Municipality may set the conditions which it sees fit in the circumstances in any particular case, to ensure the safety of the public.

(3) No person is allowed to -

- (a) fish from any bridge or dam wall in the water area;
- (b) scuba dive, spearfish or use fish nets other than a landing net without a permit;
- (c) catch fish without a licence;
- (d) discharge a fire arm in the water area except an authorised officer in the performance of his duties or for the firing of blank cartridge during authorised organised events or to signal distress;
- (e) overnight or camp in the water area on any island within the water area;
- (f) deface or otherwise interfere with any notice board, notice, sign, buoy or marker erected, posted or placed in the water area by the Municipality
- (g) disturb, injure, feed or attempt to disturb or feed any waterfowl or other wild animal in the water area, or
- (h) pick, uproot, fell or damage or attempt to pick, uproot, fell or damage in any way any plant or tree growing in the dam area.

#### **14. Offences and Penalty**

Any person who contravenes or fails to comply with any provision of this By-law commits an offence and shall be guilty of an offence and liable upon conviction to—

- (a) a fine or imprisonment, or either such fine or such imprisonment or both such fine and such imprisonment;



- (b) in the case of a continuing offence, an additional fine or an additional period of imprisonment or either such additional fine or such additional imprisonment or both such additional fine and imprisonment for each day on which such offence is continued, and
- (c) a further amount equal to any costs and expenses found by the court to have been incurred by the Municipality as result of such contravention.

### **15. Short title and commencement**

This By-law is called the Cederberg Municipality By-law relating to the Control of Boats and Boating on the Clanwilliam dam

## **Cederberg Municipality**

### **Coastal Management By-law**

**To provide for the alignment of municipal Integrated Development Planning with coastal management objectives; to provide for measures for protecting the natural environment of the coastal zone; to provide for the designation of coastal access land and measures to regulate and manage public access to coastal public property; to establish the Municipal Coastal Committee; to give effect to the Municipal Coastal Management Programme; and to provide for matters connected therewith.**

#### **PREAMBLE**

**WHEREAS** the Municipality has the competence derived in terms of section 156(1) and (2) of the Constitution and sections 18, 20 and 50 of the National Environmental Management: Integrated Coastal Management Act No. 24 of 2008;

**AND WHEREAS** there is a need to develop legislation to: prepare and administer the Municipality's Coastal Management Programme; establish the Municipal Coastal Committee; designate, regulate and manage coastal access land and provide for Integrated Development Planning in the coastal zone within the jurisdiction of the Municipality;

**NOW THEREFORE** The Municipal Council of the Cederberg Municipality, acting in terms of section 156(2) read with Part B of Schedules 4 and 5 of the Constitution of the Republic of South Africa, and sections 18, 20 and 50 of the National Environmental Management: Integrated Coastal Management Act No. 24 of 2008 and section 11(3)(e) of the Local Government: Municipal Systems Act No. 32 of 2000, hereby makes the following By-law:

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## 1. Definitions

In this By-law, words used in the masculine gender include the feminine, the singular includes the plural and *vice versa*, the English text prevails in the event of an inconsistency between the different texts and unless the context otherwise indicates means:

**“admiralty reserve”** means any strip of land adjoining the inland side of the high-water mark which, when this Act took effect, was state land reserved or designated on an official plan, deed of grant, title deed or other document evidencing title or land-use rights as “admiralty reserve”, “government reserve”, “beach reserve”, “coastal forest reserve” or other similar reserve;

**“bathing area”** the seashore and that part of the sea situated within or adjoining the area over which the Municipality has jurisdiction, and also that portion of the adjoining dune and the beach habitually used by members of the public for bathing and recreational purposes;

**“beach area”** the sea, seashore, bathing area, sand dune and any land owned by the Municipality above the high water mark and adjoining the seashore and used or capable of being used by the public for recreational purposes, including any adjoining facility, promenade, walkway, car park, lawn or structures;

**“boat”** any water navigable craft, whether self-propelled or not, and whether it is used to carry persons or goods or to tow something, or for any other reason, whether for sport, recreation or not;

**“coastal access land”** means land designated as coastal access land in terms of section 18(1), read with section 26 of the National Environmental Management: Integrated Coastal Management Act;

**“coastal protected area”** means a protected area that is situated wholly or partially within the coastal zone and that is managed by, or on behalf of an organ of state, but excludes any part of such a protected area that has been excised from the coastal zone in terms of section 22 of the National Environmental Management: Integrated Coastal Management Act;

**“coastal protection zone”** means the coastal protection zone contemplated in section 17 of the National Environmental Management: Integrated Coastal Management Act;

**“coastal public property”** means coastal public property referred to in section 7 of the National Environmental Management: Integrated Coastal Management Act;

**“coastal waters”** means -

- (a) marine waters that form part of the internal waters or territorial waters of the Republic referred to in sections 3 and 4 of the Maritime Zones Act, 1994 (Act No. 15 of 1994), respectively; and
- (b) subject to section 26 of the National Environmental Management: Integrated Coastal Management Act, any estuary.

**“coastal wetland”** means -

- (a) any wetland in the coastal zone; and
- (b) includes -
  - (i) land adjacent to coastal waters that is regularly or periodically inundated by water, salt marshes, mangrove areas, inter-tidal sand and mud flats, marshes, and minor coastal streams regardless of whether they are of a saline, freshwater or brackish nature; and

- (ii) the water, the subsoil and substrata beneath, and bed and banks of, any such wetland;

**“coastal zone”** means the area comprising coastal public property, the coastal protection zone, coastal access land and coastal protected areas, the seashore, coastal waters and the exclusive economic zone and includes any aspect of the environment on, in, under and above such area;

**“drunk”** means a person who, reason of the alcohol which he or she has consumed, has lost control of his or her mental or physical faculties, or both, to such an extent as to render him or her incapable of comporting him- or herself, or of performing any act in which he or she is engaged, with safety to him- or herself or with that regard to the rights of others which the law demands;

**“dune”** any build-up or accumulation of sand along the coastal area, situated within an area over which the Municipality has jurisdiction irrespective whether bare and mobile or vegetated and stable;

**“environment”** means “environment” as defined in the National Environmental Management Act;

**“estuary”** means a body of surface water -

- (a) that is part of a water course that is permanently or periodically open to the sea;
- (b) in which a rise and fall of the water level as a result of the tides is measurable at spring tides when the water course is open to the sea; or
- (c) in respect of which the salinity is measurably higher as a result of the influence of the sea.

**“exclusive economic zone”** means the exclusive economic zone of the Republic, referred to in section 7 of the Maritime Zones Act, 1994 (Act No. 15 of 1994);

**“facility”** includes a bathing enclosure, boat shed, bathing box, change room, pool pavilion, playground, parking ground, cubicle, shower, bathroom or toilet;

**“goods and property”** movable as well as immovable goods or real estate;

**“healthy”** not detrimental or possibly detrimental to the health of the public;

**“high-water mark”** means the highest line reached by coastal waters, but excluding any line reached as a result of -

- (a) exceptional or abnormal floods or storms that occur no more than once in ten years; or
- (b) an estuary being closed to the sea.

**“liquor”** liquor as defined in Section I of the Western Cape Liquor Act, 2008 (Act 4 of 2008);

**“litter”** waste, refuse or any object or matter dumped, deposited, discarded or left behind by a person in whose possession or control it was;

**“littoral active zone”** means any land forming part of, or adjacent to, the seashore that is -

- (a) unstable and dynamic as a result of natural processes; and
- (b) characterised by dunes, beaches, sand bars and other landforms composed of unconsolidated sand, pebbles or other such material which is either unvegetated or only partially vegetated.

**“low-water mark”** means the lowest line to which coastal waters recede during spring tides;

**"Municipality"** means Cederberg Local Municipality established by Provincial Notice No. 479 of 2000 in terms of 12 of the Local Government: Municipal Structures Act, 1998 (Act No. 177 of 1998) and include staff members of the Cederberg Local Municipality duly authorised by delegation;

**"notice, notice board or sign"** an adequate official notice erected or displayed at the entrance to or at a conspicuous place or prominent position and maintained in a legible state, and may include a pictogram as approved by the Municipality;

**"nuisance"** any noise, sound, conduct or behaviour which constitutes or may constitute a source of danger, disadvantage, inconvenience or annoyance to or a material interference or disturbance with the ordinary comfort, peace or convenience of other persons;

**"person"** includes an association or organisation;

**"pollution"** has the meaning assigned to it in section 1 of the National Environmental Management Act 107 of 1998;

**"protected area"** means a protected area referred to in section 9 of the Protected Areas Act;

**"Protected Areas Act"** means the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003);

**"public amenity"** means –

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

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

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

**"public gathering or procession"** means a procession or gathering of more than 10 people;

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

(a) is vested in the municipality;

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

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

**"responsible person"** the person whose personal details and signature appear on the prescribed application form for registration;

**"salt marsh"** wetlands which are part of the floodplain of rivers and estuaries;

**"SAMSA"** South African Maritime Safety Authority;

**"sea"** means all marine waters, including -

(a) the high seas;

(b) all marine waters under the jurisdiction of any State; and

- (c) the bed, subsoil and substrata beneath those waters, but does not include estuaries.

**“seashore”**, subject to section 26 of the National Environmental Management: Integrated Coastal Management Act, means the area between the low- water mark and the high-water mark;

**“South African vessel”** means any vessel registered or deemed to be registered in the Republic in terms of applicable legislation;

**“special management area”** means an area declared as such in terms of section 23 of the National Environmental Management: Integrated Coastal Management Act;

**“surfboard”** a board composed largely of fiberglass or epoxy used for the riding of waves including longboards, paddle boards (stand-up and kneeling), kneeboards and similar craft, but excluding bodyboards composed primarily of Polyethylene, Polypropylene or similar;

**“surfing”** riding waves on a board or similar contrivance capable, when in motion, of sustaining a person, but excludes riding a board propelled or driven by wind power or aided by a sail;

**“waste”** means any substance, whether or not that substance can be re- used, recycled or recovered  
-

- (a) that is surplus, unwanted, rejected, discarded, abandoned or disposed of;
- (b) that the generator has no further use of, for the purposes of production, reprocessing or consumption; and
- (c) that is discharged or deposited in a manner that may detrimentally impact on the environment.

**“vessel”** any conveyance capable of floating on or in water or designed to navigate on or in water and includes a boat, a sailing boat or board, rowing boat, flat-bottomed boat, water jet driven boat, jet ski or any other water navigable craft of any type whatsoever whether self-propelled or not, but excluding a surfboard;

**“vehicle”** a vehicle designed or adapted for propulsion or haulage by means of fuel, gas, electricity, battery or otherwise, animal drawn vehicle, wind driven vehicle, motorcycle or bicycle, as well as a trailer, a caravan or other implement designed or adapted to be drawn by such vehicle;

**“wetland”** means land which is transitional between terrestrial and aquatic systems where the water table is usually at or near the surface, or the land is periodically covered with shallow water, and which land in normal circumstances supports or would support vegetation typically adapted to life in saturated soil.

## 2. Objectives

To provide for procedures, methods and practices to regulate the use and management of the coastal zone. To control activities in the coastal zone and to provide for matters incidental thereto. Under the provisions of Section 156(2) of the Constitution of the Republic of South Africa, 1996, and Sections 20(2) and 50 of the National Environmental Management: Integrated Coastal Management Act (Act No. 24 of 2008), Cederberg Municipality hereby enacts as follows:

### 3. Application

This By-law shall apply to the beach area and the coastal area under control of the Municipality where that it is appropriate and not excluded or inconsistent with any other law.

If a determination of this By-law is in contradiction with any other By-law of the Municipality, this By-law or the most restricting By-law provisions must be adhered to but shall not derogate from the provisions of any other legislation.

### 4. Public amenities

Number of visitors

(1) The municipality may determine:

- (a) the maximum number of persons or vehicles that may be in or at a public amenity at any time; and
- (b) different classes of vehicles that may be in or at a public amenity at any time, and it may differentiate between public amenities.

### 5. Admission to public amenity

(1) The municipality may determine the times, dates and conditions under which a public amenity is open to the public, having due regard to section 6(1).

(2) The municipality may determine the activities that may or may not be undertaken in a public amenity and these include, but are not limited to:

- (a) the driving of a motor vehicle and different classes of motor vehicles in a public amenity;
- (b) surfing, kite flying, wind surfing, kite surfing, water skiing, paddle skiing, jet skiing, riding of motorised craft, and similar activities on beaches at which these activities are allowed;
- (c) sea bathing in such bathing areas on the beach, which areas were demarcated by the municipality.

(3) The municipality may grant to any person or persons, during such hours and for such period as it may deem fit, the exclusive use of a public amenity for games, a public meeting, show or other function or entertainment.

(4) The municipality may for reasons of maintenance, development, security, safety or public health, temporarily or permanently:

- (a) close a public amenity or a portion thereof; or
- (b) suspend all or any activities thereon.

(5) Where a person in a public amenity has committed an offence in terms of these By-laws, an official may order such person to leave the public amenity, and a person ordered to leave must leave the amenity by the shortest route available to the public;

(6) Where an official, on reasonable grounds, suspects that a person wishing to enter a public amenity intends to commit an offence in or at the public amenity, he or she may refuse entry to such person.



## 6. Entrance fees

- (1) The municipality may by levy different entrance fees and issue entrance tickets in respect of persons of different ages, groups of persons, or different classes of vehicles and grant concessions in respect of entrance fees payable.
- (2) Entrance fees are payable at the entrance to a public amenity, except where another fee is indicated on a notice-board in terms of section 7(1).
- (3) An entrance ticket contemplated in subsection (1) is valid for the period contemplated in subsection (4).
- (4) An entrance fee is payable in respect of each day or portion thereof during which a person, group or vehicle is in a public amenity, provided that no fee is payable for the day on which such public amenity is left, if the amenity is left before 10:00 on such day and if the day is not the day of arrival.
- (5) No fee contemplated in subsection (1) is repayable where any portion of the period in respect of which such fee has been paid has not been or cannot be utilised, provided that the fee, which has been paid in respect of each full day and which has not been utilised, may, with the approval of the municipality, be repaid upon application. For the purposes of this subsection "full day" means a period of 24 hours, commencing at 10:00 of any day.
- (6) An official may require any person in a public amenity to produce the entrance ticket issued in terms of subsection (1), and a person who fails to produce such ticket or a person who enters a public amenity without having paid the entrance fee commits an offence.

## 7. Notice-boards

- (1) The municipality may erect a notice-board at the entrance to or in the immediate vicinity of a public amenity, on which any of the following are displayed:
  - (a) the times, dates and conditions of entry and activities that may or may not be undertaken;
  - (b) the fees payable;
  - (c) a notice of closure referred to in section 5(4);however, where no notice-board has been erected, and subject to section 9, no activities may be undertaken upon the public amenity.
- (2) No person other than an official or other person authorised to do so in this By-law may move or alter the contents of, and no person may deface or otherwise tamper with a notice-board erected by the municipality.
- (3) A notice posted by municipality in terms of subsection (1) may contain a graphic representation to convey meaning.
- (4) A person who contravenes any of the provisions of this section commits an offence.

## 8. Consent required for certain activities

- (1) No person may, without the prior written consent of the municipality, at, in or upon a public amenity:
- (a) arrange, hold, present or attend:
    - (i) a public entertainment;
    - (ii) a meeting;
    - (iii) a public gathering or procession, exhibition or performance;
    - (iv) an auction;
  - (b) collect money or any other goods;
  - (c) display or distribute a pamphlet, placards, painting, book, handbill or a printed, written or painted work;
  - (d) engage in any trading activity.
- (2) No person may at or in a public amenity undertake or perform any activity in contravention of a notice-board erected in terms of section 7(1).
- (3) No person may, without the prior written consent of the municipality, erect or establish any fence, structure, dam, shelter or anything else, and a person who has obtained such consent may only erect such fence, structure, dam, shelter or anything else at a designated area set aside for this purpose.
- (4) No person may, without the prior written consent of the municipality, bring into or have in his or her possession in a public amenity a firearm, and the municipality may grant consent in the following instances only:
- (a) for the firing of blank cartridges during organised competitions or sports meetings;
  - (b) in connection with the collection of specimens of marine life or birds or animals for scientific purposes;
  - (c) for the lawful culling of a whale, dolphin, or animal;
  - (d) to signal distress in the instance where a proposed activity may require a distress signal to be given by means of a firearm.
- (5) A person who wishes to obtain the consent of the municipality as contemplated in subsection (1) must complete and submit the prescribed form, and the municipality may refuse or grant consent, subject to any conditions it deems necessary and subject to the prescribed fee having been paid, and a person who wishes to sell food must also comply with any laws relating to the selling of food.
- (6) A person who has been granted consent in terms of subsection (5) must at all times keep the form in his or her possession, and must produce the form on request of an official.

## 9. Use of public amenities

The municipality may enter into an agreement with any person in terms of which a public amenity or any part thereof may be used for the purposes and subject to the conditions set out in the agreement.

## 10. Permit

- (1) Notwithstanding the provisions of sections 5, 6(1), 6(3), and 7(1), the municipality may, on application and subject to any conditions it may impose, issue, free of charge or otherwise, a permit:
- (a) to a group of people, such as, but not limited to, a group of *bona fide* students; or
  - (b) to a person who is undertaking scientific, educational or similar research.
- (2) The holder of a permit issued in terms of subsection (1) may:
- (a) if he or she is the holder of a valid hunting licence, hunt, catch, kill or remove fauna under the supervision, control and in accordance with the instructions of an official;
  - (b) pick, collect or remove flora and/or fauna;
  - (c) take or remove anything of historical or scientific importance;
  - (d) have in his or her possession diving equipment, a weapon, trap, poison or a gardening tool, living or dead fauna or flora;
  - (e) remove any flora or carcass that has been plucked or hunted, only if the official has:
    - (i) inspected such flora or carcass;
    - (ii) considered it necessary or desirable, measured the dimensions or mass, or taken a sample of such flora or carcass; and
    - (iii) in writing authorised the permit holder to remove such flora or carcass; or
    - (iv) excavated soil, sand or stone or remove organic or inorganic objects.
- (3) The holder of a permit must, on arrival at the public amenity, display such permit to the control official, and a person who fails to do so, commits an offence.
- (4) The holder of a permit who undertakes an activity in contravention of a condition imposed commits an offence.

## 11. Prescribed fees

The municipality may determine fees payable in terms of this By-law.

## 12. Animals

- (1) No person may, in contravention of a notice-board, bring any animal into a public amenity.
- (2) A person who is permitted to bring an animal into a public amenity must have direct and physical control over the animal by means of a leash or other device, and may not bath, wash or allow such animal to enter or remain in any pond, fountain or ornamental water.
- (3) A person who is permitted to bring an animal into a public amenity must have in his or her possession a mechanism or device to pick up or remove any excretion deposited in or upon such public amenity by such animal and any excretion deposited in such public amenity by any such animal must be picked up or removed by the person who brought the animal onto the public amenity.

(4) Any animal not under the control, or apparently not under the control of a person, may, if found in or on a public amenity, be apprehended by the municipality and removed to a pound where it may be dealt with in terms of any law relating to the impoundment of animals.

(5) Any person who contravenes a provision of subsections (1), (2) or (3) commits an offence.

### 13. Prohibited behaviour

(1) No person:

(a) who is drunk or under the influence of any drug may enter or remain in, and such person will not be admitted to, a public amenity;

(b) may in or at a public amenity:

(i) break, damage, destroy, tamper with, remove, misuse, disfigure or use anything or fail to observe an instruction by the municipality;

(ii) throw or roll a rock, stone or object;

(iii) except if authorised to do so under section 10 (2)(b), pull out, pick, cut or damage any flora growing in the amenity, or have such flora in his or her possession;

(iv) walk on a flowerbed;

(v) walk, stand, sit or lie on grass in contradiction with a notice;

(vi) write, paint, draw graffiti or a representation on a structure or path;

(vii) excavate soil, sand or stone or remove organic or inorganic objects; except if authorised to do so in terms of section 10;

(viii) interfere with water flow, obstruct water, divert a stream or drain a wetland;

(ix) deface or disfigure anything provided by the municipality by pasting or affixing, in any way, any bills, papers, place cards, notices or anything else;

(x) wash, polish or repair a vehicle, except emergency repairs;

(xi) make a fire or burn refuse;

(xii) litter or dump any refuse, garden refuse or building materials;

(xiii) wash crockery or laundry or hang out clothes, except at places indicated by notice for that purpose;

(xiv) use or try to use anything provided by the municipality in an amenity for a purpose other than that for which it is designed or determined by notice;

(xv) throwaway any burning or smouldering object;

(xvi) behave or conduct himself or herself in an improper, indecent or unbecoming manner;

(xvii) defecate, urinate or undress, except in such building or on premises intended for that purpose;

(xviii) lie on a bench or seating place provided by the municipality or use it in such a manner that other users or potential users find it impossible to make use thereof;

- (xix) play or sit on play-park equipment, except if the person concerned is a child under the age of 13 years;
- (xx) swim, walk or play in a fish-pond, fountain, dam, river, artificial feature or pond; in contravention with a notice prohibiting such action;
- (xxi) having an open wound on his or her body, enter any bath or pool provided by the municipality;
- (xxii) perform any act that may detrimentally affect the health of another person;
- (xxiii) enter or use a toilet facility indicated by notice for use by members of the opposite sex;
- (xxiv) stay or sleep overnight;
- (xxv) hunt, injure, disturb, feed, kill, hurt, follow, disturb, ill-treat or catch an animal, or displace, disturb, destroy or remove a bird, nest or egg, or skin or gut an animal, except if authorised to do so under section 10(2);
- (xxvi) fire a firearm, airgun or air pistol, except if has been obtained in terms of section 8(4);
- (xxvii) discharge a bow, fireworks or use a slingshot or catapult;
- (xxviii) in any way whatsoever prejudice the safety, convenience or rights of other persons;
- (xxix) obstruct or interfere with any official appointed by the municipality, including a lifeguard, in the proper execution of his or her official duties;
- (xxx) play or conduct a game in a manner that causes annoyance or endangers public safety;
- (xxxi) play any hardball games or participate in such games on a public amenity, unless permitted by an appropriate sign or with written permission of the municipality;
- (xxxii) expose his or her body or clothe indecently;
- (xxxiii) discard a burning or smouldering object or throw it out of a vehicle;
- (xxxiiii) drive or park a motor vehicle on any public amenity without the permission of the municipality;
- (xxxv) cause undue noise;
- (xxxvi) be in the possession of or consume alcohol, except within a demarcated area at special events for which a permit for alcohol sale and consumption has been approved.

(c) may enter:

- (i) or leave a public amenity other than by way of the official entry and exit point;
- (ii) a public amenity without having paid the entrance fees as contemplated in section 6(1);

(d) may release any wild animal, bird or flora into a public amenity;

(e) may, in inland waters:

- (i) swim, catch fish or angle if not authorised to do so in terms of a notice-board erected in terms of section 7(1);
- (ii) wash himself or herself or clean anything;
- (iii) may use any craft on inland waters at any place other than that which has been indicated on a notice-board erected in terms of section 7(1).

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

#### **14. Vehicles**

(1) Where a person is permitted to drive a vehicle in a public amenity, he or she may not:

- (a) travel with the vehicle elsewhere than on a road constructed by the municipality;
- (b) drive the vehicle at a speed in excess of the speed indicated on a notice-board erected by the municipality; or
- (c) drive such vehicle in contravention of any condition imposed in terms of the National Environmental Management Integrated Coastal Management Act No. 24 of 2008. Control of use of vehicles in the coastal area (GN. No. R.496 of 27 June 2014).

(2) The provisions of subsection (1) do not apply to an emergency vehicle while lawfully in use as such, or a vehicle used in an emergency, or a vehicle used by an official in the discharge of his or her duties.

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

#### **15. Boating/craft, including launching & operation**

General provisions regarding boating/craft including launching and operation.

(1) The Municipality may by notice:-

- (a) set aside a place for the exclusive use of different types of boats and vessels, or for the temporary use only of boats or vessels belonging to members of a boat and yacht club;
- (b) prohibit the use or operation of any boat or vessel or type thereof, from certain parts of the beach area and may differentiate between boats or vessels belonging to or used by members of boat and yacht clubs and those belonging to or used by non-members of such clubs.

(2) No person shall:-

- (a) without the prior written permission of the Municipality or other mandated government department, within the beach area launch, land, beach, keep, let or hire a boat, sail boat, surf-ski, jet-ski or self-propelled craft of whatever kind, except at places set aside for the purpose by the Municipality or other mandated government department by notice on the spot and which have been approved as registered launching sites;
- (b) use or operate a boat, surfboard, or vessel of whatever kind, in a manner dangerous to or causing annoyance to any person.

(3) No one may keep or leave a boat, vessel, surfboard or similar craft unattended on the beach for more than for more than 10 hours unless permitted by a notice;

- (4) A boat, surfboard or vessel kept or left unattended on the beach area in contravention of subsection (3) may be impounded by an authorised official;
- (5) Subsections (2)-(4) of this By-law shall not apply when a boat, vessel, surfboard or similar craft is used in emergency or for life-saving operations.
- (6) No washing of vessels, trailers or vehicles, scaling and cleaning of fish, disposal of bait may take place on site unless adequate facilities is provided which specifically caters for the above mentioned activities.

## **16. Vehicle use**

### Vehicles in coastal areas

- (1) No person may use a vehicle in the coastal area unless that use is a permissible use; is authorised in terms of a permit granted; is authorised in terms of an exemption granted and is lawful in terms of regulations as stated in the National Environmental Management Integrated Coastal Management Act No. 24 of 2008. Control of use of vehicles in the coastal area (GN. No. R.496 of 27 June 2014).
- (2) A person who contravenes a provision of subsection (1) commits an offence.

## **17. Vehicle use at public launch sites**

- (1) No person shall use a vehicle to launch a vessel from a public launch site
  - (a) which is not listed in terms of the Public Launch Site Regulations; and
  - (b) which site is not a vehicle use launch site.
- (2) A person who contravenes a provision of subsection (1) commits an offence.

## **18. Public launch site operational plan**

### Monitoring and reporting

- (1) Where a launch register is compiled to monitor and report on the vessels utilising the launch site, it should at least contain the following information:
  - Vehicle and trailer registration numbers;
  - South African Maritime Safety Authority (SAMSA) Vessel registration number;
  - Number of persons on vessel(s);
  - Name of boat;
  - Time and date of entry;
  - Purpose for entry (recreational use, scuba-diving, etc.); and
  - Name of skipper
- (2) The SAMSA regulations requiring trailers of sea-going boats to be conspicuously marked with the vessel's name (or similar approved marking), the vessel owner's name and an emergency contact number are strictly to be adhered to. The skipper shall ensure that SAMSA's requirements with

regard to providing details of the persons on board and the boat's intended destination(s) (and when altered) is available at the emergency contact number.

(3) A person who contravenes any provision of this section commits an offence.

## **19. Access Management**

(1) Vehicles, their trailers and the drivers using the launch site shall comply with the requirements of the National Road Traffic Act, 1996 (Act No. 93 of 1996). Due to the nature of the boat launch site, unsuitable vehicles shall not be permitted to launch a boat at the site.

(2) No alcohol or any other intoxicating substance shall be allowed on the premises. Any person suspected of being under the influence of alcohol or any other intoxicating substance shall not be permitted access to, or allowed to remain on the premises.

(3) Access to the launch area must only be allowed via the designated access point.

(4) The launch area shall not be used to access other parts of the beach except in cases of required maintenance by the municipality or in an emergency or where authorisation has been issued in terms of the Control of Use of Vessels in the Coastal Area regulations, (GN. No. R.496 of 27 June 2014).

## **20. Parking and traffic management**

(1) Parked vehicles/trailers should not obstruct access to the launch site by any user or visitor, nor interfere with reasonable use of that beach/launch area by any user. Strict adherence to the traffic signs is mandatory at all times of the year. Non-compliance shall be viewed in an extremely serious light given the potential risk of injury to pedestrians especially children. Parents and community support are requested to assist in maintaining compliance.

(2) At a beach launch site, boats should not be left unattended on the launch area and no parking of vehicles on or adjacent to launch area is permitted.

(3) Trailers may be brought onto the launch area by a motor vehicle, only for the purposes of launching or retrieving a vessel. After launching (or retrieving if appropriate) a vessel, the trailers and associated vehicles are to be parked in a clearly demarcated area.

(4) Parking must not be permitted to encroach on dunes or dune vegetation or have an adverse impact on the environment.

## **21. Launching**

(1) No Boat will be able to launch unless the skipper is in possession of a valid Certificate of Competency, where required, issued by the South African Maritime Safety Authority (SAMSA), an agency recognised by it or an Inflatable Rubber Duck boat skippers certificate issued by Lifesaving South Africa.

(2) No person under the influence of alcohol or any other intoxicating substance shall be allowed to launch a boat/vessel from the premises. Any person under the influence of alcohol or any other intoxicating substance shall not be allowed to remain on the premises.

(3) All SAMSA and Municipal safety regulations/By-laws shall be adhered to at all times.



- (4) Boats in the process of landing or being retrieved shall have priority over boats wishing to launch.
- (5) In the interest of safety and of minimising inconvenience to boaters and other users alike, all skippers, crew, bathers and members of the public shall be guided by the slipway etiquette guidelines as published and displayed from time to time. The municipality reserves the right to further regulate such required safe and considerate behaviour of all users.
- (6) No launching will be allowed if the management body considers the sea conditions of the day to be too dangerous for any boat launching activity; or an emergency occurs which requires launching activity to temporarily cease or other any matter contemplated in regulation 3(1) Management of Public launch sites in the coastal zone of the National Environmental Management Integrated Coastal Management Act No. 24 of 2008 (GN. No. R.497 of 27 June 2014).

## **22. Vessel and Public safety**

- (1) No boat/vessel shall be allowed to launch if the condition of the boat/vessel is not deemed seaworthy.
- (2) Everyone on the boat in the immediate launch and landing zone must wear life jackets or buoyancy aids when so directed by the skipper.
- (3) All vessels shall be equipped with a suitable horn or other signalling device to alert any bathers in the water and on the slipway of its intention to return from sea. The skipper shall wait for a clear path before proceeding to the slipway and then only at a safe speed.
- (4) It shall be the ultimate responsibility of bathers and others on shore, or in the water, to ensure that the slipway and the sea area in front of the slipway are clear of bathers and others, and of their personal belongings, after signalling the intention to launch or to return from sea. Bathers shall stay well clear of a vessel launching or returning from sea. Parents shall be responsible to ensure that their children do so.
- (5) Skin diving and snorkelling in front of the slipway is not permitted at any time when boats are attempting to launch or are preparing to return from sea.
- (6) The municipality, its councillors, officials, staff, contractors are not responsible for any accidents that may occur at the slipway or in the adjacent swimming areas. Use of these facilities shall be entirely at the risk of the user.

## **23. Duty of care**

- (1) No washing of vessels, trailers or vehicles, scaling and cleaning of fish, disposal of bait may take place on the site unless adequate facilities is provided which specifically caters for the above mentioned activities.
- (2) At a beach launch site, boats should not be left unattended on the launch area and no parking of vehicles on or adjacent to the launch area is permitted.
- (3) Burning or burying of any waste is not permitted on this site.
- (4) Parking must not be permitted to encroach on dunes or dune vegetation or have an adverse impact on the environment.
- (5) The users of this site must comply with the provisions of the general duty of care principle and the remediation stipulated in terms of section 28 of the National Environmental Management Act, 1998

(Act No. 107 of 1998), the provisions of the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008) as well as all other relevant legislation.

- (6) Everyone using the site and the beach areas shall collect their litter, including cigarette butts, and dispose of these in the refuse bins provided.
- (7) Refuelling supplies must be stored in sealed containers, which are only to be opened once in place within the boat/vessel.
- (8) Bungs, hull or bilge plugs shall not be removed near the slipway that will cause (possibly contaminated) water to run down the slipway or into the adjacent swimming and recreational areas.

#### **24. Ecologically sensitive areas adjacent to the launch site**

- (1) Driving over sand dunes and vegetation of any sort is prohibited.
- (2) Both vehicle and people must strictly avoid ecologically sensitive areas in the vicinity of the launch site. Where feasible, such areas should be identified by appropriate signage.
- (3) Lagoons, estuaries, riverbanks, salt marshes and any wetland adjacent to the site must be treated as ecologically sensitive no-go areas. Vehicular access to, or in close proximity to, these areas is prohibited unless strict conditions are set to manage activity in these areas.
- (4) Bird breeding/nesting areas and important habitats must be avoided.

#### **25. Noise**

- (1) Noise on this site should be kept to a minimum and within the relevant noise control By-laws/regulations of the municipality.
- (2) Motors should be started and warmed up in such a way as to minimise any nuisance to neighbours or other beach users.

#### **26. Coastal Access Land**

The Municipality is hereby, and in terms of section 20(1) and 20(2) of the National Environmental Management: Integrated Coastal Management Act, afforded the powers to:

- (1) Designate any public access servitude in favour of the municipality as coastal access land; and
- (2) Remove any public access servitude in favour of the municipality as coastal access land, which is causing or contributing to adverse effects that the municipality is unable to prevent or to mitigate adequately; subject to the Municipality giving notice of the intended designation or withdrawal of the designation to the owner of the land.
- (3) Protect and enforce the rights of the public to use coastal access land gain access to coastal public property;
- (4) Maintain that land so as to ensure that the public has access to the relevant coastal public property;

- (5) Where appropriate and within its available resources, provide facilities that promote access to coastal public property, including parking areas, toilets, boardwalks and other amenities, taking into account the needs of physically disabled persons;
- (6) The public may:
  - (a) Utilise coastal access land for the sole purpose of accessing coastal public property.
- (7) In terms of this By-law:
  - (a) Coastal Access Land is deemed to be a Public Amenity;
  - (b) All prohibitions and conditions applicable to Public Amenities are applicable to Coastal Access Land;
  - (c) No person may impede the public's right to traverse coastal access land in order to access the coastal zone, subject to the provisions applicable to Public Amenities.

## **27. Overnighting/camping**

Provisions regarding overnighting and camping

- (1) No person may camp or overnight on any land belonging to or which is under the control of the municipality, except on a camping site within the boundaries of a camping area.
- (2) No person may camp or overnight in a camping area, whether continuous or otherwise, for a period exceeding three months in any period of twelve months without the written consent of the municipality.
- (3) The municipality may grant or refuse such an application subject to such conditions and for such period as it may deem fit, but not for any period in excess of a further three consecutive months.
- (4) The occupier of a camping site must be the person whose name appears on the camping permit, and he or she may not sublet, cede, dispose of or in any manner alienate his or her rights there under.
- (5) Reservation of camping sites will only be considered upon receipt of a written application.
- (6) The municipality may determine conditions additional to those contained in this By-law for the use of camping sites that fall under the control of the municipality.
- (7) The municipality may determine conditions for the establishment of private camping facilities.
- (8) A person who contravenes a provision of subsections (1), (2) and (4), or any condition imposed by the municipality in terms of subsections (6) and (7) commits an offence.

## **28. Provisions regarding Caravan parks**

- (1) The municipality may allocate ten percent (10%) or such greater percentage of the sites in a caravan park to be permanently occupied by caravans or mobile homes.
- (2) The municipality may determine conditions for the establishment of private caravan parks.
- (3) The municipality may determine conditions additional to those contained in this By-law for the use of caravan parks that fall under the control of the municipality.

- (4) Any person who contravenes or fails to comply with any condition imposed in terms of subsections (2) and (3) commits an offence.

### **29. Consumption of liquor**

No person may operate or use a vessel, or may be in the driving seat of a power-driven boat with its engine running, or may water ski, while his or her blood contains more than 0.05 grams of alcohol per 100 millilitres of blood or while under the influence of drugs.

### **30. Entertainment and trade**

- (1) No person shall, without the prior written permission of the Municipality, and then only in accordance with any conditions which may be imposed by the Municipality, irrespective whether for reward or gain, conduct:-
- (a) an organised entertainment, sports event, recreational activity; or
  - (b) business or trade of any sort within the beach area; and
  - (c) build, erect or place a building or structure of any kind on any part of the beach area.

### **31. Fireworks**

No person shall discharge without the prior consent of the Municipality, any fireworks or pyrotechnic works within the beach area, coastal access land, or coastal public property.

### **32. Fires**

No person shall, except at places and amenities provided by the Municipality, kindle a fire in the beach area without the prior written permission of the Municipality, excluding by gas operated equipment of which the gas cylinder not exceeds 4,5 kilogram gas capacity.

### **33. Protection of coastal fauna and flora**

Environment conservation

- (1) No person may camp, picnic or light a fire below a high-water mark.
- (2) No person shall catch, chase, remove, or kill any bird, sea-life or other animal which occurs in the beach area, subject to the provisions of other legislation.
- (3) No person may disturb or attempt to disturb any bird or the nest thereof or remove eggs from nests, or disturb or attempt to disturb any animal or plant.
- (4) No person may wilfully or negligently pollute or foul a water body with fuel, oil, garbage, sewerage, refuse or rubble of any kind whatsoever.
- (5) The municipality has the right to indicate, by means of notices erected, where activities shall be limited, allowed, controlled or prohibited, and no person, other than an authorised officer, may move, deface or otherwise interfere with such notice-board, notice or marker placed by the municipality in terms of this by-law.

(6) A person who contravenes any provision of this section commits an offence.

### **34. Waste Management**

#### **Littering**

(1) No person may -

- (a) discard, place or leave waste on any municipal land, a public road or a public place other than in a receptacle provided or approved by the municipality for the discarding of waste by the public;
- (b) disturb anything in, or remove anything from any receptacle which has been placed for the purposes of collecting waste; or
- (c) sweep any waste into a gutter, onto a road reserve or onto any other public place.

(2) An owner or occupier of property must monitor the property for acts of littering by another person and must forthwith report such act of littering to the municipality.

(3) A person who contravenes a provision of this section commits an offence.

### **35. Dumping**

(1) No person may -

- (a) except with the permission of the owner or of the person or authority having control thereof dump, accumulate, place, deposit, leave or cause or allow to be dumped, accumulated, placed, deposited or left any waste whatsoever, whether for gain or otherwise, on or in -
    - (i) a public road;
    - (ii) a public place;
    - (iii) any drain, watercourse, flood prone areas, tidal or other water in or abutting on any such road, highway, street, lane, public footway or pavement, roadside or other open space to which the public have access;
- or
- (iv) private or municipal land.

(2) Should a person perform any of the acts referred to in subsection (1), the municipality may by written notice require -

- (a) the person directly or indirectly responsible for dumping, accumulating, placing, depositing, or leaving the waste;
- (b) the owner of the waste, whether or not he is responsible for dumping, accumulating, placing, depositing, or leaving the waste; or
- (c) the owner of the property on which the waste was dumped, accumulated, placed, deposited, or left, whether or not he or she is responsible therefore; to remove the waste within the period stated in the notice.

- (3) If a person fails to comply with the requirements of a written notice, the municipality may dispose of, destroy or remove the waste and may recover the cost of doing so from the person or persons to whom the notice was issued.
- (4) If waste has been deposited in or on any unoccupied land in contravention of subsection (1) and it is necessary that the waste be forthwith removed or other steps be taken to eliminate or reduce the consequences of the deposit, the municipality may remove the waste from the land or take other steps to eliminate or reduce the consequences of the deposit or, as the case may require, to remove the waste and take those steps, and is entitled to recover the cost incurred by it-
  - (a) from the owner of the land, unless he or she proves that he or she neither made nor knowingly caused nor knowingly permitted the deposit of the waste; or
  - (b) from any person who deposited or knowingly caused or knowingly permitted the deposit of any of the waste.
- (5) Any waste removed by the municipality belongs to the municipality and may be dealt with accordingly.
- (6) A person who contravenes a provision of subsection (1) or who fails to comply with a notice issued in terms of subsection (2) commits an offence.

### **36. Burning of waste**

- (1) No person may burn waste except at -
  - (a) an authorised incinerator operated by the municipality; or
  - (b) a place designated by the municipality for such purpose.
- (2) A person who contravenes a provision of subsection (1) commits an offence.

### **37. Swimming/Bathing**

Prohibition of swimming within certain areas

- (1) The Municipality may by means of a notice set aside and reserve any area of the beach area, including a bathing pool exclusively for bathing or sunbathing.
- (2) Swimming within any part of the bathing area or presence within the beach area may be prohibited by the Municipality, either as a permanent or temporary measure, where special circumstances necessitate.
- (3) Swimming or presence within any part of the beach area may be temporarily prohibited by an authorised life-saver on duty for as long as he may consider a situation or the conditions of the sea unsafe.
- (4) Any permanent designation or prohibition under this By-law shall be indicated by notice on the spot and any temporary designation or prohibition by recognisable and intelligible signs at both ends of the prohibited area.

### **38. Offences relating to swimming**

- (1) No person shall swim in any part of the bathing area in which swimming has been prohibited.
- (2) No person shall remain, swim or sunbathe in the nude or be dressed improperly or indecently or be dressed in underwear only within the beach area.
- (3) No person shall hang on to, sit upon or cause to sink any safety ropes provided for the protection of bathers, or in any way tamper with or interfere with such safety ropes or other appliances provided for the assistance of swimmers in distress.
- (4) No person shall enter or remain within the beach area contrary to a reasonable prohibition by the person having authority over or placed in charge of such coastal or seashore area, or as evidenced by a notice on the spot.

### **39. Aquatic events (e.g. organised triathlons, inflatable boat races)**

- (1) No person shall:-
  - (a) within or on any beach area organise, participate or compete in any swimming race or aquatic sport or event, or organise training in respect of such water or any other sports that cause annoyance or affect the safety, comfort or rights of the users of the beach area, except with the prior consent of the Municipality and at such time and place as the Municipality may have determined;
  - (b) within the bathing area play any game where the playing of games has been prohibited by a sign.

### **40. Damage to property**

Damage of property

- (1) No one may:-
  - (a) move, deface or otherwise interfere with any notice board, notice or marker or other object erected, posted or placed on the beach by the Municipality or an authorised official or
  - (b) interfere with, misuse or damage any building, facility, structure or other amenity provided for the use of the public on the beach area.
- (2) Any person who fails to observe the terms of notices affixed to any building, structure or amenity or upon the beach area by the Municipality or authorised person, shall be guilty of an offence.

### **41. Angling**

No person may:

- (1) catch fish or angle in that portion of the bathing area wherein the Municipality has by notice prohibited fishing.
- (2) Where fishing and angling is not prohibited, no person may cast or manipulate his fishing equipment in a manner which may endanger or cause annoyance to anyone.

No person may:

- (a) fish from any bridge over a river;
- (b) impede any navigational channel with a fishing line;
- (c) leave a fishing line unattended in or near a navigation channel;
- (d) spear fish in a river.

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

## **42. Animals on the beach**

Animals on beaches

- (1) The Municipality may, after an impact assessment and public participation process, allow dogs or horses or both on designated parts of the beach area, on such conditions, requirements, restrictions or tariffs it deems necessary.
- (2) No person shall:-
  - (a) cause or allow any animal belonging to them, or in their charge, to enter upon or remain in any part of the bathing area, unless it is a demarcated area wherein the Municipality has, by notice on the spot, admitted the presence of animals, except a certified guide dog fulfilling its duty as a guide dog;
  - (b) cause or allow a dog or horse in his charge, to enter or remain upon the bathing area, where the presence of dogs and or horses are admitted by a notice, unless:-
    - (i) such a dog is on a leash;
    - (ii) such a horse is bridle or reined; and is effectively restrained from causing annoyance or posing a danger to any other person or persons;
  - (c) cause or allow any other animal in his charge, to enter or remain upon the bathing area except with prior written permission by the Municipality.
- (3) Any animal found in the bathing area contrary to the provisions of subsection (2) may be impounded by an authorised person or municipal official and be removed to a pound, or other place of safe keeping, there to be dealt with in accordance with the prescriptions of such pound or place of safe keeping irrespective whether such animal is under the control or care of or accompanied by the owner or any other person
- (4) The owner or person in charge of the allowed dog, horse or other animal:-
  - (a) must at an times have the necessary equipment in his possession to be able to forthwith clean up any excretion from such animal and place it in a bag, wrapper or other container;
  - (b) forthwith clean up and remove any excrement resultant from such animal and dispose of it in a receptacle provided for the deposit of litter or refuse, or to keep it until it can be disposed of.
- (5) Any person who, in contravention of the provisions or requirements of subsection (4), bring an animal in a bathing area is guilty of an offence and such animal may be seized and impounded by an authorised person and removed to the Municipality's pound, or other place of safe keeping, there to be dealt with in accordance with the prescriptions of such pound or place of safekeeping.



### **43. General conduct on rivers, dams, estuaries and sea**

Conduct on rivers, dams, estuaries and sea

(1) No person may:

- (a) use obscene, offensive or indecent language;
- (b) behave in an offensive, improper or disorderly manner;
- (c) wilfully or negligently cause discomfort or inconvenience to others;
- (d) disturb the peace or cause undue noise;
- (e) behave in a dangerous or reckless manner;
- (f) furnish to any authorised officer any particulars that are false or misleading;
- (g) impersonate or falsely represent himself or herself as an authorised officer;
- (h) fail to comply with the lawful requirements of any authorised officer; or
- (i) assault, obstruct, resist, delay, intimidate or otherwise interfere with an authorised officer in the performance of his or her duties.

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

### **44. Miscellaneous Provisions**

Powers of official and offences

(1) The Municipality may appoint an officer, as well as any other official or person, and entrust them with the powers and duties to ensure that this By-law is duly observed.

(2) In addition to the powers and duties referred to elsewhere in this By-law, and subject to any other applicable law, an officer or any other appointed official or person, including a peace officer, on presentation of his official identification:-

- (a) may investigate any act or omission which on reasonable suspicion may constitute an offence and a person commits an offence if he or she:
  - (i) threatens, resists, hinders or obstructs, or uses foul, abusive or insulting language towards or at an official in the exercise of his or her powers or execution of his or her duties;
  - (ii) falsely holds himself or herself out to be an official;
  - (iii) furnishes false or misleading information when complying with a request of an official;
  - (iv) fails to comply with a request of an official.
- (b) may stop any vehicle or vessel within the beach area and examine any permit or authorisation, in order to satisfy himself that the vehicle or vessel permit or authorisation complies with this By-law or any other applicable law;
- (c) require any person to furnish their name and address and give any other particulars required as to his identification where, in the opinion of the officer the person may reasonably be suspected of having committed an offence or is able to give evidence in regard to the commission, or suspected commission, of any such offence;

- (d) seize anything which may in the opinion of the officer, afford evidence of an offence, provided if no prosecution for an offence is instituted, it be returned to the person from whose possession it was taken;
- (e) subject to subsection 2(d), anything seized shall be disposed of in accordance with the applicable provisions of the Criminal Procedure Act, 1977 (Act 51 of 1977).

#### **45. Appeal**

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

#### **46. Penalties**

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

#### **47. Limitation of liability**

- (1) The municipality is not liable for any damage or loss caused by:
  - (a) the exercise of any power or the performance of any duty in good faith under this By-law;  
or
  - (b) the failure to exercise any power, or perform any function or duty in good faith under this By-law.

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

- (1) A notice issued by the municipality in terms of this By-law is deemed to be duly issued if it is signed by an officer authorised by the municipality.
- (2) Any notice or other document that is served on a person is regarded as duly served:
  - (a) when it has been delivered to that person personally;
  - (b) when it has been left at that person's place of residence or business in the Republic of South Africa with a person apparently over the age of sixteen years;
  - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic of South Africa, and an acknowledgment of the posting thereof from the postal service is obtained;
  - (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 subsections (a), (b) or (c);

- (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 land or business premises to which it relates;
  - (f) in the event of a body corporate, when it has been delivered at the registered office of the business premises of such body corporate;
  - (g) when it has been delivered, at the request of that person, to his or her e-mail address.
- (3) Service of a copy is deemed to be service of the original.
- (4) When any notice or other document is served on the owner, occupier, or holder of any property, or right in any property, it is sufficient if that person is described in the notice or other document as the owner, occupier, or holder of the property or right in question, and it is not necessary to name that person.

#### **49. Presumption**

In any prosecution under this By-law it shall be presumed, unless the contrary is proved, that an animal found in a public amenity was brought into the amenity by the owner thereof or a person under the control of the owner, or that the owner or the person allowed the animal to enter the amenity.

#### **50. Entering into agreements**

- (1) The municipality may enter into a written agreement with any person, organ of State, local community or organisation to provide for –
- (a) the co-operative development of any public amenity; or
  - (b) the co-operative management of any public amenity; and
  - (c) the regulation of human activities within a public amenity.

#### **51. Liaison forums in community**

- (1) The municipality may establish one or more liaison forums in a community for the purposes of:
- (a) creating conditions for a local community to participate in the affairs of the municipality;
  - (b) encouraging a local community to participate in the affairs of the municipality; and
  - (c) promoting the effective and safe use of public amenities.
- (2) A liaison forum may consist of:
- (a) a member or members of an interest group, or an affected person;
  - (b) a member or members of a community in whose immediate area a public amenity exists;
  - (c) a designated official or officials of the municipality;
  - (d) the councillor responsible for public amenities.
- (3) (a) The municipality may, when considering an application or registration in terms of this By-law, request the input of a liaison forum.

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

## **52. 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.

## **53. Short title and commencement**

This By-law may be cited as the Cederberg Municipality Coastal Management By-law and commences on the date of publication thereof in the Provincial Gazette.