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NOTICES BY LOCAL AUTHORITIES

KENNISGEWINGS DEUR PLAASLIKE OWERHEDE

**HESSEQUA MUNICIPALITY
AERODROME BY-LAW**

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996 the Hessequa Municipality, enacts as follows:-

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1. Interpretation

In this by-law, unless the context otherwise indicates –

“**Act**” means the Aviation Act, Act 74 of 1962;

“**Air Navigation Regulations**” means the Civil Aviation Regulations, 1997, published under Government Notice R. 1219, dated 26th September, 1997, as amended from time to time, or any regulations by which the same have been duly replaced;

“**aerodrome**” has the meaning assigned to it in the Aviation Act, 1962 (Act 74 of 1962), and in this by-law refers to the Hessequa Municipal Aerodrome;

“**Council**” means the Hessequa Municipal Council;

“**manager**” means the person for the time being in charge of the aerodrome and includes any other person who is authorised to act on his or her behalf;

“**municipality**” means the Municipality of Hessequa, 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 or any employee 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;

“**landing field**” means the area comprising the runways and other prepared ways for the passage of aircraft on the ground, aprons and all the land surrounding that area enclosed by a fence;

“**public enclosures**” means demarcated areas within the aerodrome set aside by the Council from time to time for use by members of the public other than persons flying in aircraft, and for the parking of vehicles;

“**runway**” means a defined rectangular area prepared or constructed for the landing and take-off run of aircraft along its length;

“**taxiway**” means a defined path on the aerodrome for the use of taxi-ing aircraft whether such path is constructed or not.

2. Purpose of by-laws

The purpose of this by-law is to provide for the control of all aerodromes within the municipal area of Hessequa Municipality.

3. Regulations of Aviation Act, Act 74 of 1962 and agreements applicable

This by-law must be read with, and the application thereof is subject to the Aviation Act, 1962 (Act 74 of 1962), as amended, any regulations made there-under, and any agreement entered into between the

municipality and any holder of an operator's licence and nothing in this by-law must be taken as purporting to contradict or derogate from the control of the aerodrome in accordance with the Aviation Act, Act 74 of 1962, the regulations or any such agreement.

4. Agreements

The municipality may enter into a written agreement with any party regarding the use of any aerodrome of which it is the licence holder.

5. Aerodrome hours

The municipality may determine the hours during which the aerodrome may be used.

6. Arrivals and departure of aircraft

The pilot and every other person for the time being in charge or control of an aircraft must ensure that adequate precautions have been taken to keep unauthorized persons at a safe distance from all aircraft before any of its engines is started and while any engine is running.

7. Tariffs

Subject to any agreement referred to in section 3 the municipality may levy tariffs for the use of any aerodrome.

8. Access to landing field

- (1) No person may enter or be on the landing field except the following:
 - (a) Pilots and crew of aircraft based at or using the aerodrome in the course of their duties connected with the aircraft;
 - (b) technical, mechanical and servicing personnel going to or from aircraft in pursuance of their official duties connected therewith;
 - (c) pupil pilots going to or from aircraft for purposes of instruction or practice;
 - (d) members of the aerodrome's ground staff on duty, and other aerodrome officials authorized by the Manager;
 - (e) aircraft passengers, as long as they are passing directly between their aircraft and the public enclosures, or otherwise moving under the directions of the Manager or his staff; and
 - (f) any person not previously specified in this section having express authority from the Manager to enter the landing field.
- (2) A person who enters or is on the landing field in contravention of subsection (1) commits an offence.

9. Regulation or prohibition of vehicular traffic and pedestrians

- (1) Motor cars and other vehicles may, in the absence of any special direction given by the Manager, only be parked in areas designated for that purpose by notices and within any lines which may be marked on the surface of any such area or as directed by the Manager or his or her nominee, however this subsection does not apply to any officer of the municipality employed at the aerodrome while acting in the course of his or her official duties.
- (2) The Manager may at any time without previous notice, and either permanently or for such period as he or she may determine, prohibit or restrict in such manner as he or she may deem necessary the admission of persons or vehicles to the aerodrome or any particular part thereof.
- (3) The Manager may, if it is deemed necessary for the proper control of the aerodrome, direct the person in lawful charge of a vehicle which is parked on the aerodrome to move the vehicle –
 - (a) to another place on the aerodrome indicated by the Manager; or
 - (b) from the aerodrome;and if such person refuses or fails or is not present to comply forthwith such direction the Manager or a member of the police may have that vehicle moved to such other place or from the aerodrome and any such action by the Manager or a member of the police does not exempt such person from prosecution in respect of such refusal or failure.
- (4) Motor vehicles may not be driven on the taxiways and runways without special permission from the Manager.
- (5) Pedestrians and persons in vehicles at the aerodrome are subject to the supervision of the Manager and must obey such directions with regard to their movements as he or she considers necessary to give in the interests of safety or the good management of the aerodrome.

- (6) No person under the age of fourteen years, not being an authorized passenger in an aircraft, may enter the aerodrome unless accompanied by and under the supervision of an adult person.
- (7) The Manager has the right to remove from the aerodrome any unaccompanied person under the age of fourteen years, not being an authorized passenger in an aircraft, and to require the removal there from by the adult in charge of him or her of any person under the age of fourteen years whose conduct is prejudicial to the amenities and proper management of the aerodrome.
- (8) A person who contravenes any of the provisions of this section or who fails to comply with a direction given by the manager commits an offence.

10. General Conduct of Persons

- (1) No person may without the written prior consent of the Manager, within or around the aerodrome premises, buildings, structures, trees, fences or other part thereof –
- (a) place or affix any placard or notice;
 - (b) climb any tree, building or other structure;
 - (c) uproot or injure any tree or plant or pick any flower;
 - (d) light or in any other manner cause a fire, or smoke or bring an open flame into –
 - (i) any place where such act is prohibited by a notice displayed on the direction or with the permission of the Manager; or
 - (ii) any place within 16 m of an aircraft or of any vehicle used for the supply of fuel to an aircraft or a store or dump of liquid fuel or explosives;
 - (e) tamper or interfere with any fire hose reel, hydrant or any other item or equipment provided solely for fire-fighting purposes, or in the event of a fire, to interfere with or take part in any rescue or fire-fighting operation, unless he or she has been asked to do so by the official in charge of such operation;
 - (f) discharge any firearm or airgun or set off any firework, or use a catapult or to throw any stone or other object;
 - (g) affix or distribute any pamphlet, book, handbill or other printed matter or other article;
 - (h) enter any public convenience marked as being reserved for persons of the opposite sex;
 - (i) enter any building or place in disregard of a notice prohibiting such entry;
 - (j) play any musical instrument, operate any sound reproducing device, sing or make any speech;
 - (k) cause any obstruction, disturbance or nuisance or commit any act causing annoyance to other persons using the aerodrome or lawfully present thereat;
 - (l) enter or leave the aerodrome or any part thereof except by means of the entrances or exits marked as being provided for that purpose.
- (2) No chock, drum, loading step, trestle or other equipment or object capable of causing an obstruction may be left on the landing field except when its presence there is actually and immediately necessary.
- (3) A person who contravenes a provision of this section commits an offence.

11. Removal of damaged or disabled aircraft

- (1) The operator of any damaged or disabled aircraft must, if directed to do so by the Manager, move such aircraft or any part thereof or any cargo or thing carried therein to another place on the aerodrome indicated by the Manager, or from the aerodrome.
- (2) If the operator of a damaged or disabled aircraft refuses or fails or is not present to comply forthwith with any direction given by the Manager in terms of subsection (1), the Manager may take all steps necessary to ensure that such direction is complied with as expeditiously and safely as possible and may recover from the operator of that aircraft the cost incurred in ensuring compliance with such direction and any such action by the Manager does not exempt such operator from prosecution in respect of such refusal or failure.

12. Supply of fuel to Aircraft.

- (1) No person may on the aerodrome supply fuel to any aircraft except at a place and in a manner approved by the Manager.
- (2) The Manager may make any approval granted by him or her in terms of subsection (1) subject to compliance with such conditions as he or she may consider necessary to impose in order to safeguard persons or property on the aerodrome and he or she may from time to time vary or add to any condition so imposed or withdraw his approval.

(3) The supply of fuel is, notwithstanding the above, subject to the provisions of the municipality's by-law relating to fire prevention.

(4) A person who contravenes subsection (1) or who fails to comply with a condition imposed in subsection (2) commits an offence.

13. Boarding or tampering with aircraft

(1) Except with the permission of the person in lawful charge of all aircraft no person may on the aerodrome –

- (a) board such aircraft; or
- (b) tamper or interfere in any way whatsoever with such aircraft or anything used in connection therewith.

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

14. Use of buildings and hangars

(1) Subject to any agreement entered into in terms of section 3, the buildings, hangars and other facilities on the aerodrome are under the control of the municipality and the use thereof is subject to such conditions as may be imposed by it.

(2) A person who uses the buildings, hangars or other facilities in contravention of a condition imposed in terms of subsection (1) commits an offence.

15. Trading

(1) Subject to any agreement entered into in terms of section 3, no person may engage in the sale of refreshments or in the sale or hire of any other commodity or in the rendering for reward or otherwise of any service within the boundary of the aerodrome unless having obtained a written permit to do so given by the municipality.

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

16. Appeal

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

17. 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.

18. Revocation 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, and insofar as it has been made applicable to the municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Local Government: Municipal Structures Act, Act 117 of 1998.

19. Short title and commencement

This by-law is known as the Aerodrome By-law, and commences on the date of publication thereof in the Provincial Gazette.

HESSEQUA MUNISIPALITEIT VliegVELD VERORDENING

Kragtens die bepalings van artikel 156 van die Grondwet van die Republiek van Suid-Afrika, 1996, verorden die Hessequa Munisipaliteit as volg:-

Inhoudsopgawe:

1. Definisies
2. Doel van verordening
3. Regulasies van die Lugvaartwet, Wet 74 van 1962 en ooreenkomste van toepassing
4. Ooreenkomste
5. Vliegvelddure
6. Aankoms en vertrek van lugvaartuie
7. Tariewe
8. Toegang tot vliegveld
9. Regulering van of verbod op voertuie en voetgangers
10. Algemene gedrag van persone
11. Verwydering van beskadigde of ongeskikte lugvaartuie
12. Brandstofvoorsiening aan lugvaartuie
13. Aanboordgaan of peuter
14. Gebruik van geboue of loodse
15. Handeldryf
16. Appèl
17. Strawwe
18. Herroeping van verordeninge
19. Kort titel en inwerkingtrede

1. Definisies

In hierdie verordening, tensy dit uit die samehang anders blyk, het die volgende woorde die volgende betekenisse –

"**aanloopbaan**" beteken 'n gedefinieerde reghoekige gebied wat voorberei of gebou is vir die opstyg en landing van lugvaartuie in die lengte daarvan;

"**bestuurder**" beteken die persoon wat in beheer van 'n vliegveld is en sluit enige ander persoon in wat gemagtig is om as sodanig waar te neem;

"**landingstrook**" beteken die area wat bestaan uit die aanloopbane en ander voorbereide weë vir die passasie van lugvaartuie op die grond, vaste blad en al die grond wat daardie gebied begrens en wat omhein is;

"**Lugvaart Regulasies**" beteken die Burgerlugvaart Regulasies van 1997, gepubliseer in Staatskennisgewing R. 1219, gedateer 26 September 1997, soos van tyd tot tyd gewysig, of enige regulasies wat dit vervang het;

"**vliegveld**" dra die betekenis wat daaraan toegeskryf word in die Lugvaartwet, 1962 (Wet 74 van 1962) en in hierdie verordening verwys dit na die Hessequa Munisipale Vliegveld;

"**munisipaliteit**" beteken die Hessequa Munisipaliteit wat ingevolge Artikel 12 van die Wet op Munisipale Strukture, 117 van 1998, Provinsiale Kennisgewing 484 gedateer 22 September 2000, daargestel is en sluit alle politieke strukture, politieke ampsdraers, raadslede, behoorlik gemagtigde agente of alle werknemers in wat ingevolge hierdie verordening optree uit hoofde van 'n bevoegdheid wat by die munisipaliteit berus en aan sodanige politieke struktuur, politieke ampsdraer, raadslid, agent of werknemer gedelegeer of gesubdelegeer is;

"**openbare afsluitings**" beteken afgebakende gebiede binne 'n vliegveld wat van tyd tot tyd deur die Raad opsygesit word vir gebruik deur lede van die publiek wat nie in lugvaartuie vlieg nie, en vir die parkering van voertuie;

"**Raad**" beteken die Hessequa Munisipale Raad;

"**ryweg**" beteken 'n gedefinieerde pad op die vliegveld wat vir die ry van lugvaartuie gebruik word, ongeag of die pad gebou is of nie;

"**Wet**" beteken die Lugvaartwet, Wet 74 van 1962;

2. Doel van verordening

Die doel van hierdie verordening is om beheer oor alle vliegvelde in die munisipale gebied van die Hessequa Munisipaliteit uit te oefen.

3. Regulasies van die Lugvaartwet, Wet 74 van 1962 en ooreenkomste van toepassing

Hierdie verordening moet saam met die Lugvaartwet, 1962 (Act 74 of 1962), soos gewysig, gelees word en is ook ondergeskik aan die wet, enige regulasies daarkragtens uitgevaardig en enige ooreenkoms wat tussen die munisipaliteit en die houer van 'n operateurslisensie aangegaan is en geen bepaling in hierdie verordening moet gesien word as synde in stryd te wees met of afbreuk te doen aan die Lugvaartwet, 1962 (Act 74 of 1962), die regulasies of sodanige ooreenkoms nie.

4. Ooreenkomste

Die munisipaliteit mag 'n skriftelike ooreenkoms aangaan met enige party ten opsigte van die gebruik van 'n vliegveld waarvan die munisipaliteit die lisensiehouer is.

5. Vliegveldure

Die munisipaliteit mag die ure vasstel waartydens 'n vliegveld gebruik mag word.

6. Aankoms en vertrek van lugvaartuie

Die loods en enige ander persoon wat in beheer is van 'n lugvaartuig moet toesien dat voldoende voor-sorg getref is dat ongemagtigde persone op 'n veilige afstand van alle lugvaartuie gehou word voordat enige van die lugvaartuig se masjiene aangeskakel word en terwyl enige masjiene aangeskakel is.

7. Tariewe

Onderworpe aan enige ooreenkoms aangegaan ingevolge artikel 3, mag die munisipaliteit tariewe hef vir die gebruik van enige vliegveld.

8. Toegang tot vliegveld

- (1) Geen persoon, behalwe die volgende, mag 'n vliegveld binnegaan of daarop wees nie:
 - (a) Loodse en lugvaartpersoneel wat by 'n vliegveld gestasioneer is of wat die vliegveld gebruik in die loop van hul dienste wat met die lugvaartuig verband hou;
 - (b) tegniese, meganiese en onderhoudspersoneel wat na en van lugvaartuie beweeg in die uitvoering van hul pligte;
 - (c) leerlingloodse wat na of van lugvaartuie beweeg vir die doeleindes van onderrig of oefening;
 - (d) lede van die vliegveld se grondpersoneel en enige ander vliegveldpersoneel wat deur die bestuurder gemagtig is;
 - (e) lugvaartpassasiers, solank hulle direk tussen die lugvaartuig en die openbare afsluiting beweeg, of anderssins soos vereis deur die bestuurder of sy personeel;
 - (f) enige persoon wat nie in hierdie artikel vermeld word nie, maar wat die uitdruklike magtiging van die bestuurder het om die vliegveld binne te gaan.
- (2) Enige persoon wat 'n vliegveld ingaan of daarop is in stryd met subartikel (1) pleeg 'n misdryf.

9. Regulering van of verbod op voertuie en voetgangers

- (1) Tensy daar enige spesiale instruksies deur die bestuurder uitgevaardig is, mag motor- of ander voertuie slegs op plekke parkeer word waar daar deur middel van tekens aangedui word dat daar parkeer mag word en dan ook slegs binne enige lyne wat op die oppervlak aangebring is om aan te dui dat dit 'n parkeerruimte is, met dien verstande dat hierdie subartikel nie van toepassing is op 'n beampte van die munisipaliteit wat by die vliegveld in diens is en besig is met die verrigting van sy of haar amptelike pligte nie.
- (2) Die bestuurder mag ten enige tyd en sonder voorafkennis, en permanent of vir 'n tyd deur hom of haar bepaal, die toegang van persone of voertuie tot die vliegveld of enige besondere deel daarvan, verbied of beperk.
- (3) Indien dit nodig geag word vir die behoorlike beheer van die vliegveld, mag die bestuurder die persoon in beheer van 'n voertuig wat op 'n vliegveld geparkeer is aansê om die voertuig -
 - (a) na 'n ander aangewese plek op die vliegveld te verskuif; of
 - (b) dit van die vliegveld te verwyder

en indien so 'n persoon sou weier of nie teenwoordig is om aan die instruksie gehoor te gee nie, mag die bestuurder of 'n lid van die polisie daardie voertuig na sodanige ander plek verskuif of vanaf die vliegveld verwyder en enige sodanige verskuiwing of verwydering stel sodanige persoon nie vry van vervolging ten opsigte van sodanige weiering of versuim nie.

- (4) Motorvoertuie mag nie sonder die spesiale toestemming van die bestuurder op aanloopbane en ryweë bestuur word nie.

- (5) Voetgangers en persone in voertuie op vliegveld is aan die toesig van die bestuurder onderworpe en moet die instruksies gehoorsaam wat die bestuurder ten opsigte van hul bewegings in belang van veiligheid of die bestuur van die vliegveld uitreik.
- (6) Geen persoon onder die ouderdom van veertien jaar, wat nie 'n gemagtigde passasier in 'n vliegtuig is nie, mag 'n vliegveld binnegaan indien hy of sy nie vergesel is en onder die toesig van 'n volwasse persoon is nie.
- (7) Die bestuurder mag enige persoon onder die ouderdom van veertien wat nie 'n gemagtigde passasier is nie en nie van 'n volwassene vergesel is nie van die vliegveld verwyder.
- (8) Enige persoon wat enige van die bepalings van hierdie artikel verbreek of wat versuim om 'n instruksie van die bestuurder te gehoorsaam, pleeg 'n misdryf.

10. Algemene gedrag van persone

- (1) Niemand mag sonder die voorafverkreë skriftelike goedkeuring van die bestuurder op, in of om die perseel van 'n vliegveld, geboue, strukture, bome, heinings of enige ander deel daarvan –
- (a) enige plakkaat of kennisgewing plaas of heg nie;
 - (b) enige boom, gebou of ander struktuur klim nie;
 - (c) enige boom of plant ontwortel of beskadig of enige blom pluk nie;
 - (d) 'n vuur maak of aansteek of op enige ander wyse 'n brand veroorsaak of rook veroorsaak of 'n oop vlam neem na –
 - (i) enige plek waar sodanige optrede deur 'n kennisgewing verbied word wat ingevolge die instruksie of met die toestemming van die bestuurder vertoon word nie; of
 - (ii) enige plek binne 16m van 'n lugvaartuig of van enige voertuig wat gebruik word om brandstof te voorsien aan 'n lugvaartuig of 'n plek waar brandstof of plofstof gestoor word nie.
 - (e) met enige brandslang, brandkraan of enige ander brandbestrydingstoerusting peuter of inmeng nie, of in die geval van 'n brand, inmeng met of deelneem aan enige redding- of brandbestrydingspoging, tensy hy deur die persoon in beheer van die operasie versoek is om dit te doen;
 - (f) enige vuurwapen of luggeweer of vuurwerke afvuur of 'n kettie gebruik of 'n klip of enige ander voorwerp gooi nie;
 - (g) enige pamflet, boek, handbiljet of enige ander gedrukte of ander materiaal heg of versprei nie;
 - (h) enige openbare gerief wat vir gebruik van die teenoorgestelde geslag gereserveer is binnegaan nie;
 - (i) enige gebou binnegaan in stryd met 'n kennisgewing wat sodanige toegang verbied nie;
 - (j) enige musiekinstrument speel, 'n meganisme wat klank voortbring gebruik, sing of 'n toespraak maak nie;
 - (k) enige obstruksie, stoornis of oorlas veroorsaak vir enige persoon wat die vliegveld gebruik of wettig daarop verkeer nie; of
 - (l) die vliegveld op enige plek verlaat waar daar nie in- en uitgangtekens aangebring is nie
- (2) Geen klamp, drom, trappie, bokkie of ander toerusting of gereedskap wat obstruksie kan veroorsaak mag op 'n vliegveld gelaat word nie tensy die teenwoordigheid daarvan werklik en onmiddelik noodsaaklik is nie.
- (3) Enige persoon wat hierdie artikel oortree begaan 'n oortreding.

11. Verwydering van beskadigde of ongeskikte lugvaartuie

- (1) Die operateur van enige beskadigde of ongeskikte lugvaartuig moet op instruksie van die bestuurder sodanige lugvaartuig of enige deel daarvan of enige vrag of ding wat daarin vervoer is van 'n vliegveld verwyder of verskuif na 'n ander plek op die vliegveld wat deur die bestuurder aangedui word.
- (2) Indien die operateur van 'n beskadigde of ongeskikte lugvaartuig weier of versuim of nie teenwoordig is om enige instruksie van die bestuurder ingevolge subartikel (1) te gehoorsaam nie, mag die bestuurder die nodige stappe doen om aan die instruksie uitvoering te gee en die kostes wat in verband daarmee aangegaan mag word mag van die operateur verhaal word, met dien verstande dat enige dusdanige optrede deur die bestuurder nie die operateur vrystel van vervolging ten opsigte van sodanige weiering of versuim nie.

12. Brandstofvoorsiening aan lugvaartuie

- (1) Niemand mag op 'n vliegveld aan 'n lugvaartuig brandstof voorsien nie, behalwe op 'n plek en wyse wat deur die bestuurder goedgekeur is.
- (2) Die bestuurder mag enige voorwaarde stel ten opsigte van enige goedkeuring verleen ingevolge subartikel (1) wat hy of sy nodig ag vir die beskerming van persone of eiendom op die vliegveld en hy of sy mag van tyd tot tyd enige voorwaardes wysig, byvoeg of sy of haar goedkeuring terugtrek.
- (3) Nieteenstaande die bepalings van subartikels (1) en (2), is die voorsiening van brandstof onderworpe aan die munisipaliteit se Brandweerdienste verordening.
- (4) Enige persoon wat subartikel (1) oortree of versuim om te voldoen aan 'n voorwaarde wat ingevolge subartikel (2) gestel is, begaan 'n oortreding.

13. Aanboordgaan of peuter

- (1) Behalwe met die goedkeuring van die persoon wat wettiglik in beheer is van 'n lugvaartuig, mag niemand op 'n vliegveld –
 - (a) sodanige lugvaartuig binnegaan; of
 - (b) op enige wyse met sodanige lugvaartuig of enigiets wat in verband daarmee gebruik word, peuter nie.
- (2) Enige persoon wat subartikel (1) oortree begaan 'n oortreding.

14. Gebruik van geboue of loodse

- (1) Onderworpe aan enige ooreenkoms aangegaan ingevolge artikel 3 is die geboue, loodse en ander geriewe op 'n vliegveld onder die munisipaliteit se beheer en is die gebruik daarvan onderhewig aan enige voorwaardes wat deur die munisipaliteit gestel mag word.
- (2) Enige persoon wat die geboue, loodse of ander geriewe in stryd met 'n voorwaarde gestel kragtens subartikel (1) gebruik, begaan 'n oortreding.

15. Handeldryf

- (1) Onderworpe aan enige ooreenkoms aangegaan ingevolge artikel 3, mag niemand binne die grense van 'n vliegveld sonder die skriftelike goedkeuring van die munisipaliteit enige verversings of enige ander produk verkoop of enige diens verkoop of verhuur teen vergoeding of in ruil vir enige ander voordeel nie.
- (2) Enige persoon wat subartikel (1) oortree begaan 'n oortreding.

16. Appèl

Iemand wie se regte geraak word deur 'n besluit van die munisipaliteit mag ingevolge Artikel 62 van die Wet op Plaaslike Regering: Munisipale Stelsels, 200 (Wet 32 van 2000) teen die besluit appèl aanteken by wyse van skriftelike kennisgewing van die appèl en die redes daarvoor aan die Munisipale Bestuurder binne 21 dae van die datum van kennisgewing van die besluit.

17. Strawwe

Iemand wat 'n misdryf ingevolge hierdie verordening begaan het, is by skuldigbevinding aanspreeklik vir 'n boete of, indien die boete nie betaal word nie, gevangenisstraf of sodanige gevangenisstraf sonder die opsie van 'n boete, of sowel die boete as sodanige gevangenisstraf en, in die geval van 'n opeenvolgende of volgehoue misdryf, vir 'n boete vir elke dag waarop sodanige misdryf voortduur, of indien die boete nie betaal word nie, tot bykomende gevangenisstraf.

18. Herroeping van verordeninge

Die bepalings van enige verordeninge wat voorheen deur die munisipaliteit of by enigeen van die ontbinde munisipaliteite wat nou in die munisipaliteit geïnkorporeer is, afgekondig is, word hiermee herroep insoverre hulle betrekking het op sake waarvoor daar in hierdie verordening voorsiening gemaak word en insoverre dit op die munisipaliteit van toepassing gemaak is deur die magtiging vir die uitvoering van magte en funksies ingevolge Artikel 84(3) van die Wet op Plaaslike Regering : Munisipale Strukture, Wet 117 van 1998.

19. Kort titel en inwerkingtreding

Hierdie verordening word die Vliegveld Verordening genoem en tree in werking op die datum van die publikasie daarvan in die Provinsiale Koerant.

**HESSEQUA MUNICIPALITY:
AIR POLLUTION CONTROL BY-LAW**

Under section 156 of the Constitution of the Republic of South Africa, 1996, the Hessequa Municipality, enacts as follows:-

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PART I INTERPRETATION AND OBJECTIVES

1. Definitions

In this by-law, 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**” means any substance (including but 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 any substance emitted into the atmosphere from any activity, where that change has an adverse effect on human health or well-being or on the composition, resilience and productivity of natural or managed ecosystems, or on materials useful to people, or will have such an effect in the future;
- “**air pollution control zone**” means the geographical area to which Part III of the by-law is declared to apply;
- “**atmosphere**” means air that is not enclosed by a building, machine, chimney or other such structure;
- “**atmospheric emission**” or “**emission**” means energy or substance or combination of substances emanating from a point, non-point or mobile source that results in air pollution;
- “**authorised person**” means any person authorised by the municipality to implement any provision of this by-law;
- “**best practicable means**” means the most effective measures that can reasonably be taken to prevent, reduce or minimize air pollution, having regard to all relevant factors including, among others, local conditions and circumstances, the likelihood of adverse effects, the current state of technical knowledge and the financial implications relative to the degree of environmental protection expected to be achieved by application or adoption of the measures;
- “**chimney**” means any structure or opening of any kind from or through which air pollutants may be emitted;
- “**compressed ignition powered vehicle**” means a vehicle powered by an internal combustion, compression ignition, diesel or petrol driven engine;
- “**dark smoke**” means in respect of Part VII of this by-law:
- (a) smoke which has a density of 60 Hartridge smoke units or more, provided that in relation to emissions from turbo-charged compressed ignition powered engines, it means a density of 66 Hartridge smoke units or more; or
 - (b) smoke which has a light absorption co-efficient of more than 2.125 m, provided that in relation to emissions from turbo-charged compressed ignition powered engines, it means a light absorption coefficient of more than 2.51 m;
- “**dust**” means any solid matter in a fine or disintegrated form which is capable of being dispersed or suspended in the atmosphere;
- “**dwelling**” means any building or other structure, or part of a building or structure, used as a dwelling, and any outbuildings ancillary to it, but excludes shacks and informal settlements;
- “**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 interrelationships among and between them; and
 - (d) the physical, chemical, aesthetic and cultural properties and conditions of the foregoing that influence human health and well-being;
- “**free acceleration test**” means the method described in section 18(2) employed to determine whether vehicles are being driven or used in contravention of section 15(1);
- “**fuel-burning equipment**” means any furnace, boiler, incinerator, or other equipment, including a chimney;
- (a) designed to burn or capable of burning liquid, gas or solid fuel;
 - (b) used to dispose of any material or waste by burning; or
 - (c) used to subject liquid, gas or solid fuel to any process involving the application of heat;
- “**fumes**” means any pungent or toxic vapour, gas, or smoke including but not limited to diesel fumes, spray painting fumes and exhaust fumes.

- “**light absorption meter**” means a measuring device that uses a light-sensitive cell or detector to determine the amount of light absorbed by an air pollutant;
- “**living organism**” means any biological entity capable of transferring or replicating genetic material, including sterile organisms and viruses;
- “**mobile source**” means a single identifiable source of atmospheric emission which does not emanate from a fixed location;
- “**municipality**” means the Hessequa Municipality and includes any political structure, political office bearer, duly authorised agent thereof, or a service provider fulfilling a responsibility under this by-law assigned to it in terms of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) or any other law, as the case may be, or any employee thereof acting in connection with this by-law by virtue of a power vested in the municipality and delegated, to such political structure, political office bearer, agent or employee;
- “**municipal manager**” means a person appointed as such by the municipality in terms of section 82 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);
- “**non-point source**” means a source of atmospheric emissions which cannot be identified as having emanated from a single identifiable source or fixed location, and includes veld, forest and open fires, mining activities, agricultural activities and stockpiles;
- “**nuisance**” means an unreasonable interference or likely interference caused by air pollution with:
- the health or well-being of any person or living organism; or
 - the use or enjoyment by an owner or occupier of his or her property; ;
 - the ordinary comfort, convenience, peace or quiet of another person; and
 - the natural state of the environment;
- “**offensive odours**” means any smell which is considered to be malodorous or a nuisance to a reasonable person;
- “**open burning**” means the combustion of material by burning without a chimney to vent the emitted products of combustion to the atmosphere, and “burning in the open” has a corresponding meaning;
- “**operator**” means a person who owns or manages an undertaking, or who controls an operation or process, which emits air pollutants;
- “**point source**” means a single identifiable source and fixed location of atmospheric emission, and includes smoke stacks and residential chimneys;
- “**proclaimed township**” means any land unit zoned and utilized for residential purposes;
- “**person**” means a natural person or a juristic person;
- “**premises**” means any building or other structure together with the land on which it is situated and any adjoining land occupied or used in connection with any activities carried on in that building or structure, and includes any land without any buildings or other structures and any locomotive, ship, boat or other vessel which operates or is present within the area under the jurisdiction of the municipality or the precincts of any harbour;
- “**public road**” means a road which the public has the right to use;
- “**smoke**” means the gases, particulate matter and products of combustion emitted into the atmosphere when material is burned or subjected to heat and includes the soot, grit and gritty particles emitted in smoke;
- “**vehicle**” means any motor, car, motor carriage, motor cycle, bus motor lorry or other conveyance propelled wholly or partly by any volatile spirit, steam, gas or oil, or by any means other than human or animal power.

2. Application, principles and objectives

- The purpose and objectives of this by-law is:
 - to give effect to the right contained in section 24 of the Constitution of the Republic of South Africa, 1996 by controlling air pollution within the area of the municipality’s jurisdiction; and
 - to ensure that air pollution is avoided, or where it cannot be altogether avoided, is minimized and remedied.
- The municipality, aware of the Constitutional right of every person to an environment that is not harmful to his or her health or well-being adopts this by-law with the aim of protecting and promoting the health and well-being of all people in the Hessequa area by providing, in conjunction

with applicable laws, a legal and administrative framework within which the municipality can develop and manage its obligations.

- (3) In the implementation and enforcement of this by-law, the municipality may take into consideration the realities of the Hessequa area, the different customs, cultures, circumstances, geographical areas, kinds of property levels of development and conventions and the municipality may use the devices provided for in this by-law, including the application of different norms, standards and guidelines, the granting of exemptions and the utilisation of liaison forums as contemplated in section 34 of this by-law.

PART II DUTY OF CARE

3. Duty to take care

- (1) Any person who is wholly or partially responsible for causing air pollution or creating a risk of air pollution occurring must take all reasonable measures:
- (a) to prevent any potential air pollution from occurring; and
 - (b) to mitigate and, as far as reasonably possible, to remedy any air pollution that has occurred.
- (2) The municipality may monitor the impact and effectiveness of the measures taken in terms of subsection (1) and, if necessary, issue instructions to a person contemplated in subsection (1) with regard to specific measures to be undertaken.
- (3) The municipality may direct any person who fails to take the measures required under subsection (1) –
- (a) to investigate, evaluate and assess the impact of specific activities and report thereon;
 - (b) to commence taking effective control measures to abate the air pollution before a given date;
 - (c) to diligently continue with those measures; and
 - (d) to complete the measures before a specified reasonable date.
- (4) Should a person fail to comply, or inadequately comply, with a directive under subsection (3), the municipality may take reasonable measures to remedy the situation.
- (5) If any person fails to take the measures required of him or her under subsection (1) or (2), the municipality may recover all reasonable costs incurred as a result of it acting under subsection (4) 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 land at the time when the air pollution or the potential for air pollution occurred, or that owner's successor in title;
 - (c) the person in control of the land or any person who has or had a right to use the land at the time when –
 - (i) the activity or the process in question is or was performed or undertaken; or
 - (ii) the situation came about; or
 - (d) any person who negligently failed to prevent –
 - (i) the activity or the process being performed or undertaken; or
 - (ii) the situation from coming about.
- (6) If more than one person is liable under subsection (5), the liability may be apportioned among the persons concerned according to the degree to which each was responsible for the harm to the environment resulting from their respective failures to take the measures required under subsection (1), (2) and (3);

PART III AIR POLLUTION CONTROL ZONE

4. Declaration of air pollution control zone

- (1) The whole area within the jurisdiction of the municipality is hereby declared an air pollution control zone.

- (2) Within an air pollution control zone the municipality may from time to time by notice in the Provincial Gazette:
 - (a) prohibit or restrict the emission of one or more air pollutants from all premises or certain premises;
 - (b) prohibit or restrict the combustion of certain types of fuel;
 - (c) prescribe different requirements in an air pollution control zone relating to air quality in respect of:
 - (i) different geographical portions;
 - (ii) specified premises;
 - (iii) classes of premises; or
 - (iv) premises used for specified purposes.
- (3) The municipality may develop and publish policies and guidelines, including technical guidelines, relating to the regulation of activities which directly and indirectly cause air pollution within an air pollution control zone.
- (4) Subject to section 29, the municipality may in writing exempt certain premises, classes of premises or premises used for specified purposes from the operation of measures adopted by the municipality under this section.

PART IV SMOKE EMISSIONS FROM PREMISES OTHER THAN DWELLINGS

5. Application

For the purposes of this Part, "premises" does not include dwellings.

6. Prohibition

- (1) Subject to subsection (2), smoke must not be emitted from any premises for an aggregate period exceeding three minutes during any continuous period of thirty minutes.
- (2) This section does not apply to smoke which is emitted from fuel-burning equipment which occurs while the equipment is being started or while the equipment is being overhauled or repaired, or awaiting overhaul or repair, unless such emission could have been prevented using the best practicable means available.
- (3) If smoke is emitted in contravention of subsection (1) the owner, operator and/or the occupier of the premises shall be guilty of an offence.

7. Installation of fuel-burning equipment

- (1) No person shall install, alter, extend or replace any fuel-burning equipment on any premises without the prior written authorization of the municipality, which may only be given after consideration of the relevant plans and specifications.
- (2) Any fuel-burning equipment installed, altered, extended or replaced on premises in accordance with plans and specifications submitted to and approved, for the purposes of this section, by the municipality shall be presumed until the contrary is proved to comply with the provisions of subsection (1).
- (3) Where fuel-burning equipment has been installed, altered, extended or replaced on premises in contravention of subsection (1):
 - (a) the owner and occupier of the premises and the installer of the fuel-burning equipment shall be guilty of an offence;
 - (b) the municipality may, on written notice to the owner and occupier of the premises, order the removal of the fuel-burning equipment from the premises at the expense of the owner and operator and within the period stated in the notice.

8. Operation of fuel-burning equipment

- (1) No person shall use or operate any fuel-burning equipment on any premises contrary to the authorization referred to in section 7.

- (2) Where fuel-burning equipment has been used or operated on the premises in contravention of subsection (1):
- (a) the owner and occupier of the premises and the operator of the fuel-burning equipment shall each be guilty of an offence;
 - (b) The municipality may on written notice to the owner and occupier of the premises:
 - (i) revoke its authorization under section 7; and
 - (ii) order the removal of the fuel-burning equipment from the premises at the expense of the owner and operator and within the period stated in the notice.

9. Presumption

In any prosecution for an offence under section 6 smoke shall be presumed to have been emitted from premises if it is shown that any fuel or material was burned on the premises and the circumstances were such that the burning would be reasonably likely to give rise to the emission of smoke, unless the owner, occupier or operator, as the case may be, shows that no smoke was emitted.

10. Installation and operation of measuring equipment

An authorised person may give notice to any operator of fuel-burning equipment or any owner or occupier of premises on which fuel-burning equipment is used or operated, or intended to be used or operated, to install, maintain and operate measuring equipment at his or her own cost; if:

- (a) unauthorised and unlawful emissions of smoke from the relevant premises have occurred consistently or regularly;
- (b) fuel-burning equipment has been or is intended to be installed on the relevant premises which is reasonably likely in the opinion of an authorised person to emit smoke;
- (c) the person on whom the notice is served has been convicted more than once under this Part IV and has not taken adequate measures to prevent further contravention of the provisions of this Part; or
- (d) the authorised person considers that the nature of the air pollutants emitted from the relevant premises is reasonably likely to create a hazard or nuisance to human health or the environment.

11. Monitoring and sampling

- (1) An occupier or owner of premises, and the operator of any fuel-burning equipment, who is required to install air pollution measuring equipment in terms of section 10(1) must:
- (a) record all monitoring and sampling results and maintain a copy of this record for at least four years after obtaining the results;
 - (b) if requested to do so by an authorised person, produce the record of the monitoring and sampling results for inspection;
 - (c) if requested to do so by an authorised person, provide a written report (in a form and by a date specified by the authorised person) of part or all of the information in the record of the monitoring and sampling results; and
 - (d) ensure that the air pollution measuring equipment is calibrated at least once per year or at intervals as specified by the manufacturer of the equipment and provide records of such calibration on request by the authorised person.

12. Exemption

- (1) Subject to section 26 and on application in writing by the owner or occupier of premises or the operator of fuel-burning equipment, the municipality may grant a temporary exemption in writing from one or all the provisions of this Part.
- (2) Any exemption granted under subsection (1) must state at least the following:
- (a) a description of the fuel-burning equipment and the premises on which it is used or operated;
 - (b) the reasons for granting the exemption;
 - (c) the condition attached to the exemption, if any;

- (d) the period for which the exemption has been granted; and
- (e) any other relevant information.

PART V SMOKE EMISSIONS FROM DWELLINGS

13. Smoke emissions from dwellings

- (1) Subject to section 4(2), no person shall emit or permit the emission of smoke from any dwelling that may cause a nuisance.
- (2) Any person who emits or permits the emission of smoke in contravention of subsection (1) commits an offence.
- (3) Subject to section 26 and on application in writing by the owner or occupier of any dwelling, the municipality may grant temporary exemption in writing from one or all of the provisions of this Part.

PART VI EMISSIONS CAUSED BY OPEN BURNING

14. Emissions caused by open burning

- (1) Subject to subsection (4), any person who carries out open burning of any material on any land or premises is guilty of an offence, unless the prior written authorization of the municipality, which may include the imposition of further conditions with which the person requesting authorization must comply, has been obtained.
- (2) The municipality may not authorize open burning under subsection (1) unless it is satisfied that:
 - (a) the applicant in terms of subsection (1) has investigated and assessed every reasonable alternative for reducing, re-using or recycling the material in order to minimize the amount of material to be burnt in the open, to the satisfaction of the municipality;
 - (b) no warning has been published for the region in terms of section 10(1)(b) of the National Veld and Forest Fire Act, 1998 (Act 101 of 1998);
 - (c) the open burning will not pose a nuisance or potential hazard to human health or safety, private property or the environment; and
 - (d) the prescribed fee has been paid to the municipality.
- (3) Any person who undertakes or permits to be undertaken open burning in contravention of subsection (1) commits an offence.
- (4) The provisions of this section shall not apply to:
 - (a) recreational outdoor barbecue or braai activities on private premises;
 - (b) small controlled fires in informal settlements for the purposes of cooking, heating water and other domestic purposes; or
 - (c) any other defined area or defined activity to which the municipality has declared this section not to apply.

PART VII EMISSIONS FROM COMPRESSED IGNITION POWERED VEHICLES

15. Prohibition

- (1) No person may drive or use, or cause to be driven or used, a compressed ignition powered vehicle that emits dark smoke.
- (2) If dark smoke is emitted in contravention of subsection (1) the owner and the driver of the vehicle shall each be guilty of an offence.
- (3) For purposes of this section the registered owner of the vehicle shall be presumed to be the driver unless the contrary is proven.

16. Stopping of vehicles for inspection and testing

- (1) In order to enable an authorised person to enforce the provisions of this Part, the driver of a vehicle must comply with any reasonable direction given by an authorised person:

- (a) to stop the vehicle; and
 - (b) to facilitate the inspection or testing of the vehicle.
- (2) Failure to comply with a direction given under subsection (1) is an offence.
- (3) When a vehicle has stopped in compliance with a direction given under subsection (1), the authorised person may:
- (a) inspect and test the vehicle at the roadside, in which case inspection and testing must be carried out:
 - (i) at or as near as practicable to the place where the direction to stop the vehicle is given; and
 - (ii) as soon as practicable, and in any case within one hour, after the vehicle is stopped in accordance with the direction; or
 - (b) conduct a visual inspection of the vehicle and, if the authorised person reasonably believes that an offence has been committed under section 15(2), instruct the driver of the vehicle, who is presumed to be the owner of the vehicle unless he or she produces evidence to the contrary, in writing to take the vehicle to a testing station, within a specified period of time, for inspection and testing in accordance with section 17.

17. Testing procedure

- (1) An authorised person must use the free acceleration test method in order to determine whether a compressed ignition powered vehicle is being driven or used in contravention of section 15(1).
- (2) The following procedure must be adhered to in order to conduct a free acceleration test:
- (a) when instructed to do so by the authorised person, the driver must start the vehicle, place it in neutral gear, engage the clutch and disengage the exhaust brake;
 - (b) the authorised person or the driver of the vehicle must in less than one second smoothly and completely depress the accelerator throttle pedal of the vehicle;
 - (c) while the throttle pedal is depressed, the authorised person must measure the smoke emitted from the vehicle's emission system with a Hartridge Smoke meter in order to determine whether or not it is dark smoke; and
 - (d) the authorised person or the driver of the vehicle may only release the throttle pedal of the vehicle, when directed to do so by the authorised person.
- (3) If, having conducted the free acceleration test, the authorised person is satisfied that the vehicle:
- (a) is not emitting dark smoke, then the authorised person must furnish the driver of the vehicle with a certificate indicating that the vehicle is not being driven or used in contravention of section 15(1); or
 - (b) is emitting dark smoke, the authorised person must issue the driver of the vehicle with:
 - (i) a notice to pay a fine in terms of section 341 of the Criminal Procedure Act, Act 51 of 1977; or
 - (ii) a repair notice in accordance with section 18.

18. Repair notice

- (1) A repair notice must direct the owner of the vehicle to take the vehicle to a place identified in the notice for re-testing.
- (2) The repair notice must contain the following information:
- (a) the make, model and registration number of the vehicle;
 - (b) the name, address and identity number of the driver of the vehicle; and, if the driver is not the owner, the name and address of the vehicle owner;
 - (d) the measures required to remedy the situation; and
 - (d) the time period within which the owner of the vehicle must comply with the repair notice.
- (3) A person who fails to comply with the requirements and conditions of the notice in terms of sub section (1) commits an offence.
- (4) It shall not be a defence in proceedings under subsection (3) to aver that the driver of the vehicle failed to bring the repair notice to the attention of the owner of that vehicle.

PART VIII
EMISSIONS THAT CAUSE A NUISANCE

19. Prohibition

- (1) No person may create or permit emissions that cause a nuisance.
- (2) Any person who contravenes subsection (1) commits an offence.

20. Compliance notice

- (1) An authorised person may serve a notice on any person whom he or she reasonably believes is likely to commit or has committed an offence under section 19, calling upon that person;
 - (a) to abate the nuisance within a period specified in the notice;
 - (b) to take all necessary steps to prevent a recurrence of the nuisance; and
 - (c) to comply with any other conditions contained in the notice.
- (2) For the purposes of subsection (1), an authorised person may form a reasonable belief based on his or her own experience that an air pollutant was emitted from premises occupied or owned by the person on whom the compliance notice is to be served.
- (3) A compliance notice under subsection (1) may be served:
 - (a) upon the owner of any premises, by:
 - (i) delivering it to the owner, or if the owner cannot be traced or is living abroad that person's agent;
 - (ii) transmitting it by registered post to the owner's last known address, or the last known address of the agent; or
 - (iii) delivering it to the address where the premises are situated, if the owner's address and the address of the agent are unknown;
 - (b) upon the occupier of the premises, by:
 - (i) delivering it to the occupier;
 - (ii) transmitting it by registered post to the occupier at the address at which the premises are situated.
- (4) Any person who fails to comply with a compliance notice served on that person in terms of subsection (1) commits an offence.
- (5) In addition to any other penalty that may be imposed, a court may order a person convicted of an offence under subsection (4) to take steps the court considers necessary within a period determined by the court in order to prevent a recurrence of the nuisance.

21. Steps to abate nuisance

At any time, the municipality may at its own cost take whatever steps it considers necessary in order to remedy the harm caused by the nuisance and prevent a recurrence of it, and may recover the reasonable costs so incurred from the person responsible for causing the nuisance.

PART IX
OFFENSIVE ODOURS

22. Control of offensive odours

- (1) The occupier or owner of any premises must take all reasonable steps to prevent the emission of any offensive odour caused by any activity on such premises.
- (2) Any person who emits or permits the emission of any offensive odour in contravention of subsection (1) commits an offence.

**PART X
DUST NUISANCE**

23. Control of dust

- (1) The occupier or owner of any premises must take all reasonable steps to prevent the creation of nuisance by dust caused by any activity on such premises.
- (2) Any person who emits or permits the emission of dust in contravention of subsection (1) commits an offence.

**PART XI
FUME NUISANCE**

24. Control of fumes

- (1) The occupier or owner of any premises must take all reasonable steps to prevent the nuisance by fumes caused by any activity on such premises.
- (2) Any person who emits or permits the emission of fumes in contravention of subsection (1) commits an offence.

**PART XII
PESTICIDE SPRAYING EMISSIONS**

25. Pesticide Spraying Emissions

- (1) No person may carry out or permit the spraying of pesticides, except as permitted by section 3 of the Fertilisers, Farm Feeds, Agricultural Remedies and Stock Remedies Act, 1947 (Act No. 36 of 1947).
- (2) Any person who contravenes subsection (1) of this by-law is guilty of an offence, as set out in section 18(1)(c) of the Fertilisers, Farm Feeds, Agricultural Remedies and Stock Remedies Act, 1947 (Act No. 36 of 1947).
- (3) A person who carries out or permits the spraying of pesticides, within the municipal jurisdiction, must also comply with the following controlled measures:
 - (a) the prior written authorisation of the Council must be obtained, which authorisation may be granted by the Council with conditions, including-
 - (i) the area of land on which the pesticide may be applied; and
 - (ii) the period of time in which the pesticide may be applied.
 - (b) the applicant must notify in writing the owners and occupiers of all adjacent properties within 150 metres of the treatment area of:
 - (i) the details of the proposed treatment area;
 - (ii) the reason for the pesticide use;
 - (iii) the active ingredient;
 - (iv) the date and approximate time of the pesticide use;
 - (v) in the event of inclement weather conditions, an alternative date or dates on which the pesticide use may occur;
 - (vi) the time, if any, indicated on the product label specifying when the area can safely be re-entered after application;
 - (vii) the right of owners and occupiers of adjacent properties to lodge written objections to the proposed spraying of pesticides with the Council within seven days of being notified; and
 - (viii) the prescribed fee has been paid to the Council.
- (4) Any person who contravenes subsection (3) is guilty of an offence.
- (5) A person may apply to the Council for an exemption if the spraying of the pesticide is for:
 - (a) the management of pests that transmit human diseases or adversely impact agriculture or forestry;
 - (b) the management of pests that threaten the integrity of sensitive ecosystems; or

- (c) the need for the use of the pesticide is urgent.
- (6) The provisions of this section are not applicable to:
 - (a) residential areas of farms;
 - (b) buildings or inside buildings;
 - (c) domestic use of pesticides; or
 - (d) any other defined area or defined activity to which the Council has declared this section not to apply.

PART XIII GENERAL PROVISIONS

26 Appeal

- (1) 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 therefore in terms of section 62 of the Local Government: Municipal Systems Act (Act 32 of 2000) to the municipal manager within 21 days of the date of the notification of the decision.
- (2) Pending confirmation, variation or revocation of the decision against which the appeal is lodged, any person appealing the said decision, unless the municipality provides otherwise:
 - (a) must nonetheless substantively comply with any obligations that may have been imposed as a result of the decision that is the subject of the appeal; and
 - (b) may not exercise any rights that may have accrued as a result of the decision that is the subject of the appeal application, provided that no other person may exercise any right that may accrue either.

27. Municipality and State bound

This by-law is binding on the State and the municipality.

28. Conflict

- (1) In the event of a conflict within any other by-law which directly or indirectly regulates air pollution, the provisions of this by-law shall prevail.
- (2) In the event of a conflict with the Atmospheric Pollution Prevention Act, 1965 (Act 45 of 1965) and the National Environmental Management: Air Quality Act, 2004 (Act 39 of 2004) the provisions of these Acts will prevail within the area of jurisdiction of the Municipality.

29. Offences and penalties

- (1) Any person who contravenes any provision of this by-law commits an offence and shall, upon conviction, be 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.
- (2) It is an offence to:
 - (a) supply false information to an authorised person in respect of any issue pertaining to the by-law, or;
 - (b) to refuse to co-operate with the request of an authorised person made in terms of this by-law.
- (3) Failure to comply with a notice, direction or instruction referred to in this by-law constitutes a continuing offence.
- (4) In addition to imposing a fine or imprisonment, a court may order any person convicted of an offence under this by-law:
 - (a) to remedy the harm caused;
 - (b) to pay damages for harm caused to another person or to property, which order shall have the force and effect of a civil judgment; and
 - (c) to install and operate at the person's own expense air pollution measuring equipment in accordance with the provisions of section 11.

30. Exemptions

- (1) The municipality may grant temporary exemption in writing from one or all of the provisions of Parts III, IV and V, provided that the municipality:
- (a) is satisfied that granting the exemption will not significantly prejudice the purpose referred to in section 2(1); and
 - (b) grants any exemption subject to conditions that promote the attainment of the purpose referred to in section 2(1).
- (2) The municipality may not grant an exemption under subsection (1) until the municipality has:
- (a) taken reasonable measures to ensure that all persons whose rights may be significantly detrimentally effected by the granting of the exemption, including but not limited to adjacent land owners or occupiers, are aware of the application for exemption and how to obtain a copy of it;
 - (b) provided such person with a reasonable opportunity to object to the application; and
 - (c) duly considered and taken into account any objections raised.

31. Savings

Anything done or deemed to have been done under any other law remains valid to the extent that it is consistent with this by-law or until anything done under this by-law overrides it.

32. 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.

33. Short title and commencement

This by-law shall be known as the Air Pollution Control By-law of the Hessequa Municipality and comes into operation on the date of publication thereof in the Provincial Gazette.

**HESSEQUA MUNISIPALITEIT
LUGBESOEDELINGSBEHEER VERORDENING**

Kragtens die bepalings van artikel 156 van die Grondwet van die Republiek van Suid-Afrika, 1996, bepaal die Hessequa Munisipaliteit as volg:-

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DEEL III : LUGBESOEDELINGSBEHEERSONE

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DEEL IV : ROOKUITLATING VAN PERSELE ANDER AS WONINGS

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DEEL I INTERPRETASIE EN OOGMERKE

1. Woordomskravings

In hierdie verordening, tensy die konteks anders aandui –

“**aangewese bron**” beteken ‘n enkele identifiseerbare bron en vaste ligging van atmosferiese uitlatings, en rookstapels en skoorstene;

“**aanstootlike reuke**” beteken enige reuk wat geag word onwelriekend of ‘n ergernis vir ‘n redelike persoon te wees;

“**atmosfeer**” beteken lug wat nie deur ‘n gebou, masjien, skoorsteen of ander sodanige struktuur omsluit word nie;

“**atmosferiese uitlating**” of “**uitlating**” beteken energie of stof of kombinasie van stowwe voortspruitend uit ‘n aangewese, nie-aangewese of mobiele bron wat lugbesoedeling veroorsaak;

“**beste uitvoerbare middele**” beteken die doeltreffendste maatreëls wat redelikerwys getref kan word om lugbesoedeling te voorkom, te verminder of te minimaliseer met inagneming van alle tersaaklike faktore insluitende, onder andere, plaaslike toestande en omstandighede, die waarskynlikheid van nadelige uitwerking, die huidige status van tegniese kennis en die finansiële implikasies met betrekking tot die mate van omgewingsbeskerming wat na verwagting bereik kan word deur die toepassing of aanvaarding van die maatreëls;

“**brandstofverbrandingstoerusting**” beteken enige smeltoond, stoomketel, verbrandingsoond, of ander toerusting, insluitende ‘n skoorsteen wat:

- (a) ontwerp is of in staat is om vloeistof, gas of vaste gas te verbrand;
- (b) gebruik word om deur verbranding weg te doen met enige materiaal of afval; of
- (c) gebruik word om vloeistof, gas of vaste gas bloot te stel aan enige proses waar hitte aangewend word;

“**dampe**” beteken enige bytende of toksiese walms, gas, of rook ingesluit maar nie beperk nie tot diesel dampe, spuitverf dampe en uitlaatpyp dampe;

“**donker rook**” beteken met betrekking tot Deel VII van hierdie verordening:

- (a) rook wat ‘n digtheid van 60 Hartridge rookeenhede of meer het, met dien verstande dat ten opsigte van die uitlating van turbo-gelaaide kompressieontsteking aangedrewe enjins, dit ‘n digtheid van 66 Hartridge rookeenhede of meer beteken; of
- (b) rook wat ‘n ligabsorpsie koëffisiënt van meer as 2.125 m het, met dien verstande dat ten opsigte van die uitlating van turbo-gelaaide kompressieontsteking aangedrewe enjins, dit ‘n ligabsorpsie koëffisiënt van meer as 2.51 m beteken.

“**ergernis**” beteken ‘n onredelike inmenging of waarskynlike inmenging veroorsaak deur lugbesoedeling in:

- (a) die gesondheid of welsyn van enige persoon of lewende organisme; of
- (b) die gebruik of genot deur ‘n eienaar of okkupeerder van sy of haar eiendom;
- (c) die gewone gemak, gerief, vrede of stilte van ‘n ander persoon; en
- (d) die natuurlike toestand van die omgewing;

“**gemagtigde persoon**” beteken enige persoon deur die munisipaliteit gemagtig om enige bepaling van hierdie verordening te implementeer;

“**geproklameerde dorpsgebied**” beteken enige grondeenheid gesoneer en gebruik vir woondoeleindes;

“**kompressieontsteking aangedrewe voertuig**” beteken ‘n voertuig aangedryf deur interne verbranding, kompressieontsteking, diesel of petrolaangedrewe enjin;

“**lewende organisme**” beteken enige biologiese entiteit wat in staat is om genetiese materiaal oor te dra of voort te plant, insluitende steriele organismes en virusse;

“**ligabsorpsiemeter**” beteken ‘n meetinstrument wat ‘n ligsensitiewe sel of detektor gebruik om die hoeveelheid lig wat deur ‘n lugbesoedelde stof geabsorbeer word, te bepaal;

“**lugbesoedeling**” beteken enige verandering in die omgewing veroorsaak deur enige stof wat in die atmosfeer uitgelaat word deur enige aktiwiteit, waar daardie verandering ‘n nadelige uitwerking op menslike gesondheid of welsyn het, of op die samestelling, veerkrag en produktiwiteit van natuurlike of bestuurde ekosisteme, of op materiale wat nuttig is vir mense, of sodanige uitwerking in die toekoms sal hê;

“**lugbesoedelingsbeheersone**” beteken die geografiese gebied waarop Deel III van die verordening verklaar is om van toepassing op te wees;

“**lugbesoedelende stof**” beteken enige stof (insluitende maar nie beperk tot stof, rook, walms en gas) wat lugbesoedeling veroorsaak of mag veroorsaak;

“**mobiele bron**” beteken ‘n enkele identifiseerbare bron van atmosferiese uitlating wat nie uit ‘n vaste ligging voortspruit nie;

“**munisipaliteit**” beteken die Hessequa Munisipaliteit en sluit enige politieke strukture, politieke ampsbekleër, behoorlik gemagtigde agent daarvan, of ‘n diensverskaffer wat ‘n verantwoordelikheid ingevolge hierdie verordening uitvoer opgedra ingevolge die Wet op Plaaslike Regering : Munisipale Stelsels, 2000 (Wet 32 van 2000) of enige ander wet, na gelang van die geval, of ‘n werknemer daarvan handelende ingevolge hierdie verordening uit hoofde van ‘n bevoegdheid wat in die munisipaliteit berus en gedelegeer aan sodanige politieke strukture, politieke ampsbekleër, agent of werknemer;

“**munisipale bestuurder**” beteken ‘n persoon as sulks deur die munisipaliteit aangestel ingevolge artikel 82 van die Wet op Plaaslike Regering : Munisipale Strukture, 1998 (Wet 117 van 1998);

“**nadelige uitwerking**” beteken enige werklike of potensiële impak op die omgewing wat die omgewing of enige aspek daarvan benadeel of sal benadeel, tot ‘n mate dat dit meer as onbeduidend of onbelangrik is;

“**nie-aangewese bron**” beteken ‘n bron van atmosferiese uitlatings wat nie geïdentifiseer kan word dat dit uit ‘n enkele identifiseerbare bron of vaste ligging voortspruit nie, en sluit in veld, bos en oop vure, myn aktiwiteite, landbou aktiwiteit en voorraadstapels;

“**omgewing**” beteken die omgewing waarin mense bestaan en wat bestaan uit -

- (a) die grond, water en atmosfeer van die aarde;
- (b) mikro-organismes, plant- en dierelewe;
- (c) enige deel of kombinasie van (a) en (b) en die onderlinge verhouding tussen hulle; en
- (d) die fisiese, chemiese, estetiese en kulturele eienskappe en toestande van die voorgenoemde wat menslike gesondheid en welsyn beïnvloed;

“**oopverbranding**” beteken die verbranding van materiaal sonder ‘n skoorsteen om die produkte wat deur verbranding uitgelaat word in die atmosfeer vry te laat, en “**verbranding in die ope**” het ‘n ooreenstemmende betekenis;

“**openbare pad**” beteken ‘n pad wat die publiek die reg het om te gebruik;

“**operateur**” beteken ‘n persoon wat ‘n onderneming besit of bestuur, of wat ‘n bedrywigheid of proses wat lugbesoedelende stowwe uitlaat, beheer;

“**perseel**” beteken enige gebou of ander struktuur tesame met die grond waarop dit geleë is en enige aangrensende grond bewoon of gebruik ten opsigte van enige aktiwiteite wat in daardie gebou of struktuur plaasvind, en sluit in enige grond sonder enige geboue of ander strukture en enige lokomotief, skip, boot of ander vaartuig wat bedryf of teenwoordig is in die gebied onder die jurisdiksie van die munisipaliteit of die gebied van enige hawe;

“**persoon**” beteken ‘n natuurlike persoon of ‘n regs persoon;

“**rook**” beteken die gasse, bepaalde saak en produkte van verbranding wat in die atmosfeer uitgelaat word as materiaal verbrand word of blootgestel word aan hitte en sluit in die roet, gruis en sanderige deeltjies wat in rook uitgelaat word;

“**skoorsteen**” beteken enige struktuur of opening van enige aard vanwaar of waardeur enige lugbesoedelende stowwe uitgelaat mag word;

“**stof**” beteken enige soliede saak in ‘n fyn of gedisintegreerde vorm wat in staat is om in die atmosfeer versprei of gesuspendeer te word;

“**voertuig**” beteken enige motor, kar, motorvoertuig, motorfiets, bus, vragmotor of ander vervoermiddel wat heeltemal of gedeeltelik aangedryf word deur enige vlugtige brandstof, stoom, gas of olie, of op enige ander wyse behalwe menslike of dierkrag;

“**vrye versnellingstoets**” beteken die metode beskryf in artikel 18(2) wat gebruik word om te bepaal of voertuie teenstrydig met artikel 15(1) bestuur of gebruik word;

“**woning**” beteken enige gebou of ander struktuur, of deel van ‘n gebou of struktuur, wat as ‘n woonhuis gebruik word, en enige buitegeboue aanvullend daartoe, maar uitgesluit krotte en informele nedersettings.

2. Toepassing, beginsels en oogmerke

- (1) Die doel van hierdie verordening is:
 - (a) om uitvoering te gee aan die reg vervat in artikel 24 van die Grondwet van die Republiek van Suid-Afrika, 1996 (Wet 108 van 1996) deur die beheer van lugbesoedeling binne die gebied van die munisipaliteit se jurisdiksie; en
 - (b) om te verseker dat lugbesoedeling vermy word, of waar dit nie heeltemal vermy kan word nie, verminder of remedieer word.
- (2) Die munisipaliteit, bewus van die Grondwetlike reg van elke persoon tot ‘n omgewing wat nie skadelik vir sy of haar gesondheid of welstand is nie, aanvaar hierdie verordening met die doel om

die gesondheid en welstand van alle mense in die Hessequa munisipale gebied te beskerm en te bevorder deur die voorsiening, tesame met toepaslike wetgewing, 'n regs- en administratiewe raamwerk waarbinne die munisipaliteit sy oogmerke kan ontwikkel bestuur.

- (3) By die implementering en afdwinging van hierdie verordening, mag die munisipaliteit die realiteite van die munisipale gebied, die verskillende gewoontes, kulture, omstandighede, geografiese gebiede, soorte eiendomontwikkelingsvlakke en gebruike in aanmerking neem en die munisipaliteit mag die middele wat in hierdie verordening voorsien word, ingesluit die toepassing van verskillende norme, standaarde en riglyne, die toestaan van vrystellings en die aanwending van skakelforums soos beoog in artikel 34 van hierdie verordening, gebruik.

DEEL II SORGSAAMHEIDSPILIG

3. Plig om sorgsaam te wees

- (1) Enige persoon wat heeltemal of gedeeltelik verantwoordelik is om lugbesoedeling te veroorsaak of 'n risiko skep dat lugbesoedeling plaasvind, moet alle redelike maatreëls neem:
- (a) om te verhoed dat enige potensiële lugbesoedeling plaasvind; en
 - (b) om enige lugbesoedeling wat plaasgevind het, te verminder en so ver redelik moontlik, te remedieer.
- (2) Die munisipaliteit mag die impak en effektiwiteit van die maatreëls geneem ingevolge subartikel (1) monitor en, indien nodig, instruksies aan 'n persoon beoog in subartikel (1) gee met betrekking tot spesifieke maatreëls wat geneem moet word.
- (3) Die munisipaliteit mag enige persoon wat versuim om die maatreëls soos vereis ingevolge subartikel (1) te neem, gelas -
- (a) om die uitwerking van spesifieke aktiwiteite te ondersoek, te evalueer en te assesseeer en daarvoor verslag te lewer;
 - (b) om te begin om effektiewe beheermaatreëls te neem voor 'n gegewe datum om die lugbesoedeling te verminder;
 - (c) om noulettend voort te gaan met daardie maatreëls; en
 - (d) om die maatreëls voor 'n gespesifiseerde redelike datum af te handel.
- (4) Sou 'n persoon versuim om te voldoen aan, of ontoereikend voldoen aan 'n voorskrif ingevolge subartikel (3), mag die munisipaliteit redelike maatreëls neem om die situasie te remedieer.
- (5) Indien enige persoon versuim om die maatreëls te neem wat van hom of haar vereis word ingevolge subartikel (1) of (2), mag die munisipaliteit alle redelike koste wat aangegaan is as gevolg van sy optrede ingevolge subartikel (4) van enige of al die volgende persone mag verhaal -
- (a) enige persoon wat verantwoordelik is of was, of wat regstreeks of onregstreeks bygedra het tot die lugbesoedeling of die potensiële lugbesoedeling;
 - (b) die eienaar van die grond op die tydstip toe die lugbesoedeling of die potensiële lugbesoedeling plaasgevind het, of daardie eienaar se titel opvolger;
 - (c) die persoon in beheer van die grond of enige persoon wat 'n reg het of gehad het om die grond te gebruik op die tydstip toe -
 - (i) die aktiwiteit of die proses betrokke uitgevoer of onderneem word of is; of
 - (ii) die situasie tot stand gekom het; of
 - (d) enige persoon wat nalatig versuim het om te voorkom -
 - (i) dat die aktiwiteit of die proses uitgevoer of onderneem word; of
 - (ii) dat die situasie tot stand gekom het.
- (6) As meer as een persoon aanspreeklik is ingevolge subartikel (5), mag die aanspreeklikheid toegedeel word onder die betrokke persone volgens die mate waartoe elkeen verantwoordelik was vir die skade aan die omgewing voortspruitend uit hul onderskeie versuime om die maatreëls ingevolge subartikels (1), (2) en (3) te neem.

DEEL III LUGBESOEDELINGSBEHEERSONE

4. Verklaring van lugbesoedelingsbeheersone

- (1) Die hele gebied binne die jurisdiksie van die munisipaliteit word hiermee as 'n lugbesoedelingsbeheersone verklaar.
- (2) Binne 'n lugbesoedelingsbeheersone mag die munisipaliteit van tyd tot tyd deur kennisgewing in die Provinsiale Koerant:
 - (a) die uitlaat van een of meer lugbesoedelende stowwe van alle persele of sekere persele verbied of beperk;
 - (b) die verbranding van sekere soorte brandstof verbied of beperk;
 - (c) verskillende vereistes in 'n lugbesoedelingsbeheersone voorskryf met betrekking tot lug gehalte ten opsigte van:
 - (i) verskillende geografiese gebiede;
 - (ii) gespesifiseerde persele;
 - (iii) klasse persele; of
 - (iv) persele gebruik vir gespesifiseerde doeleindes.
- (1) Die munisipaliteit mag beleid en riglyne, insluitende tegniese riglyne, met betrekking tot die regulering van aktiwiteite wat regstreeks en onregstreeks lugbesoedeling in 'n lugbesoedelingsbeheersone veroorsaak, ontwikkel en publiseer.
- (2) Behoudens die bepalinge van artikel 29, mag die munisipaliteit sekere persele, klasse persele of persele gebruik vir gespesifiseerde doeleindes skriftelik vrystel van die bedryf van maatreëls wat deur die munisipaliteit ingevolge hierdie artikel aanvaar is.

DEEL IV ROOKUITLATING VAN PERSELE ANDER AS WONINGS

5. Toepassing

Vir die doeleindes van hierdie Deel sluit "persele" nie wonings in nie.

6. Verbod

- (1) Behoudens subartikel (2) moet rook nie van enige perseel uitgelaat word vir 'n totale tydperk wat drie minute oorskry gedurende enige aaneenlopende tydperk van dertig minute nie.
- (2) Hierdie artikel is nie van toepassing op rook wat uit brandstofverbrandingstoerusting uitgelaat word wat ontstaan wanneer die toerusting aangeskakel word of wanneer die toerusting nagesien of herstel word nie, of afwagting om nagesien of herstel te word nie, tensy sodanige uitlating voorkom kon word deur die gebruik van die beste uitvoerbare middele beskikbaar.
- (3) Indien rook strydig met subartikel (1) uitgelaat word, sal die eienaar, operateur en/of okkupeerder van die perseel skuldig wees aan 'n misdryf.

7. Installering van brandstofverbrandingstoerusting

- (1) Geen persoon sal op enige perseel enige brandstofverbrandingstoerusting installeer, verander, uitbrei of vervang sonder die vooraf skriftelike magtiging van die munisipaliteit nie, wat slegs toegestaan mag word na oorweging van die betrokke planne en spesifikasies.
- (2) Enige brandstofverbrandingstoerusting wat op enige perseel geïnstalleer, verander, uitgebrei of vervang word in ooreenstemming met planne en spesifikasies voorgelê aan en goedgekeur deur die munisipaliteit, word vir die doeleindes van hierdie artikel, vermoed te voldoen aan subartikel (1), totdat die teendeel bewys word.
- (3) Waar brandstofverbrandingstoerusting op 'n perseel geïnstalleer, verander, uitgebrei of vervang is teenstrydig met subartikel (1):
 - (a) sal die eienaar en okkupeerder van die perseel en die installeerder van die brandstofverbrandingstoerusting skuldig wees aan 'n misdryf;
 - (b) mag die munisipaliteit, by skriftelike kennisgewing aan die eienaar en okkupeerder van die perseel, bevel gee om die brandstofverbrandingstoerusting van die perseel te verwyder op die eienaar en operateur se koste en binne die tydperk aangedui in die kennisgewing.

8. Bedryf van brandstofverbrandingstoerusting

- (1) Geen persoon sal enige brandstofverbrandingstoerusting op enige perseel gebruik of bedryf strydig met die magtiging gemeld in artikel 7 nie.
- (2) Waar brandstofverbrandingstoerusting teenstrydig met subartikel (1) op die perseel gebruik of bedryf is:
 - (a) sal die eienaar en okkuperder van die perseel en die operateur van die brandstofverbrandingstoerusting elk skuldig wees aan 'n misdryf;
 - (b) mag die munisipaliteit by skriftelike kennisgewing aan die eienaar en okkuperder van die perseel:
 - (i) sy magtiging ingevolge artikel 7 herroep; en
 - (ii) die verwydering van die brandstofverbrandingstoerusting van die perseel op die eienaar en operateur se koste en binne die tydperk aangedui in die kennisgewing beveel.

9. Vermoede

In enige vervolging vir 'n misdryf ingevolge artikel 6 sal vermoed word dat rook van die perseel uitgelaat is as dit aangedui kan word dat enige brandstof of materiaal op die perseel verbrand is en die omstandighede sodanig was dat die verbranding na redelike waarskynlikheid aanleiding gegee het tot die uitlating van rook, tensy die eienaar, okkuperder of operateur, soos die geval mag wees, aandui dat geen donker rook uitgelaat is nie.

10. Installering en bedryf van meettoerusting

'n Gemagtigde persoon mag kennis gee aan enige operateur van brandstofverbrandingstoerusting of enige eienaar of okkuperder van 'n perseel waarop brandstofverbrandingstoerusting gebruik of bedryf word, of beoog om gebruik of bedryf te word, om op sy of haar eie koste meettoerusting te installeer, in stand te hou en te bedryf, indien:

- (a) ongemagtigde en onwettige uitlating van rook van die betrokke perseel aanhoudend of gereeld plaasgevind het;
- (b) brandstofverbrandingstoerusting geïnstalleer is of beoog om geïnstalleer te word op die betrokke perseel wat na redelike waarskynlikheid volgens die mening van 'n gemagtigde persoon rook sal uitlaat;
- (c) die persoon aan wie die kennisgewing beteken is meer as een keer skuldig bevind is ingevolge hierdie Deel IV en nie voldoende maatreëls geneem het om verdere oortreding van die bepalings van hierdie Deel te voorkom nie; of
- (d) die gemagtigde persoon beskou dat die aard van die lugbesoedelende stowwe wat van die betrokke perseel uitgelaat word, redelik waarskynlik 'n gevaar of ergernis vir menslike gesondheid of die omgewing inhou.

11. Monitering en toetsing

- (1) 'n Okkuperder of eienaar van persele, en die operateur van enige brandstofverbrandingstoerusting, van wie vereis word om lugbesoedeling meettoerusting ingevolge artikel 10(1) te installeer moet:
 - (a) alle monitering- en toetsing resultate aanteken en 'n afskrif van hierdie rekord vir ten minste vier jaar nadat die resultate verkry is, in stand hou;
 - (b) indien deur 'n gemagtigde persoon versoek word om dit te doen, die rekord van die monitering- en toetsing resultate vir inspeksie toon;
 - (c) indien deur 'n gemagtigde persoon versoek word om dit te doen, 'n skriftelike verslag (in 'n formaat en teen 'n datum gespesifiseer deur die gemagtigde persoon) of 'n deel of al die inligting in die rekord van die monitering- en toetsing resultate, voorsien; en
 - (d) verseker dat die lugbesoedeling meettoerusting ten minste een maal per jaar of met intervale soos gespesifiseer deur die vervaardiger van die toerusting gekalibreer word en rekords van sodanige kalibrering op versoek van die gemagtigde persoon voorsien.

12. Vrystelling

- (1) Behoudens die bepalings van artikel 26 en by skriftelike aansoek deur die eienaar of okkuperder van persele of die operateur van brandstofverbrandingstoerusting, mag die munisipaliteit 'n tydelike skriftelike vrystelling van een of al die bepalings van hierdie Deel verleen.

- (2) Enige vrystelling ingevolge subartikel (1) verleen, moet ten minste die volgende meld:
- (a) 'n beskrywing van die brandstofverbrandingstoerusting en die perseel waarop dit gebruik of bedryf word;
 - (b) die redes vir die verlening van die vrystelling;
 - (c) die voorwaardes verbonde aan die vrystelling, indien enige;
 - (d) die tydperk waarvoor die vrystelling verleen word; en
 - (e) enige ander tersaaklike inligting.

DEEL V ROOKUITLATING VAN WONINGS

13. Rookuitlating van wonings

- (1) Behoudens artikel 4(2), sal geen persoon rook wat 'n ergernis mag veroorsaak, van enige woning uitlaat of die uitlating daarvan toelaat nie.
- (2) Enige persoon wat rook uitlaat of die uitlating toelaat teenstrydig met subartikel (1), begaan 'n misdryf.
- (3) Behoudens artikel 26 en by skriftelike aansoek deur die eienaar of okkupeerder van enige woning, mag die munisipaliteit tydelike skriftelike vrystelling van een of al die bepalings van hierdie Deel verleen.

DEEL VI UITLATING VEROORSAAK DEUR OOPVERBRANDING

14. Uitlating veroorsaak deur oopverbranding

- (1) Behoudens subartikel (4), is enige persoon wat oopverbranding van enige materiaal op enige grond of perseel uitvoer, skuldig aan 'n oortreding, tensy die vooraf skriftelike magtiging van die munisipaliteit verkry is, wat die oplegging van verdere voorwaardes waaraan die persoon wat magtiging versoek moet voldoen, mag insluit.
- (2) Die munisipaliteit mag nie oopverbranding ingevolge subartikel (1) magtig nie tensy dit tevrede is dat:
 - (a) die aansoeker ingevolge subartikel (1) alle redelike alternatiewe vir die vermindering, hergebruik of herwinning van die materiaal tot bevrediging van die munisipaliteit ondersoek en bereken het ten einde die hoeveelheid materiaal wat oopverbrand word te minimaliseer;
 - (b) geen waarskuwing vir die streek ingevolge artikel 10(1) van die Nasionale Wet op Veld- en Bosbrande, 1998 (Wet 101 van 1998) gepubliseer is nie;
 - (c) die oopverbranding nie 'n ergernis of potensiële gevaar vir menslike gesondheid of veiligheid, privaat eiendom of die omgewing sal inhou nie; en
 - (d) die voorgeskrewe gelde aan die munisipaliteit betaal is.
- (3) Enige persoon wat oopverbranding onderneem of toelaat dat oopverbranding onderneem word teenstrydig met subartikel (1), begaan 'n misdryf.
- (4) Die bepalings van hierdie artikel sal nie van toepassing wees op:
 - (a) ontspanne buitemuurse vleisbraai of braai-aktiwiteite op privaat persele nie;
 - (b) klein beheerde vure in informele nedersettings vir doeleindes van kook, water verhitting en ander huishoudelike doeleindes nie; of
 - (c) enige ander bepaalde gebied of bepaalde aktiwiteit waarop die munisipaliteit verklaar het dat hierdie artikel nie van toepassing sal wees nie.

DEEL VII UITLATING VAN KOMPRESSIEONTSTEKING AANGEDREWE VOERTUIG

15. Verbod

- (1) Geen persoon mag 'n kompressieontsteking aangedrewe voertuig wat donker rook uitlaat, bestuur of gebruik, of aanleiding gee tot die bestuur of gebruik daarvan, op 'n openbare pad nie.

- (2) Indien donker rook teenstrydig met subartikel (1) uitgelaat word, sal die eienaar en die bestuurder van die voertuig elk skuldig wees aan 'n misdryf.
- (3) Vir doeleindes van hierdie artikel sal vermoed word dat die geregistreerde eienaar van die voertuig die bestuurder is tensy die teendeel bewys word.

16. Stop van voertuie vir inspeksie en toetsing

- (1) Ten einde 'n gemagtigde persoon in staat te stel om die bepalings van hierdie Deel af te dwing, moet die bestuurder van 'n voertuig voldoen aan enige redelike opdrag wat deur 'n gemagtigde persoon gegee word:
 - (a) om die voertuig te stop; en
 - (b) die inspeksie of toets van die voertuig te vergemaklik.
- (2) Versuim om aan 'n opdrag gegee ingevolge subartikel (1) te voldoen is 'n misdryf.
- (3) Waar 'n voertuig gestop het ooreenkomstig 'n opdrag gegee ingevolge subartikel (1), mag die gemagtigde persoon:
 - (a) die voertuig langs die pad inspekteer en toets, in welke geval inspeksie en toetsing uitgevoer moet word:
 - (i) op of so naby as uitvoerbaar doenlik aan die plek waar die opdrag gegee is om die voertuig te stop; en
 - (ii) so gou as uitvoerbaar doenlik, en in elk geval binne 'n uur, nadat die voertuig gestop is ooreenkomstig die opdrag; of
 - (b) 'n visuele inspeksie van die voertuig uitvoer en, indien die gemagtigde persoon redelikerwys glo dat 'n misdryf begaan is ingevolge artikel 15(2), die bestuurder van die voertuig, wat vermoed word die eienaar van die voertuig te wees tensy hy of sy bewys tot die teendeel lewer, skriftelik opdrag gee om die voertuig na 'n toetstasie te neem, binne 'n gespesifiseerde tydperk, vir inspeksie en toetsing ooreenkomstig artikel 17.

17. Toetsprosedure

- (1) 'n Gemagtigde persoon moet die vrye versnellingstoetsmetode gebruik om te bepaal of 'n kompressieontsteking aangedrewe voertuig bestuur of gebruik word teenstrydig met artikel 15(1).
- (2) Die volgende prosedure moet nagekom word ten einde 'n vrye versnellingstoets uit te voer:
 - (a) wanneer opdrag gegee word deur die gemagtigde persoon om dit te doen, moet die bestuurder die voertuig aanskakel, dit in neutrale rat oorsit, die koppelaar aktiveer en die uitlaatrem deaktiveer;
 - (b) die gemagtigde persoon of die bestuurder van die voertuig moet in minder as een sekonde die voertuig se versnellerpedaal geleidelik en heeltemal intrap;
 - (c) terwyl die versnellerpedaal ingetrap is, moet die gemagtigde persoon die rook wat uit die voertuig se uitlaatstelsel uitgelaat word, met 'n Hartridge Rookmeter meet ten einde te bepaal of dit donker rook is al dan nie; en
 - (d) die gemagtigde persoon of die bestuurder van die voertuig mag slegs die voertuig se versnellerpedaal loslaat wanneer opdrag deur die gemagtigde persoon gegee is om dit te doen.
- (3) Indien, nadat die vrye versnellingstoets uitgevoer is, die gemagtigde persoon tevrede is dat die voertuig:
 - (a) nie donker rook uitlaat nie, moet die gemagtigde persoon 'n sertifikaat aan die voertuigbestuurder voorsien wat aandui dat die voertuig nie strydig met artikel 15(1) bestuur of gebruik word nie; of
 - (b) donker rook uitlaat, moet die gemagtigde persoon die voertuigbestuurder uitreik met:
 - (i) 'n kennisgewing om 'n boete te betaal ingevolge artikel 341 van die Strafproseswet, Wet 51 van 1977; of
 - (ii) 'n herstelkennisgewing ooreenkomstig artikel 18.

18. Herstelkennisgewing

- (1) 'n Herstelkennisgewing moet die eienaar van die voertuig beveel om die voertuig na 'n plek in die kennisgewing geïdentifiseer te neem vir hertoetsing.
- (2) Die herstelkennisgewing moet die volgende inligting bevat:

- (a) die fabrikaat, model en registrasienommer van die voertuig;
 - (b) die naam, adres en identiteitsnommer van die bestuurder van die voertuig, en as die bestuurder nie die eienaar is nie, die naam en adres van die voertuig eienaar;
 - (c) die maatreëls wat vereis word om die situasie te remedieer; en
 - (d) die tydperk waarbinne die eienaar van die voertuig aan die herstelkennisgewing moet voldoen.
- (3) 'n Persoon wat versuim om aan die vereistes en voorwaardes van die kennisgewing ingevolge subartikel (1) te voldoen, begaan 'n misdryf.
- (4) Dit sal nie 'n verweer in verrigtinge ingevolge subartikel (3) wees om te beweer dat die bestuurder van die voertuig versuim het om die herstelkennisgewing onder die eienaar van daardie voertuig se aandag te bring nie.

DEEL VIII UITLATING WAT 'N ERGERNIS VEROORSAAK

19. Verbod

- (1) Geen persoon mag uitlatings skep of toelaat wat 'n ergernis veroorsaak nie.
- (2) Enige persoon wat subartikel (1) oortree, begaan 'n misdryf.

20. Voldoeningskennisgewing

- (1) 'n Gemagtigde persoon mag 'n kennisgewing op enige persoon beteken wat hy of sy redelikerwys glo waarskynlik 'n oortreding sal begaan of begaan het ingevolge artikel 19, wat daardie persoon versoek:
- (a) om die ergernis binne 'n tydperk gespesifiseer in die kennisgewing te verwyder;
 - (b) om al die nodige stappe te doen om 'n herhaling van die ergernis te voorkom; en
 - (c) om te voldoen aan enige ander voorwaardes vervat in die kennisgewing.
- (2) Vir doeleindes van subartikel (1), mag die gemagtigde persoon 'n redelike oortuiging vorm gebaseer op sy of haar eie ervaring dat 'n lugbesoedelende stof uitgelaat is van persele wat geokkupeer of besit is deur die persoon op wie die voldoeningskennisgewing beteken gaan word.
- (3) 'n Voldoeningskennisgewing ingevolge subartikel (1) mag beteken word:
- (a) op die eienaar van enige perseel, deur:
 - (i) dit by die eienaar af te lewer, of as die eienaar nie opgespoor kan word nie of oorsee woon, daardie persoon se agent;
 - (ii) dit per geregistreerde pos te stuur aan die eienaar se laaste bekende adres, of aan die agent se laaste bekende adres; of
 - (iii) dit af te lewer by die adres waar die perseel geleë is, indien die eienaar se adres en die agent se adres onbekend is.
 - (b) op die okkupeerder van die perseel, deur:
 - (i) dit by die okkupeerder af te lewer;
 - (ii) dit per geregistreerde pos te stuur aan die okkupeerder by die adres waar die perseel geleë is.
- (4) Enige persoon wat versuim om te voldoen aan die voldoeningskennisgewing wat beteken is op daardie persoon ingevolge subartikel (1), is skuldig aan 'n misdryf.
- (5) Bykomend tot enige ander straf wat opgelê mag word, mag 'n hof 'n persoon wat skuldig bevind is aan 'n misdryf ingevolge subartikel (4) beveel om stappe te doen wat die hof nodig vind binne 'n tydperk deur die hof bepaal ten einde 'n herhaling van die ergernis te voorkom.

21. Stappe om die ergernis te verwyder

Die munisipaliteit mag te enige tyd op sy eie koste sodanige stappe neem as wat dit nodig ag om die skade wat deur die ergernis veroorsaak is te remedieer en 'n herhaling daarvan te voorkom, en mag die redelike koste wat sodanig aangegaan is, verhaal van die persoon verantwoordelik vir die oorsaak van die ergernis.

**DEEL IX
AANSTOOTLIKE REUKE**

22. Beheer van aanstootlike reuke

- (1) Die okkupeerder of eienaar van enige perseel moet alle redelike stappe neem om die uitlating van enige aanstootlike reuke wat veroorsaak word deur enige aktiwiteit op sodanige perseel, te voorkom.
- (2) Enige persoon wat die uitlating van enige aanstootlike reuke veroorsaak of toelaat teenstrydig met subartikel (1) begaan 'n misdryf.

**DEEL X
STOF ERGERNIS**

23. Beheer van stof

- (1) Die okkupeerder of eienaar van enige perseel moet alle redelike stappe neem om die ergernis van stof wat veroorsaak word deur enige aktiwiteit op sodanige perseel, te voorkom.
- (2) Enige persoon wat die uitlating van stof veroorsaak of toelaat teenstrydig met subartikel (1) begaan 'n misdryf.

**DEEL XI
DAMP ERGERNIS**

24. Beheer van dampe

- (1) Die okkupeerder of eienaar van enige perseel moet alle redelike stappe neem om die ergernis van dampe wat veroorsaak word deur enige aktiwiteit op sodanige perseel, te voorkom.
- (2) Enige persoon wat die uitlating van dampe veroorsaak of toelaat teenstrydig met subartikel (1) begaan 'n misdryf.

**DEEL XII
PLAAGBESPUITING UITLATINGS**

25. Plaagbespuiting uitlatings

- (1) Geen persoon mag plaagbespuiting uitvoer of toelaat dat dit uitgevoer word nie, behalwe soos toegelaat ingevolge artikel 3 van die Wet op Misstawwe, Veevoedsel, Landboumiddels en Veemiddels, 1947 (Wet No. 36 van 1947).
- (2) Enige persoon wat subartikel (1) van hierdie verordening oortree is skuldig aan 'n misdryf, soos uiteengesit in artikel 18(1)(c) van die Wet op Misstawwe, Veevoedsel, Landboumiddels en Veemiddels, 1947 (Wet No. 36 van 1947).
- (3) 'n Persoon wat plaagbespuiting uitvoer of toelaat dat dit uitgevoer word binne die munisipale jurisdiksie, moet ook aan die volgende beheermaatreëls voldoen:
 - (a) die vooraf skriftelike magtiging van die Raad moet verkry word, welke magtiging deur die Raad toegestaan mag word met voorwaardes, insluitend –
 - (i) die grondgebied waarop die plaagbestryding aangewend mag word; en
 - (ii) die tydperk waarin die plaagbestryding aangewend mag word.
 - (b) die aansoeker moet al die eienaars en okkupeerders van alle aangrensende eiendom binne 150 meter van die behandelingsgebied skriftelik in kennis stel van:
 - (i) die besonderhede van die voorgestelde behandelingsgebied;
 - (ii) die rede vir die plaagbestryding;
 - (iii) die aktiewe bestanddeel;
 - (iv) die datum en benaderde tyd van die plaagbestrydingsgebruik;
 - (v) in die geval van ongunstige weersomstandighede, 'n alternatiewe datum of datums waarop die plaagbestrydingsgebruik mag plaasvind;
 - (vi) die tyd, indien enige, aangetoon op die etiket van die produk wat spesifiseer wanneer die gebied weer veilig binnegaan kan word na aanwending;

- (vii) die reg van eienaars en okkupeerders van aangrensende eiendom om skriftelike beswaar teen die beoogde plaagbespuiting by die Raad aan te teken binne sewe dae van kennisgewing; en
 - (viii) die betaling van die voorgeskrewe gelde aan die munisipaliteit.
- (4) Enige persoon wat die subartikel (3) oortree is skuldig aan 'n misdryf.
- (5) 'n Persoon mag by die Raad aansoek doen om 'n vrystelling indien die bespuiting van die plaag is vir:
- (a) die bestuur van plaë wat menslike siektes oordra of 'n nadelige impak op landbou of bosbou het;
 - (b) die bestuur van plaë wat die integriteit van sensitiewe ekosisteme bedreig; of
 - (c) die nodigheid vir die gebruik van plaagbestryding dringend is.
- (6) Die bepalings van hierdie artikel is nie van toepassing nie op:
- (a) residensiële gebiede op plase;
 - (b) geboue of binne geboue;
 - (c) huishoudelike gebruik van plaagbestryding; of
 - (d) enige ander bepaalde gebied of bepaalde aktiwiteit waarop die Raad verklaar het dat hierdie artikel nie van toepassing sal wees nie.

DEEL XIII ALGEMENE BEPALINGS

26. Appèl

- (1) 'n Persoon wie se regte geraak word deur 'n besluit wat deur die munisipaliteit gedelegeer is mag teen sodanige besluit appelleer ingevolge artikel 62 die Wet op Plaaslike Regering : Munisipale Stelsels, 2000 (Wet 32 van 2000) deur skriftelike kennisgewing van die appèl en die redes daarvoor binne 21 dae vanaf die datum van kennisgewing van die besluit, aan die munisipale bestuurder te gee.
- (2) In afwagting van bevestiging, wysiging of herroeping van die besluit waarteen appèl aangeteken is, moet enige persoon wat teen die betrokke besluit appelleer, tensy die Raad anders bepaal:
- (a) nieteenstaande substantief voldoen aan enige verpligtinge wat opgelê mag gewees het as gevolg van die besluit wat die onderwerp van appèl is; en
 - (b) nie enige regte uitoefen wat mag ontstaan het as gevolg van die besluit wat onderhewig aan die appèlaansoek is nie, met dien verstande dat geen ander persoon enige reg mag uitoefen wat beide mag toeval nie.

27. Munisipaliteit en Staat is gebonde

Hierdie verordening is bindend op die Staat en die munisipaliteit.

28. Strydigheid

- (1) In geval van 'n strydigheid met enige ander verordening wat lugbesoedeling regstreeks of onregstreeks reguleer, sal hierdie verordening voorrang geniet.
- (2) In geval van 'n strydigheid met die Wet op Voorkoming van Lugbesoedeling, 1965 (Wet 45 van 1965) en die Wet op Nasionale Omgewingsbestuur : Lugkwaliteit, 2004 (Wet 39 van 2004) sal die bepalings van daardie Wette voorrang geniet binne die jurisdiksie gebied van die munisipaliteit.

29. Misdrywe en strawwe

- (1) Enige persoon is wat enige bepaling van hierdie verordening oortree begaan 'n misdryf en sal, by skuldigbevinding, aanspreeklik wees vir 'n boete of by gebrek van betaling, tot gevangenisstraf, of tot sodanige gevangenisstraf sonder keuse van 'n boete, of tot beide sodanige boete en sodanige gevangenisstraf, en in die geval van 'n herhaalde of voortgesette misdryf, tot 'n boete vir elke dag wat sodanige misdryf voortduur, of in geval van gebrek van betaling daarvan, tot gevangenisstraf.
- (2) Dit is 'n misdryf om:
- (a) vals inligting aan 'n gemagtigde persoon te voorsien in verband met enige saak betreffende hierdie verordening; of;

- (b) te weier om met die versoek van 'n gemagtigde persoon wat ingevolge hierdie verordening gerig is, saam te werk.
- (3) Versuim om te voldoen aan 'n kennisgewing, opdrag of instruksie waarna in hierdie verordening verwys word, verteenwoordig 'n voortgesette misdryf.
- (4) Addisioneel tot die oplê van 'n boete of gevangenisstraf, mag 'n hof enige persoon wat skuldig bevind is aan 'n misdryf ingevolge hierdie verordening beveel:
 - (a) om die skade wat veroorsaak is, te remedieer;
 - (b) om vergoeding te betaal vir skade wat aan 'n ander persoon of eiendom veroorsaak is, welke bevel die krag en uitwerking van 'n siviele uitspraak sal hê; en
 - (c) om op die persoon se eie koste verduisteringsmeettoerusting ooreenkomstig die bepaling van artikel 11 te installeer en te bedryf.

30. Vrystellings

- (1) Die munisipaliteit mag skriftelik tydelike vrystelling van een of al die bepalinge van Dele III, IV en V verleen, met dien verstande dat die munisipaliteit:
 - (a) tevrede is dat verlening van die vrystelling nie die doel soos beoog in artikel 2(1) beduidend sal benadeel nie; en
 - (b) enige vrystelling verleen behoudens voorwaardes wat die bereiking van die doel waarna in artikel 2(1) verwys word, bevorder.
- (2) Die munisipaliteit mag nie 'n vrystelling ingevolge subartikel (1) verleen nie totdat die munisipaliteit:
 - (a) redelike maatreëls geneem het om te verseker dat alle persone wie se regte beduidend nadelig geraak mag word deur die verlening van die vrystelling, insluitend maar nie beperk tot aangrensende grondeienaars of okkuperders, bewus is van die aansoek om vrystelling en hoe om 'n afskrif daarvan te verkry;
 - (b) aan sodanige persoon 'n redelike geleentheid gebied het om teen die aansoek beswaar aan te teken; en
 - (c) enige besware wat geopper is behoorlik oorweeg en in aanmerking geneem het.

31. Voorbehoude

Enigiets wat gedoen is of geag gedoen te gewees het ingevolge enige ander wet bly geldig tot die omvang waarin dit in ooreenstemming is met hierdie verordening of totdat enigiets wat ingevolge hierdie verordening gedoen word, dit oorheers.

32. Herroeping van verordeninge

Die bepalinge van enige verordeninge voorheen uitgevaardig deur die munisipaliteit of deur enige van die afgeskafde munisipaliteite wat nou by die munisipaliteit ingelyf is, word hiermee herroep in so ver dit betrekking het op aangeleenthede waarvoor in hierdie verordening voorsiening gemaak word.

33. Korttitel en inwerkingtreeding

Hierdie verordening sal bekend staan as die Lugbesoedelingsbeheer Verordening van die Hessequa Munisipaliteit en tree in werking op die datum van publikasie daarvan in die Provinsiale Koerant.

HESSEQUA MUNICIPALITY OUTDOOR ADVERTISING AND SIGNAGE BY-LAW

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996 the Hessequa municipality, enacts as follows:-

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1. Definitions

In this by-law, unless the context otherwise indicates –

“**advertising structure**” means any physical structure built to display a sign;

“**advertisement**” means any representation of a word, name, letter, figure or object or an abbreviation of a word or name, or any symbol, or any light which is not intended solely for illumination or as a warning against any dangers and “**advertising**” has a similar meaning;

“**aerial sign**” means a sign that is displayed or performed in the air, including but not limited to balloons and blimps that can be viewed from within the municipality’s area of jurisdiction;

“**approval**” means approval by the municipality and “**approve**” has a corresponding meaning;

“**areas of control**” means those areas set out in Schedule 1 of the by-law; and which may be modified or amended from time to time, which amendments and modifications will be graphically depicted by way of maps as prepared by the municipality.

“**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. A flag which is not displayed on an approved flag pole shall for the purposes of this by-law be deemed to be a banner;

“**billboard**” means any screen or board which stands free and is larger than 4,5 m² in total area; which is supported by, or consists of, a structure used, for the purpose of posting, displaying or exhibiting a sign;

“**class 2 roads**” means the roads which form the primary network for the urban areas as a whole and which are characterised by high volumes, restricted access and fairly high speeds;

“**class 3 roads**” means roads that distribute traffic between the principal residential, industrial and business districts of the town and which form the link between the primary network (class 2 roads) and the roads within residential areas;

“**clear height**”, in relation to a sign, means the vertical distance between the lowest edge of the sign and the natural level of the surrounding ground, footway or roadway immediately below the sign;

“**commercial advertising**” means any words, letters, logos, figures, symbols, pictures relating to the name of a business, trade, partnership, individual, or any information, recommendation or exhortation in respect of any particular goods manufactured or sold, or any particular services rendered or offered, or any event for commerce or entertainment, including sporting events;

“**commercially sponsored sign**” means a sign which advertises goods or services, but the erection of which has a secondary purpose, which is to promote or contribute to some recognised public or community goal or function;

“**common boundary façade**” means any façade of a building which is built abutting a rear or side boundary of an erf and which façade is blank, that is, having no architectural features, which includes windows;

“**composite sign**” means a single freestanding advertising structure for the display of more than one sign;

“**consultant**” means a suitably qualified independent person or company that acts on behalf of, or as an agent of, an applicant for approval of a sign in terms of this by-law;

“**continuing offence**” means an offence in terms of this by-law, which offence continues to exist after the expiry of the notice period referred to in a notice served in terms of this by-law;

“**custom made design**” means the design of any sign, which features special effects such as specialist character cut outs or shapes or three dimensional presentations or moving parts or a combination thereof, and which is uniquely designed or constructed for erection in a particular location;

“**development board**” means a sign displayed at premises upon which building operations are currently in progress and relating to any services being provided, work being done or goods being supplied in connection with such building operations, but excludes contract boards for building and civil engineering projects as required in terms of the National Building Regulations and Control Act, 1977 (Act 103 of 1977);

“**display**” means the display of a sign and includes the erection of any billboard, sign or structure intended solely or primarily for the support of a sign or billboard, and includes the display of a sign of a business, trade partnership or individual connected with the contents of the sign or sign, and “**displayed**” has a corresponding meaning;

“**electronic sign**” means a sign which has an electronically controlled, illuminated display surface which allows all, or a portion, of the sign to be changed or illuminated in different ways;

“**Environmental Impact Assessment**” (EIA) means an assessment carried out in accordance with the municipality’s guidelines for outdoor advertising;

“**estate agency**” means a person who markets or sells properties with or without buildings erected thereon and

“**estate agent**” has a corresponding meaning;

“**existing sign**” means any sign previously approved by the municipality;

“**flat sign**” means a sign which is affixed to, or painted directly onto a wall of a building but not onto or over windows or doors or architectural articulations and which at no point projects more than 250 mm in front of the surface of such wall;

“**freestanding sign**” means any sign or group of signs contained or displayed on one freestanding structure which is not attached to a building or to any structure or object not intended to be used for the primary purpose of advertising;

“**gateway route**” means a prominent route with an entrance to or exit from a specific part of the municipality’s jurisdiction, consisting of man-made or natural features and creating a strong sense of arrival or departure and which is consistent with city planning or development framework plans or policy, and which may be geographically depicted by way of maps or listed by the municipality.

“**graphic**” includes but is not limited to any component which contributes to the visual appearance or aesthetics of a sign, including its background;

“**headline poster**” means a temporary poster advertising the contents of a daily or weekly newspaper;

“**height of a sign**” is calculated by measuring the vertical distance between the uppermost and lowest parts of the advertising panel;

“**Heritage Impact Assessment**” (HIA) means a visual and contextual assessment of the impact that any proposed sign may have on the cultural heritage, whether built or recognised at the locality where the proposed sign will be displayed;

“**internally illuminated sign**” means an advertisement or structure used to display an advertisement which has been installed with electrical or other power and an artificial light source which is fully or partially enclosed within the structure or sign and which light is intended to illuminate the advertisement or a portion thereof;

“**law**” means any law, proclamation, ordinance, Act of Parliament or Provincial Legislature, or any other enactment having the force of law;

“**locality bound advertising**” means any sign displayed on a specific erf, premises or building and may include such a sign on municipal owned land, adjacent to, abutting on or within 5 metres of the aforementioned erf, premises or building, which sign refers to an activity, product, service or attraction, located, rendered or provided on or from that erf or those premises;

“**loose portable sign**” means a freestanding locality bound notice or advertising board placed or erected in the road reserve or in a public open space;

“**movable sign**” means a sign not permanently fixed and not intended to remain fixed in one position, but does not include any moving part on a fixed permanent sign;

“**municipality**” means the municipality of Hessequa 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;

“**new sign**” means any sign first displayed after the promulgation of this by-law;

“**non-profit body**” means a body established primarily to promote a community goal or benefit without direct or personal financial gain, and may include educational, sporting, medical, municipal departments, bodies as well as charities or community organizations;

“**organ of state**” means:

- (a) any department of state or administration in the national, provincial or local sphere of government;
- (b) any other functionary or institution –
 - (i) exercising a power or performing a function in terms of the Constitution or a provincial constitution; or
 - (ii) exercising a public power or performing a public function in terms of any other Legislation;

“**overall height**”, in relation to a sign, means the vertical distance between the uppermost edge of the sign and the finished level of the ground, footway or roadway immediately below the centre point of the sign;

“**perimeter of an intersection**” means the perimeter of the area embraced within the prolongation of the road reserve lines of two or more public roads that join one another at any angle, whether or not one such public road crosses the other;

“**person**” includes:

- (a) any organ of state;
- (b) any company incorporated or registered as such under any law; and
- (c) any body of persons, whether incorporated or not, functioning as a single entity for whatever purpose;

“**poster**” means temporary signs capable of being attached to the Municipal electrical light standards or pasted to fixed structures to advertise events or campaigns, including elections or referenda of limited duration and excluding signs advertising markets, exhibitions or events which are held on a regular basis;

“**projected sign**” means any sign projected by a laser projector, video projector, or other apparatus;

“**projecting sign**” means a sign which is affixed to a wall of a building and which at some point projects more than 250 mm in front of the surface of such wall;

“**public façade**” means any façade of a building that has architectural articulations and which is visible to the public

“**public place**” means any public road, public street, thoroughfare, bridge, subway, footway, foot pavement, footpath, sidewalk, (or similar pedestrian portion of a road reserve), lane, square, open space, garden, park or enclosed place vested in the municipality, or other state authority or indicated as such on the Surveyor General’s

records, or utilized by the public or zoned as such in terms of the applicable zoning scheme;

“**public road**” means public road as defined in the National Road Traffic Act, 1996 (Act 93 of 1996);

“**road reserve**” means the area contained within the statutory width of a road, and includes roadways, shoulders and sidewalks and the airspace above such roadways, shoulders and sidewalks and all other areas within the road reserve boundary;

“**roadway**” means that portion of a road, street or thoroughfare improved, constructed or intended for vehicular traffic as defined in the National Road Traffic Act, 1996;

“**roof sign**” means a sign affixed to a roof of a building where the top edge of any point of that sign does not exceed the height of the roof plane to which it is affixed;

“**scenic drive**” means a road designated as such on an approved zoning scheme or from which landscapes or features of aesthetic or cultural significance can be seen or viewed as designated by the municipality;

“**security sign**” means an outdoor sign for neighborhood watch and similar schemes, and a sign containing the name, logo, address and telephone number of a security company contracted to protect, or security system installed to protect, the premises on which the sign is displayed;

“**service station facility sign**” means freestanding signs at petrol filling stations, roadside rest and service areas and includes service station pylon signs;

“**shop**” means a building used for retail trade or services;

“**sign**” means any object, product, replica, advertising structure, mural, device or board which is used to publicly display a sign or which is in itself a sign and includes a poster, billboard and an advertisement which is included in the architectural design of a building or structure;

“**signalized traffic intersection**” means an intersection controlled by traffic signals;

“**sky sign**” means a sign where the top edge of any point of that sign exceeds the height of the roof plane to which it is affixed;

“**sponsored sign**” means a sign, the primary purpose of which is not to advertise goods or services but which displays a graphic or content which promotes community or public awareness of a recognised public or community goal;

“**street name signs**” means pole-mounted, double-sided, internally illuminated or unilluminated signs displayed in combination with names of streets, not exceeding 1 m²;

“**street furniture**” means public facilities and structures which are not intended primarily for advertising and includes but is not limited to seating benches, planters, bins, pole mounted bins, bus shelters, sidewalk clocks, drinking fountains, Telkom boxes, traffic signal controllers, electricity boxes, post boxes and telephone booths, but excludes road traffic signs, traffic signals, street lights or any other road-related structures;

“**temporary signs**” means signs which are displayed for a maximum period of 14 days, or such other period as may be approved by the municipality;

“**thickness**”, in relation to a projecting sign, means the width of such sign measured parallel to the plane of the main wall to which such sign is affixed;

“**third-party advertising**” means the advertising of goods or services that are not made, procured, sold or delivered from the property on which the sign or sign advertising those goods or services is fixed or placed, and includes advertising which is not locality bound.

“**three dimensional sign**” means a sign containing more than 2 dimensions, including product replicas;

“**Traffic Impact Assessment**” (TIA) means a study carried out by a registered professional engineer with demonstrable experience in the field of traffic engineering that investigates the impact a proposed sign may have on vehicle, pedestrian, or cyclist safety and traffic operation, which study should recommend any mitigating measures that may be required as a result of that impact;

“**traffic sign**” means a road traffic sign as prescribed in the National Road Traffic Act, 1996;

“**traffic signal**” means a road traffic signal as prescribed in the National Road Traffic Act, 1996;

“**transit advertising**” means advertising by means of a movable sign which is capable of being transported by road either on or in conjunction with a motorized vehicle, including trailers primarily used for advertising;

“**transportation terminals**” means any area designated by the municipality as such, where the formal interchange of modes of public transport takes place by the public, including, but not limited to designated railway stations, official taxi terminals and bus terminals;

“**urban edge line**” means a predetermined point to point boundary line as determined by the municipality, which has as its purpose, the containment of urban development;

“**verandah**” includes a cantilevered canopy and sunblind;

“**window signs**” means signs which are temporarily or permanently painted on, or attached to the window-glass of a building;

“**zone**” means a land use zone as set out in the relevant zoning schemes or Town Planning Regulations as amended from time to time and applicable to any erf on which a sign is displayed or intended to be displayed and “**zoning**” has a corresponding meaning.

2. Principles and objectives

The object of this by-law is to regulate outdoor advertising in the jurisdiction of the Hessequa municipality in a manner that is sensitive to the environmental quality of different parts of Hessequa municipality. It seeks to strike a balance between outdoor advertising opportunities and economic development on the one hand, and the conservation of visual-, tourist-, environmental- and heritage characteristics and traffic safety on the other hand. It further needs to ensure that outdoor advertising respects the integrity of any site on which it is displayed, and complements the character of the locality in which it is displayed; the by-law thus aims to provide a set of regulations governing the use of land and buildings for outdoor advertising and signage and for matters incidental thereto.

CHAPTER 1

SUBMISSION OF APPLICATIONS, CHARGES AND GENERAL FACTORS IN CONSIDERING APPROVAL, AMENDMENTS AND CONDITIONS TO APPROVAL, FACTORS RELATING TO SPECIFIC SIGNS, AREAS OF CONTROL AND COMMERCIAL SPONSORED SIGNS

3. Submission of applications

- (1) Other than those signs referred to in section 13(3) to 13(10), no person may display any advertisement or erect or use any sign for advertising purposes without the municipality's approval in terms of this by-law and any other applicable legislation.
- (2) Every person intending to display a new sign or to alter or to add to an existing approved sign or submitting a signage plan in terms of a Site Development Plan proposal, must apply in writing to the municipality which application must be accompanied by the following information in duplicate:
 - (a) a site plan, drawn to a scale of not less than 1:200, showing the following-
 - (i) the site on which it is proposed that the sign is to be erected or displayed;
 - (ii) the position of the sign and the building, if any, to which it is to be attached;
 - (iii) every building and the existing signs on the site;
 - (iv) existing and proposed landscaping, traffic signals and road traffic signs; and
 - (v) the positions, with dimensions, of the sign in relation to the boundaries of the site and the location of the streets abutting the site, together with its existing approved zoning conditions;
 - (b) a drawing, which complies with the requirements of the National Building and Regulations Standards Act, 1977 (Act 103 of 1977), and is in sufficient detail to enable the municipality to consider the appearance of the sign and all relevant construction detail, including a description of the materials of which the sign is to be constructed, the colors to be used, and whether or not the sign is to be illuminated; in the latter event, the plan must indicate whether or not the sign is an electronic sign and, if so, full details must be furnished;
- (3) The drawing referred to in subsection (2)(b) must have detailed drawings of such sign to a scale of not less than 1:20 and a site plan indicating the position of the sign on the site to a scale of not less than 1:50;
- (4) If a sign is to be attached to or displayed on the wall or façade of a building, the municipality may require the submission of an additional drawing, drawn to a scale of not less than 1:100, showing-
 - (i) an elevation of the building in color;
 - (ii) the details and position of the proposed sign; and
 - (iii) the details and the position of every existing sign on the building; alternatively the municipality may require a colored print of or an artist's photographic- or computer generated impression of the building with the details of the proposed sign superimposed on such graphic and drawn as nearly as is practicable to the same scale as that of the graphic;
- (5) If the applicant is not the registered owner of the property on which the sign will be erected, he or she must obtain the signature of the registered owner of the land or building on which the sign is erected, indicating that person's knowledge of and consent to the application.
- (6) The municipality may require the submission of any or all of the following studies or assessments-
 - (a) an Environmental Impact Assessment (either the 1st stage thereof; being the completion of an Environmental Checklist or in its entirety),
 - (b) a Heritage Impact Assessment; and
 - (c) a Traffic Impact Assessment.
- (7) If a community or portion thereof or a person will be affected by the proposed sign, it may require a public participation process prior to considering the approval, which public participation process must comply with the municipality's policy on public participation.

- (8) The municipality may require a signage master plan in respect of any development where the erection of numerous signs is proposed or the rationalisation of previously approved signs is required so as to allow it to consider a consistent design master plan prior to assessment of any individual sign.
- (9) The municipality must notify the applicant of any additional requirements it has within 21 working days of the date of submission of the original application and payment of the application fee.
- (10) The municipality must retain a copy of every document supplied to it as part of an application.
- (11) The municipality may require written notification, by the applicant or person who erects an approved sign that such sign has been erected.

4. Charges and general factors in considering approval, amendments, conditions to approval

- (1) Every person who applies to the municipality for approval in terms of this by-law must, on making application, pay to the municipality an application fee as determined by the municipality and no sign may be erected until such time as the application fees have been paid in full.
- (2) In considering an application for the display of an advertisement or the erection of a sign in terms of this by-law, or an amendment or condition attaching or to be attached to an approval, the municipality must have regard to the following factors:
- (a) The area of control in which the proposed sign is to be erected or displayed as set out in Schedule 1; provided that if a sign falls into more than one area of control or if a proposed site in one area of control may impact on an adjacent area of control, the municipality shall be entitled to determine the area of control pertaining to that application;
 - (b) the locality or landscape and the advertising opportunities pertaining to that area of control;
 - (c) the number of signs already displayed or proposed to be displayed on the erf and in the area surrounding the erf concerned;
 - (d) the findings of any Traffic Impact Assessment, Environmental or Heritage Impact Assessment and public participation processes where applicable.
 - (e) locality bound signs must relate to the lawful use of a property provided that no such sign must be affixed to or placed on residential premises or portions thereof other than is permitted by or for home industries and legal temporary uses; and
 - (f) that no sign or advertisement may be designed or displayed that –
 - (i) will constitute a danger to any person or property;
 - (ii) will display any material or graphic which, does not comply with the requirements of the Advertising Standards Authority of South Africa.
 - (iii) will be detrimental to the environment or amenity of the neighborhood by reason of either its size, intensity, frequency, illumination, quality of design, material, proposed graphic or locality.
 - (iv) will obscure any other signs approved in terms of this by-law or its predecessor; and
 - (v) will be detrimental or otherwise negatively impact on the environment, whether artificial or natural.
- (3) Subject to any conditions in Schedule 16, all new signs or advertising structures approved under this by-law and any successive by-law, may remain on display uninterrupted until such time as they do not comply with the provisions of this by-law or any other applicable legislation.

5. Factors relating to specific signs, areas of control, and commercial sponsored signs

- (1) The municipality must, in addition to the factors set out hereinabove, apply certain minimum standards to certain specific sign types and proposed localities when an application for approval is made in respect thereof and will apply certain specific criteria to applications for the erection of signs by non-profit bodies. These specific standards and criteria are set out as Schedules to this by-law. Schedule 1 to this by-law indicates the areas of control in which certain specific sign types may be permitted, subject always to approval in terms of this by-law and furthermore subject to any additional requirement pertaining to a specific sign type as set out in the following Schedules:
- (a) Schedule 1: Areas of control;
 - (b) Schedule 2: Billboards;
 - (c) Schedule 3: Locality bound freestanding and composite signs;
 - (d) Schedule 4: Signs attached to walls of buildings (flat and projecting signs);
 - (e) Schedule 5: Sky signs;
 - (f) Schedule 6: Roof signs;

- (g) Schedule 7: Signs on a verandah, balcony, canopy, supporting columns, pillars and posts;
 - (h) Schedule 8: Signs on boundary walls, fences and construction sites;
 - (i) Schedule 9: Newspaper headline posters;
 - (j) Schedule 10: Banners, flags and balloons;
 - (k) Schedule 11: Posters;
 - (l) Schedule 12: Estate agent signs;
 - (m) Schedule 13: Loose portable signs;
 - (n) Schedule 14: Aerial signs;
 - (o) Schedule 15: Transit advertising;
 - (p) Schedule 16: Signs on municipal land or buildings; and
 - (q) Schedule 17: Signs by or for non-profit bodies.
- (2) The description of areas or routes in the said Schedule 1 should be read with the definitions as contained in the municipality's Zoning Scheme Regulations.
- (3) The municipality may grant an exemption from the terms of this by-law in respect of the sign types or areas of control set out in Schedules 10, 11 and 12 hereto having regard to –
- (a) the area of control where it is proposed to display the signs;
 - (b) nature of the event;
 - (c) duration of the erection or display of the sign;
 - (d) size of the proposed sign;
 - (e) any traffic, safety, environmental or heritage impact assessment; and
 - (f) the outcome of any public participation process.

CHAPTER 2

STANDARD CONDITIONS FOR APPROVAL, REQUIREMENTS, AND APPROVAL

6. Standard conditions for approval

- (1) All signs and advertising structures must be properly constructed of the requisite strength and must be secure and must comply with the requirements pertaining thereto of the National Building Regulations and Standards Act, 1977 (Act 103 of 1977).
- (2) The applicant to whom approval has been granted and the owner of the property or building to which it is attached shall be jointly and severally liable for the maintenance thereof and must undertake at least one inspection per year thereof with a view to satisfying themselves as to the safety thereof.
- (3) Where any sign or advertising structure is vandalised or becomes torn or damaged or otherwise falls into a state of disrepair, the applicant to whom the approval has been granted and the owner of the fixture or property which or to which a sign is attached must within 7 working days of a notice in writing to do so, repair it.
- (4) All signs and their support structures must be constructed of incombustible, durable materials suited to the function, nature and permanence of the sign.
- (5) All glass used in a sign, other than glass used in illumination, must be safety glass of at least 3 mm thick.
- (6) Glass panels used in a sign must not exceed 0,9 m² in area, each panel being securely fixed in the body of the sign, structure or device independently of all other panels.
- (7) Every sign and its support structure must be kept in a state of good repair.
- (8) 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 the building or prevent movement of people from one part of a roof to another.
- (9) No advertising structure may be closer to overhead electrical equipment than the minimum distance as prescribed.

7. Electrical requirements

- (1) All signs needing an electrical connection must preferably be supplied from the existing electrical supply on the erf where it is to be erected. If this is not possible, application for a metered electricity supply must be made to the relevant authority.
- (2) Every sign in connection with which electricity is used, must be provided with suitable capacitors to prevent interference with radio and television reception.
- (3) Each power cable and conduit containing electrical conductors in respect of a sign must be so positioned and fixed so that it is safe, unseen, inaccessible and child tamper proof and animal proof.

(4) Each interior high-voltage installation that runs unattended (such as a window display) and each exterior high-voltage installation must have an acceptable type of fireman's switch in accordance with the requirements as stipulated in sections 6.7.2 and 7.5 of SANS 0142 1993 promulgated in terms of the Occupational Health and Safety Act.

8. Illumination requirements

(1) The municipality may approve an illuminated sign, provided that the provisions of this by-law are complied with and that such illumination does not constitute a road safety hazard or cause undue light spillage.

(2) Signs may not be illuminated if no sign content is displayed.

(3) Requirement for internal illumination or electronic signs:

(a) Internally illuminated and electronic signs may only be displayed in areas of partial and minimum control and must be less than 2,1 m². This size condition may be waived, up to a maximum size of 4,5 m² in any such area upon receipt of an Environmental and Heritage Impact Assessment showing no detrimental impact will be caused by the proposed display, or to any larger size specified by the municipality in an area designated by the municipality as a district in which illuminated or electronic signs are to be encouraged;

(b) electronic signs may not have subliminal flashes; and

(c) prior to erection, the municipality may require a Traffic Impact Assessment, Environmental and Heritage Impact Assessment to be conducted, the results of which must indicate that no detrimental impact on traffic is envisaged. In addition the municipality may require subsequent traffic monitoring of any internally illuminated or electronic sign.

(4) Requirements for external illumination:

(a) the light source emanating from floodlights must not be visible to traffic travelling in either direction;

(b) floodlights must not be positioned so as to create any undue light spillage beyond the surface area of the sign; and

(c) approved way leaves must be obtained from the electricity department prior to any excavations for the installation of signs. This also applies for signs to be erected in the vicinity of overhead power lines.

9. Road traffic safety requirements

(1) Signs may not be erected in an area where they are an unacceptable distraction for drivers, which acceptability may be determined in terms of the guidelines laid down in the S.A. Road Traffic Signs Manual.

(2) Electronic signs may not be permitted if they are visible from class 2 or 3 roads, gateway route or a scenic drive unless expressly approved in writing by the municipality.

(3) Advertising on bridges, towers, telecommunication masts, pylons or street poles shall not be permitted.

(4) The graphic content of signs must not have the potential to be visually interpreted as a road traffic sign, due to any factor, including but not limited to the following:

(a) any stylised or pictorial presentation of a road traffic sign or traffic signal;

(b) any word, symbol, logo or other device used on a road traffic sign;

(c) use of combinations of colours specified for road traffic signs, in a manner likely to lead to confusion; and

(d) any reflectorised paint or material.

(5) Signs may not be erected in an area where the traffic volume, the average following headway, or accident history requires a higher degree of awareness from drivers.

(6) Signs may not be attached to or obscure a road traffic sign or traffic signal specifically provided for in the South African Road Traffic Signs Manual or the South African Development Community Road Traffic Signs Manual.

(7) Signs may not be erected within the road reserve of any public road unless expressly approved by the municipality.

(8) When located at signalized traffic intersections, signs may not have the colours red or yellow or green as main colours and may not obscure or interfere with any road traffic sign or traffic signal.

(9) Electronic signs shall not be permitted within 80 metres of the perimeter of a signalised traffic intersection.

(10) Flashing or running messages or variable transition messages that have a message change interval of greater than 0,3 seconds or have transition effects between message changes shall not be permitted if viewable from a public road.

(11) Static display, simple transition signs must display a complete frame for an information cycle length of not less than 60 seconds when visible from a signalised traffic intersection and 30 seconds at other locations.

(12) All signs larger than 4,5 m² erected adjacent to a public road or in a railway reserve intended to advertise to persons using class 2 and 3 roads must be spaced a minimum specified distance from any other sign or road traffic sign, such distance measured parallel to the centre line of the roadway, in accordance with the measurements set out in Table 1 below:

**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	120m	200m	300m
Where a sign follows a sign	250m	250m	300m
Where a sign precedes a road sign	40m	70m	100m

(13) The abovementioned minimum distances specified in Table 1 above may be decreased by the municipality if the sign falls within an area of minimum control, or in other areas of control on submission of a Traffic Impact Assessment motivating a reduction of this spacing to the satisfaction of the municipality. The municipality may prepare a list or map of designated areas in which the abovementioned spacing requirements shall not be applicable.

10. Legal requirements

All signs to be erected or displayed within the area of jurisdiction of the municipality must, in addition to complying with this by-law, comply with all other applicable legislation, including any applicable Zoning Scheme Regulations or condition of approval of any departure from the applicable Zoning Scheme Regulations.

11. Approval

(1) The municipality may refuse any application or grant its approval subject to conditions relating to the erection or use of the sign and including a condition that the owner of any sign or billboard or the land or building on which it is erected or displayed, or both such owners or the person whose product or services are advertised, indemnify the municipality against any consequences flowing from the erection, display or mere presence of such sign.

(2) The municipality may, at any time, withdraw an approval granted in terms of this by-law or its predecessor or amend any condition or impose a further condition in respect of such approval, if a sign or advertising structure-

- (a) is in a state of disrepair;
- (b) remains unused for more than 90 consecutive days;
- (c) becomes redundant or obsolete;
- (d) no longer complies with any provision of this by-law; or
- (e) is substantially altered from the original approved application by way of either structure or graphic content.

(3) Should an approved sign not be erected within 12 months from the date of approval or within such other time as is specified in the approval, such approval shall lapse, unless that period is extended in writing by the municipality prior to such lapse.

(4) In the event that the structure supporting such sign is intentionally demolished before the expiry of the approval period, the approval shall lapse and no further sign or supporting structure may be erected or re-erected without the municipality's approval..

(5) All decisions by the municipality regarding applications made in terms of this by-law must be in writing and will be provided to applicants within 60 calendar days of date of submission of a complete application, alternatively, if so required by the municipality, within 60 calendar days of its receipt of any additional information or assessments provided to the municipality.

(6) In notifying an applicant of its decision in terms of subsection (5), the municipality must inform such applicant and any person who has objected to the granting of an application of their right to appeal in terms of section 12.

CHAPTER 3 GENERAL PROVISIONS

12. Appeal

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

13. Signs for which municipality's approval not required

(1) Should any sign not comply with the conditions relative to each sign type listed below, an application in terms of section 3 will be required.

(2) Subject to compliance with the conditions relative to each sign provided for in subsections (3) to (11), and any other applicable legislation, or condition imposed by the municipality, no application for approval is required in terms of this by-law in respect of the signs provided for in subsections (3) to (11).

(3) *Development Boards.*

(a) Development boards may be removed forthwith when the building operations are complete or forthwith if the building operations are discontinued, or when the provisions of the services, the doing of the work, or the supply of the goods to which the sign relates has ceased.

(b) The municipality may order the removal of any such sign if the building operations have been substantially completed or discontinued or an Occupancy Certificate has been issued by the municipality, or the provision of the services, the doing of the work or the supply of the goods to which it relates, has for all practical purposes ceased, and such signs may thereupon be forthwith removed but no later than 5 days after the date of the order for removal thereof.

(c) If the premises on which building operations are in progress, are to be used wholly for residential purposes, only one development board may be displayed and such development board may not exceed 3 m² in total area.

(d) If the premises are not to be used wholly for residential purposes, no more than two development boards may be displayed and the aggregate area of both development boards may not exceed 5 m² in total area;

(e) If the signage, whether on freestanding boards, or flexible building covering material, include any other form of third party advertising, such sign must then comply with the provisions of Schedule 8 hereto and municipal approval for the display thereof must first be obtained in terms of this by-law.

(4) *To Let/For Sale Signs.*

These include any sign not exceeding 400 mm x 500 mm in total area displayed at existing premises or at properties upon which a new building is being erected and relating to accommodation being offered to rent or purchase in the building, on condition that any such sign must be removed within 90 days after the date upon which the accommodation to which it relates is capable of occupation.

(5) *On Premises Business Signs.*

These include any unilluminated sign not projecting over a public road and not exceeding 0,2 m² in total area notifying only the types of trade, business, industry or profession lawfully conducted by any occupant or permanent resident of the premises to which it is attached, the name of such occupant, the type of activity, the address and telephone number of such premises and the hours of attendance (if any); provided that only one such sign per occupant may be displayed.

(6) *Window Signs.*

These include any locality bound signs which are temporarily or permanently painted on or attached to the window glass of a building used for commercial, office, industrial or entertainment purposes, or any other temporary or permanent sign which is displayed within 2 metres of any window or external opening through which it can be seen from the outside such a building, on condition that no window sign may exceed 4,5 m² in an area of maximum control.

(7) *Signs incorporated in the face of a building.*

Any sign forming an integral part of the fabric of a building (but excluding a painted sign or a sign affixed in any manner onto the building), on condition that no such sign may exceed 0,2 m² in total area.

(8) *Signs on Sports Fields.*

Except when visible from scenic drives, any sign erected around the perimeter of a sports field, to a maximum size of 2 x 1 meter each, provided further that larger signs which face inwards onto the field and are not visible from any other public place, may also be permitted.

(9) *Security Signs.*

Any security sign not projecting over a public road and not exceeding 0,2 m² in total area indicating either that a security watch scheme is in operation or that a security company has been contracted to protect the premises on which the sign is displayed, on condition that –

- (a) only one such sign is displayed on any public road or each street frontage of such premises; and
 - (b) the said sign displays only the name, logo, address and telephone number of a security company contracted to protect the premises on which the sign is displayed.
- (10) *Sponsored, Commercially sponsored and Non-Profit Body Signs: less than 4,5 m².*
- (a) Any such sign whether erected by or in connection with a non-profit body or not; not exceeding 4,5 m² in total area on condition that no more than 5% of the total surface area of the sign is used for third party advertising; and the sign is not illuminated, and furthermore provided that only one such sign may be permitted per erf.
 - (b) Signs which comply with provisions of subsection (a) may, when erected on municipal land, only be erected once agreement has been concluded with the municipality, wherein the extent of the community or public benefit as jointly agreed between the municipal department responsible for the premises or land has been agreed and the terms of the erection of the sign agreed, and a copy of the agreement lodged with the municipality.
 - (c) All other sponsored signs are dealt with in Schedules 16 and 17.
- (11) *Advertising on Vehicles*
Signs painted or affixed directly onto the body of a motorised vehicle.

14. Disfigurement

No person may destroy, harm, damage or disfigure or deface the front or frontage of any street, road traffic sign, wall, fence, land, rock, tree or other natural feature, or the front or frontage or roof of any building or structure in any manner whatsoever during construction or through the display or use of a sign or the writing or painting of any sign, symbol, letters or numerals. Furthermore, no person may disfigure any sign legally displayed in terms of this by-law.

15. Damage to municipal property

No person may, in the course of erecting or removing any sign, or banner, cause damage to any tree, electric standard or service or other municipal installation or property and street furniture.

16. Entry and inspections

The municipality shall be entitled, through its duly authorized officers, and with prior written notification to the owner or occupant of a property, to enter into and upon any premises, at a reasonable time for the purpose of carrying out any inspection necessary for the proper administration and enforcement of the provisions of this by-law.

17. Offences

Any person who –

- (a) contravenes or fails to comply with any provision of this by-law or any of the standards and requirements contained in Schedules 2 to 17 of this by-law-
- (b) contravenes or fails to comply with any requirement set out in a notice served on him in terms of this by-law;
- (c) contravenes or fails to comply with any condition imposed in terms of this By- Law;
- (d) knowingly makes a false statement in respect of any application in terms of this by-law, commits an offence and on conviction shall be liable to-
 - (i) a fine or imprisonment, or either such fine or imprisonment or to both such fine and such imprisonment; and
 - (ii) in the case of a continuing offence, to 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) 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 or failure.

18. Presumptions

Any person charged with an offence in terms of this by-law who is –

- (a) alone or jointly with any other person responsible for organising, or in control of any meeting, function or event, to which a sign or poster relates, shall be deemed, until the contrary is proved, to have knowingly displayed every unlawful sign or poster displayed in connection with such meeting, function or event or to have caused or allowed it to be so displayed;
- (b) the person whose name appears on an unlawful sign or whose product or services are advertised on such sign, shall be deemed, until the contrary is proved, to have displayed such sign, or to have caused or allowed it to be displayed unless the contrary is proved;

(c) the owner of any land or building on which any unlawful sign was or is displayed, shall be deemed, until the contrary is proved, to have knowingly displayed such sign, or caused or allowed it to be displayed.

19. Enforcement and removal of signs

(1) If any sign displayed is in contravention of this by-law, the municipality may serve a notice on the owner or lessee of the sign, or the land owner on whose land the sign is erected or displayed, or person whose product or services are advertised, calling upon such person to remove such sign or carry out such alteration thereto or do such work as may be specified in such request or notice, within a time frame specified therein.

(2) A notice served in terms of subsection (1) may be withdrawn or varied by the municipality, by agreement with the person so served, or failing such agreement, by the service of a further notice.

(3) Should the municipality's directives, as set out in the notice, not be carried out within the time period specified therein, the municipality may, without further notice to the person upon whom the notice was served, remove or alter the sign or do such work as may be specified in such notice.

(4) Any costs incurred by the municipality in removing signs, or in doing alterations or other works required in terms of a notice, may be recovered from the person on whom the notice was served.

(5) Notwithstanding any other clause in this by-law, if a sign is, or is reasonably considered to be a danger to life or property, the municipality itself may, without prior notice and without a court order carry out or arrange for the removal of such sign.

(6) Any costs incurred by the municipality in carrying out or arranging for the removal of such sign may be recovered from the owner or lessee of the sign, or the landowner on whose land the sign was erected, or the person whose product or services were advertised, jointly and severally.

(7) Unlawful signs removed by the municipality may be reclaimed from the municipality on payment in full to it of any costs incurred by the municipality in the removal of the said sign, as well as payment of the costs of any charges incurred in the storage of such sign within two months.

(8) Any unlawful signs removed by the municipality and not reclaimed within two months of the date of removal may be disposed of by the municipality to defray its removal or storage costs.

20. Service of notices

(1) A notice issued by the municipality in terms of this by-law is deemed to be duly issued if an official of the municipality signed it.

(2) Any notice or other document that is served on a person in terms of this by-law is regarded as having been 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 with a person apparently over the age of 16 years;

(c) when it has been posted by registered or certified mail to that person's known residential or business address in the Republic, and an acknowledgment of the posting thereof from the postal service is obtained;

(d) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided by paragraphs (a), (b) or (c);

(e) if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the 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 the body corporate; or

(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.

21. Liaison forums in community

(1) The municipality may establish liaison forums in a community for the purposes of -

(a) encouraging a local community to participate in the implementation, development and enforcement of this by-law; and

(b) promoting local economic development and the conservation of visual, tourist, environmental and heritage characteristics of the Hessequa municipal area;

(2) The forums contemplated in sub-section (1) may consist of-

(a) a member or members of an interest group or an affected person or community;

(b) a designated official or officials of the municipality; and

(c) a councillor from the relevant council committee.

(3) The municipality may, in the implementation and enforcement of this by-law, -

- (a) request the input of a forum;
 (b) employ any skills or capacity that may exist in such a forum.
- (4) A forum, or a person or persons contemplated in sub-section (2), may, on own initiative, submit an input to the municipality for consideration.

22. Magistrate's court jurisdiction

Notwithstanding anything to the contrary contained in any law relating to Magistrates' Courts, a Magistrate shall have jurisdiction, on the application of the municipality, to make an order for the enforcement of any of the provisions of this by-law or of any approval, refusal or condition granted or applicable in terms hereof.

23. Exemptions

Notwithstanding the provisions of this by-law, the municipality may, on written application, exempt any person or class of persons from any or all of the requirements of this by-law and in considering such exemption it may impose any conditions or requirements it deems appropriate.

24. 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, and insofar as it has been made applicable to the municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Local Government: Municipal Structures Act, Act 117 of 1998.

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 in section 24 shall not affect the validity of anything done under the by-law so repealed.
- (2) Anything done prior to promulgation of this by-law, which was not done in terms of a provision repealed in this by-law and was unlawful, shall in the event of such act or sign still not complying with the provisions of this by-law, be unlawful and the municipality in such a case may take the necessary action in terms of section 19 hereof.

26. Short title and commencement

These by-laws shall be known as the Outdoor Advertising and Signage By-law and commences on the date of publication thereof in the Provincial Gazette.

ANNEXURE 1

AREAS OF CONTROL

Natural Area	MAXIMUM		PARTIAL	MINIMUM
	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) Within areas of special significance	(a) Central business districts (b) Outside areas of special significance	Industrial zones
Protected natural environment	Horticultural areas	Declared Heritage sites (rural 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 (e.g. golf)	Residential zones and adjacent road	Commercial and business districts	Specific areas or sites designated as

	courses)	and rail reserves	and adjacent streets and rail reserves	minimum control by way of a map prepared by the municipality
Forestry areas	Scenic drives	Mobility routes	Entertainment district or complexes with commercial zones	
River corridors	Scenic landscapes	Pedestrian malls and pedestrian squares	Sportsfields and stadia	
1:100 Year Flood plains	Scenic features	School sites and institutional zones	Undetermined zones (including railway reserves, transport use zones)	
Wetlands	Municipal parks	Scenic features	Specific areas or sites designated as partial control by way of a map prepared by the municipality	
Scenic Drives	Urban edge zones as defined in the Urban Edge Policy	Scenic drives		
Greening of city network	Agricultural and horticultural areas and adjacent road and rail reserves	Gateways		
Specific areas or sites designated as maximum natural by way of a map prepared by the municipality	Specific areas or sites designated as maximum rural by way of a map prepared by the municipality	Public Spaces	Open	
		Private Spaces	Open	
		Urban small holdings		
		Intensive urban agriculture areas		
		Subsistence urban agriculture areas		
		1:100 Year flood plains		
		River corridors		
		Wetlands		
		Community facilities (excluding sports facilities and stadia)		

		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 as maximum urban by way of a map prepared by the municipality		

SCHEDULE 2

BILLBOARDS

1. Subject to approval in terms of this By-law, the erection or display of Billboards, whether custom made or of standard design, is permitted only in areas of minimum and partial control. In addition Billboards must:

- (a) if the proposed erf where the billboards are to be erected borders on class 2 and 3 roads the billboard may not be placed less than 5 metres from the property's boundary line. If the proposed site of erection of a billboard has been designated as a gateway then no billboards will be permitted within such gateway.
 - (b) comply with the standard conditions of approval set out in this By-law.
 - (c) not encroach over the boundary lien of the property on which it is erected, whether such encroachment is aerial or on ground level.
 - (d) have a minimum clear height of 2,4m and a sign structure which does not exceed a maximum height of 7,5m above natural ground level.
 - (e) not exceed a maximum total size of 6 x 3m (18m²) provided that on any V-shaped structure, two such panels may be permitted.
 - (f) be displayed between the angles of 90° and 60° to the direction of oncoming traffic.
 - (g) be spaced a minimum distance apart as specified in section 9 of this by-law.
 - (h) if located at signalized traffic intersections : may not be erected or displayed within 50 metres of the perimeter of the intersection if unilluminated; and within 80 metres of the perimeter of the intersection if illuminated.
 - (i) if erected along the right hand side of a section of road, such that its graphics are visible to a driver traveling on the left hand side of the road, shall be deemed to have replaced the advertising opportunity that existed on the left hand side of the road.
 - (j) have a minimum letter or number height of 285mm.
2. The information content of a proposed advertisement will be measured in "bits". In calculating the information content of a proposed advertisement, the bit weights shown in the table below must be used.
 3. The total bits in a proposed advertisement may not exceed 15.
 4. No tri face signs are allowed.

ELEMENTS OF THE ADVERTISEMENT		BITS 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 9m ²	0.5
	between 9 and 18m ²	1.0
	between 18 and 27m ²	1.5
	larger than 27m ²	2.0

SCHEDULE 3

LOCALITY BOUND FREESTANDING AND COMPOSITE SIGNS

- (1) Subject to approval in terms of this By-law, the erection or display of Locality Bound freestanding and composite signs are permitted only in urban areas of maximum, partial and minimum control and locality bound freestanding signs may only be permitted in the following instances:
- (a) where business premises are set back 15 metres or more from the boundary of the road reserve; or
 - (b) where it is not reasonably possible to affix appropriate signs to a building; or
 - (c) where such a sign is necessary to allow the public to locate the entrance to business premises; or
 - (d) where the existence of a freestanding composite sign may prevent the proliferation of signs.
2. Locality bound freestanding composite signs may not exceed 4,5 metres in height and in addition may not exceed 4,5m² in total area. This provision may be waived to a maximum height of 7,5 metres and a maximum total area of 10m² per side, having regard to the following factors:
- (a) if such increase reduces the number of individual signs facing any one street boundary of the site, thereby minimising the visual impact on the surrounding environment;
 - (b) if more than two significant roads approach the site in question;
 - (c) the number of businesses which will be advertising on such sign;
 - (d) the number of approach or exit routes to the site in question;
 - (e) the applicable zoning of the area surrounding the site in question.
3. Service Station freestanding signs must be locality bound and may only be erected or displayed at service stations adjacent to and directly accessible from the public road at which such a sign is directed and only one Service Station freestanding facility sign per street boundary may be permitted.
4. Service station freestanding signs may not exceed 7,5 metres in height and may not consist of more than eight advertising panels of 4,5m² each in total area. The provisions of this section may be waived to a maximum height of 16 metres and eight advertising panels not exceeding 6m² each in total area having regard to the factors mentioned in item 2 above. In areas of maximum control the maximum height is 4,5 metres and an area of 7,0m² on each side.

SCHEDULE 4

SIGNS ATTACHED TO WALLS OF BUILDINGS: FLAT AND PROJECTING SIGNS

Subject to approval in terms of this By-law, the erection or display of flat and projecting signs are permitted in all areas of maximum, partial or minimum control. In addition, flat and projecting signs may:

1. not be allowed within 0,6 metres of the edge of a roadway nor may it extend to within 0.6 metres of the edge of a roadway.
2. not project in front of a wall more than 1,5 metres in the case of a sign which has a clear height of more than 7,5 metres or more than 1 metre in the case of any lesser clear height.
3. not project more than 250mm over a footway unless such sign has more than 2.4 metres clear height.
4. not obstruct the view from any window or any other 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.
5. not exceed 54m² in total area and may not exceed one-quarter of the overall area of the surface to which they are affixed or painted whichever is the lesser. This size restriction may be waived on condition that:

- (a) an Environmental Impact Assessment be submitted to the municipality indicating no detrimental environmental impact is envisaged;
 - (b) if it is proposed to erect or projecting sign in a conservation area, a Heritage Impact Assessment be submitted indicating no detrimental impact in respect of Heritage resources is envisaged; and
 - (c) only graphics designed and created by a suitably qualified consultant be displayed on such sign;
6. be considered for approval on blank common boundary facades of non-residential buildings.
7. if the sign appears on public facades of any building-
- (a) be so designed as to become an integral part of the building design; and
 - (b) when third party, only be permitted if custom-made and subject to the requirements of 5(a) to (c) above.

SCHEDULE 5

SKY SIGNS

1. Subject to approval in terms of this By-law, the erection or display of sky signs whether custom made or of standard design, is permitted in areas of minimum control only. In addition, sky signs must:
 - (a) be limited to a maximum total size of 4,5m², provided that this size requirement may be waived up to a maximum of 18m² upon receipt of an Environmental Impact Assessment indicating no detrimental environmental impact is envisaged; and
 - (b) not obstruct the view from any other building.
2. Sky signs along the top edge of the roof of cultural, historic or architecturally significant buildings will only be permitted if they are locality bound, unilluminated and consist of individual cut-out letters or logos.
3. The information content of a proposed advertisement will be measured in "bits". In calculating the information contents of a proposed advertisement, the bit weights shown in the table below should be used.
4. The total bits in a proposed advertisement may not exceed 15.

ELEMENTS OF THE ADVERTISEMENT		BITS 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 9m ²	0.5
	between 9 and 18m ²	1.0
	between 18 and 27m ²	1.5
	larger than 27m ²	2.0

SCHEDULE 6

ROOF SIGNS

1. Subject to approval in terms of this By-law, the erection or display of roof signs is permitted in all urban areas of control except areas zoned for residential purposes in areas of maximum control. In addition:
 - (a) The total area of any roof sign affixed flush onto or painted onto a roof of a building may not exceed one-quarter of the overall area of the roof to which it is affixed or painted.
 - (b) When attached to the bottom edge of a roof or vertically midway on the roof of a building, such sign may not exceed 1metre in height and its total area may not exceed 25% of the roof area to which it is affixed.
2. It shall be permissible to affix a roof sign along the edge of a roof of a building, if such sign is composed of a single line of individual, cut-out letters, without visible bracing or support but may not be erected along more than two edges of such roof and may not exceed 3,6m² in total area (6 x 0,6m); with a maximum height of 1metre.

SCHEDULE 7

SIGNS ON A VERANDAH, BALCONY, CANOPY, SUPPORTING COLUMNS, PILLARS AND POSTS

Subject to approval in terms of this By-law, the erection or display of signs on a verandah, balcony, canopy, supporting columns, pillars and posts may be permitted in all areas of control on condition that they also comply with the following:

1. No such signs will be allowed on or over architectural features of buildings.
2. Such signs may be affixed flat onto or painted on a parapet wall, balustrade or railing of a verandah or balcony, and beam or fascia of a verandah or balcony.
3. The sign may not exceed 1m in height or project above or below or beyond either end of the surface to which it is affixed, or project more than 250mm in front of the surface to which it is affixed or project over a roadway or within 0,6 metres of the edge of the roadway.
4. Such signs may be affixed flat onto or painted on supporting columns, pillars and posts. In this regard, no sign may project more than 50mm in front of the surface to which it is affixed and may not extend beyond any of the extremities of such column, pillar or post. Signs affixed flat onto non-rectangular supporting structures must be curved to fit the form of such structure.
5. Only one sign per column, pillar or post will be allowed.
6. Such signs suspended below the roof of a verandah, canopy or the floor of a balcony may not exceed 1,8 metres in length or 600mm in height.
7. Every such sign must be at right angles to the building line.
8. No signs suspended under a canopy may extend beyond the external edge of the canopy or verandah to which it is attached.
9. All suspended signs must have a clear height of at least 2,4 metres.
10. Such signs on the roof of a verandah, canopy or balcony, excluding the main roof of a building, must be composed of a single line of freestanding individual, cut-out silhouette letters without visible bracing or other visible means of support and may not be erected along more than two edges of such roof of a verandah or balcony.

SCHEDULE 8

SIGNS ON BOUNDARY WALLS AND FENCES AND ON CONSTRUCTION SITE HOARDINGS

Subject to approval in terms of this By-law, the erection or display of signs on boundary walls and fences is permitted only for locality bound signs in urban areas of maximum, minimum or partial control and in addition:

1. In urban areas of maximum and partial control, the municipality may approve an application to affix a locality bound sign against a boundary wall only if the sign is indented into the wall or composed of individual, unilluminated cut-out letters or symbols fixed flat on such wall not projecting more than 50mm from the face of such wall.
2. In areas of minimum control, the municipality may approve-
 - (a) an application to affix a locality bound sign flat onto a boundary wall only if it does not project more than 50mm from the face of such wall; and
 - (b) an application to affix a locality bound flat sign with a maximum size of 0,5m² onto the permanent fence of an erf.
3. Third party and locality bound advertising on construction site hoardings and fences must comply with the following conditions:
 - (a) any one sign may not exceed a vertical dimension of 3 metres and total area of 18m² and in the case of construction site cladding, the graphic must comply with the requirements of the Advertising Standards Association of South Africa.
 - (b) any such sign may not project more than 100mm in front of the hoarding or fence to which it is affixed;
 - (c) it may not be illuminated in areas of maximum and partial control; and
 - (d) advertising will not be allowed on construction site hoardings and fences within the cone of vision of motorists at signalised traffic intersections.

SCHEDULE 9

HEADLINE POSTERS

Subject to approval in terms of this By-law, the erection or display of headline posters is permitted in all areas except natural and rural areas of maximum control. In addition:

1. Headline posters may not exceed 0,9m x 0,6m in area.
2. The commercial content of the poster may not exceed 20% of the area of the poster nor may such commercial lettering be larger than the main lettering in the remainder of the poster.
3. The posters may be attached to Municipal electrical light poles only where approved by the municipality for the express purposes of these posters.
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, wall, fences, trees, rocks or other natural features.
5. Headline posters may not be pasted on municipal electric light poles but are to be mounted on board and affixed securely with stout string or plastic ties unless a permanent frame has been approved for this purpose.
6. Only one headline poster per pole, regardless of which newspaper group it is, will be permitted.
7. The number of posters as well as the designated areas for the display of headline posters as approved by the municipality must be strictly adhered to.
8. All "special events" posters are to comply with the following:
 - (a) the name of the newspaper group, the "special event" and the date of the "special event" must appear on the posters in letters not less than 50mm in height;
 - (b) the special event posters may not be displayed more than 7 days before the date of the event and they must be removed within 24 hours after the date of the event shown on the poster.
9. Headline posters and fastenings are to be removed on a daily basis failing which the posters will be removed, at the newspaper group's expense, in accordance with the standard charges for removal of posters.
10. The municipality may recover the costs of the removal of unauthorised posters, and the reinstatement of the surface from which such posters were removed, from the person responsible for the display of such posters or the newspaper group concerned.
11. The municipality may remove any poster displayed in contravention of the abovementioned conditions.
12. Any poster not removed on a daily basis or a poster relating to a "special event" by due date referred to in item 8(b) may be removed by the municipality.
13. The display of unauthorised posters is illegal and the municipality may also remove such posters.
14. The municipality may determine the costs involved for the removal of unauthorised posters..
15. Application must be made on an annual basis by each newspaper group for permission to display such posters subject to an annual fee per newspaper group.
16. A deposit per newspaper group who wishes to display posters must be paid annually against which a charge for the removal of any poster which contravenes the By-law will be levied. In the event of the above deposit being exhausted, permission to display such poster may be withdrawn until a further deposit is submitted to the municipality.

SCHEDULE 10

BANNERS, FLAGS AND BALLOONS

Subject to approval in terms of this By-law, the erection or display of banners and flags other than those referred to in Schedule 11, or balloons is permitted in all areas except natural and rural areas of maximum control. In addition:

1. Approval for third party advertising on banners, flags and balloons may only be granted for a function or event conducted for religious, educational, social welfare, animal welfare, sporting, civic or cultural purposes or to a function or event relating to a Municipal, Provincial or Parliamentary election or referendum.
2. The display of banners, flags and balloons is prohibited on any bridge or across any public road, and along any road designated by the Municipality, unless consent has been obtained from the Municipality.
3. Banners, flags and balloons may not be attached so as to interfere with or constitute a danger to passing pedestrians of vehicular traffic.
4. No banner, flag or flag-type banner may be larger than **5m²**, and no flagpole may exceed a relevant height restriction of the zoning of the premises, up to a maximum of **8m** above natural ground level, measured directly below the pole;
5. No banner, flag, or balloon may be displayed within 30 metres of any road traffic sign or traffic signal.
6. Banners, flags, or balloons are not to be affixed to trees, traffic signal poles, electrical or service authority distribution boxes, or other poles which carry road traffic signs, rock, other natural features, street furniture or other Municipal property.
7. Banners, flags, or balloons may not be affixed in such a way that they unfairly prejudice other businesses or

- organisations or obscure any approved existing signs.
8. Only one banner per premises will be permitted unless the Municipality's written permission is obtained for more than one.
 9. (i) A maximum of **five** flagpoles bearing national flags may be erected on the premises of an accommodation facility on a single residential erf;
 - (ii) Subject to the conditions laid down in paragraph 4, a maximum of **three** flags displaying the name, corporate symbol and nature of the premises on which it is displayed, may be allowed.
10. Banners, flags and balloons not kept in a good condition may not be displayed and must be removed if notified in writing by the municipality.

SCHEDULE 11

TEMPORARY POSTERS, BANNERS AND FLAGS ON PUBLIC ROADS AND PUBLIC PLACES

Subject to approval in terms of this By-law, the erection or display of temporary posters, banners and flags in public roads or public places, for the purpose of advertising specific events, is permitted in all areas of control except natural and rural areas of maximum control. In addition-

1. The name of the host organisation, the date and venue must appear on the material in letters not less than 50 mm in height.
2. Posters, banners and flags may only be erected to advertise the event and the name or emblem of a sponsor may not cover more than 20% of the surface of the material.
3. The Municipality may levy a tariff to cover the cost for the removal of material which have been erected without the approval of the Municipality given under the hand of an authorized official.
4. Posters, banners and flags may be displayed for a maximum period of fourteen days prior to the event and must be removed within 2 days from the date of the event or the last day thereof as applicable.
5. Posters with a maximum measurement of 80 cm x 50 cm must be mounted on a board and affixed securely with stout string or plastic fastening without damage caused to the poles. No securing material with a metal content is permitted.
6. Posters, banners and flags, excluding election posters and flags, may only be erected in the roads, or places as indicated by the Municipality and may not be erected in residential areas or on bridges. No political banners will be allowed.
7. Only one poster or flag per organisation may be erected on every second streetlight pole.
8. Posters and flags must be erected at a uniform height of approximately 2 metres.
9. No posters, banners or flags may be affixed to trees, traffic signs, traffic signals, central ridges, existing advertising signs or any municipal buildings or over hydrant identification signs.
10. No posters, banners and flags may be displayed within 30 metres of any road traffic sign or traffic signal.
11. All materials used to affix the posters must be removed together with the posters.
12. The Municipality may remove any indecent or torn posters, banners or flags, or any posters, banners or flags which create a traffic hazard in the opinion of the Municipality.
13. The Municipality is exempted from claims that may be instituted against the municipality as a result of the display of posters, banners and flags.
14. The display of posters, banners and flags purely for commercial advertising is not permitted, provided that any poster, banner or flag which relates to a sport, the arts, or cultural event may be permitted, despite such posters, banners or flags containing commercial elements. The commercial element may not exceed 20% of the extent of the poster, banner or flag.
15. Organisations or persons who obtained approval to display posters or flags must pay a deposit as determined by the municipality, which shall entitle that person to display the said poster or flag for a maximum period of 14 days, or such time as stipulated by the Municipality. No poster or flag may be displayed without such deposit having been paid.
16. The Municipality may remove or request the applicant to remove all posters or flags should any of the above conditions not be complied with.
17. Posters or flags that are not removed by the due date may be removed by the Municipality in which case the deposit paid in terms of item 15 will be forfeited to the Municipality.
18. Banners will be erected or removed by the municipality at a rate as approved from time to time and the banner must comply with the specifications as laid down by the Municipality.

SCHEDULE 12

ESTATE AGENT SIGNS

Subject to approval in terms of this By-law, the erection or display of estate agent signs is permitted in all areas except natural areas of maximum control. In addition:

1. Advertising signs by estate agents may not be displayed unless written approval for a sole mandate or dual

mandate has been obtained from the owner of property on which such signs are erected.

2. "Show House" signs may be displayed only from 12h00 on Friday to 20h00 on Sundays or on Thursdays and Mondays where either the Friday following the Thursday, or the Monday or both are public holidays.
3. Estate Agent signs may not be affixed to trees, traffic signals, street poles or other poles which carry road traffic signs, walls, fences, rocks, other natural features or landscaped areas, street furniture, or other Municipal property, unless such other display is authorised by the municipality in writing.
4. On each sign, the wording "On Show", "Show House", "Show Flat" or "Show Plot" with the Agency's name and directional arrow must be displayed.
5. Signs may be displayed on stakes making use of a design approved by the municipality. Estate Agent signs may not be displayed on concrete, premix or paved surfaces. It is not permissible for stakes to penetrate the ground deeper than 15cm.
6. Estate Agent signs may not exceed 0,3m² in total area.
7. A maximum of one "For Sale" sign per estate agency may be displayed at single residential premises, except at a corner stand where two signs may be displayed; provided further that a maximum of six "For Sale" signs may be displayed simultaneously at such residential premises.
8. Estate Agent signs may not be displayed along Scenic Drives or on any bridge, public park or public open space.
9. A maximum of ten directional signs per show house / flat / plot may be displayed along class 2 or 3 roads, excluding roads referred to in item 7 above.
10. No Estate Agent sign may obscure a road traffic sign.
11. No Estate Agent sign may be erected on center islands.
12. No Estate Agent sign may be erected in such a way that any part of it is closer than 1,5m from a road verge.
13. Directional signs may be displayed along main routes only, being the shortest route from a main road to the property.
14. No Estate Agent signs may be erected on any tarred area of pavements.
15. "Sold" / "For Sale" / "To Let" signs may be erected flush against the fence or wall of the property.
16. "Sold" signs may be displayed flush against the fence or wall of the property for a maximum period of one month only.
17. No signs indicating anything other than property for sale may be erected or displayed by Estate Agents.
18. Estate Agencies must apply annually for permission to display Estate Agent signs and approval may be subject to payment of an annual fee in accordance with the municipality's Schedule of Tariffs.
19. A deposit may be required by the municipality against which a charge for the removal of any sign which contravenes the By-law will be levied. In the event of the above deposit being exhausted, permission to display such signage may be withdrawn until a further deposit is paid to the municipality.
20. Any Estate Agent sign unlawfully erected, or in contravention of the provisions of this Schedule, will be subject to a charge by the municipality; in the event of the said sign not being removed by the municipality, photographic evidence of the unlawful sign may be obtained by the municipality prior to levying the said charge.

SCHEDULE 13

LOOSE PORTABLE SIGNS

Subject to approval in terms of this By-law, the erection or display of loose portable signs is permitted in areas of minimum and partial control as well as designated areas within urban areas of maximum control. In addition:

1. Loose portable signs may not be placed in a road reserve or in public open spaces without the written permission of the municipality.
2. The municipality may remove and impound loose portable signs placed without permission in a road reserve or on Municipal property. Owners can recover their signs on payment of the prescribed fee as determined the municipality which will be used to defray the cost of removal, storage and transportation.
3. The following criteria will apply in respect of an application in terms of item 1:
 - (a) that it does not pose a hazard in terms of safety to the public;
 - (b) that it does not obstruct or cause inconvenience to the public either by its physical size or location;
 - (c) that it does not unfairly prejudice other traders;
 - (d) that the loose portable sign or proposed number thereof does not detract from the amenity of the local streetscape or local environment;
 - (e) that it is intended solely to advertise the name of the business, goods or services for sale from the advertiser's premises;
 - (f) that the maximum dimensions of the proposed loose portable sign must be 1,2m (height) x 0,6m (width).
 - (g) that it may be placed directly in front of the advertiser's premises, provided that the above criteria are met; and

- (h) that a minimum clear footway width of 1,8 metres must remain clear and 2,5 metres in the central business district and sidewalks with high pedestrian volumes.
4. The municipality may demarcate areas within the road reserve or on municipal property where, during normal trading hours, applicants may then place the approved loose portable signs. The said signs must be removed outside normal trading hours and stored away from public view.
 5. The municipality may levy tariffs for displaying the loose portable signs, which tariffs shall be payable in advance for a maximum period of six months.
 6. Applicants will be required to indemnify the municipality against any claims from third parties that may arise, due to the placement of loose portable signs within the road reserve or on municipal property.
 7. Notwithstanding the above, the municipality may cause the removal or impoundment of the sign or signs should the applicant contravene any of the above conditions.

SCHEDULE 14

AERIAL SIGNS

Subject to approval in terms of this By-law, the erection display of aerial signs is permitted only in urban areas of partial or minimum control. In addition:

1. No aerial signs affixed to any building or structure may be flown at a height of more than 45 metres from the surface measured from ground level.
2. Aerial signs may not be flown above a public road.

SCHEDULE 15

TRANSIT ADVERTISING

Subject to approval in terms of this By-law, the erection or display of transit signs is permitted only in urban areas of partial or minimum control. In addition:

1. The parking of a transit sign which is visible from a public road or a public place for the purpose of third-party advertising is prohibited, except if it is displayed on a designated display site approved in terms of this By-law.
2. Transit signs parked on private property for the purpose of storage must be positioned in such a manner as not to be visible from a street or public place.
3. The advertising panel or portion of the vehicle used for transit advertising may not exceed a cumulative total of 18m² in areas of partial control, which size may be increased to a maximum size of 36m² in areas of minimum control.
4. The municipality may designate sites in areas of partial and minimum control for transit advertising and may publish notices indicating such sites.
5. Notwithstanding any provisions of this By-law, the municipality may, without prior notice remove any unauthorised transit signs from municipal property, and, in the case of unauthorised transit advertising on private property, the municipality may serve a notice ordering the removal thereof in terms of this By-law.
6. Transit signs must be fixed to the ground at the parking location.

SCHEDULE 16

SIGNS ON MUNICIPAL LAND OR BUILDINGS

1. No sign may be displayed or erected on municipal land or buildings without the written permission of the municipality.
2. The following specific conditions and criteria will apply to the signs mentioned in items (a) to (c) below:
 - (a) *Commercially sponsored signs other than those in section 13(10)*
Notwithstanding the area of control within which it is proposed to erect a commercially sponsored sign on municipal land or buildings, and subject to compliance with all other provisions of this By-law, the municipality may consider a commercially sponsored sign for approval, subject to the following:
 - (i) community needs or goals must be identified or adopted by the municipality and if such needs can be addressed either entirely or in part by the granting of concessions to particular persons for the erection of commercially sponsored signs, the municipality may call for public input on such community needs or goals and the related advertising opportunity.
 - (ii) in order to identify such community needs or goals, the municipality and other interested authorities must consult prior to proposals being invited, so as to establish conditions, criteria and constraints in respect of such advertising.

- (iii) the municipality's Supply Chain Management Policy will apply.
- (iv) that any proposal be evaluated on the following factors:
 - (aa) the adherence to the principles of this By-law;
 - (bb) the design contribution;
 - (cc) the best community benefit offered;
 - (dd) the creativity and public safety;
 - (ee) the permanence of the contribution to the community goals or needs; and
 - (ff) the recovery cost over the period of the erection of the sign as opposed to the largest advertising opportunity or financial gain.
- (v) when contributions in kind are to be recovered by the municipality, a conversion thereof to a monetary contribution to the municipality's income base will be assessed.
- (vi) the municipality, as landowner, reserves the right not to proceed with any proposal prior to final approval thereof and the call for invitations for proposals in any respect shall not be regarded as decision by the municipality to proceed with the erection of a sign in respect of a specific site.
- (vii) once accepted, any sign to be erected in terms of this schedule must be the subject matter of a written agreement between the municipality as landowner and the person responsible for the erection of the sign.

(b) *Sponsored signs*

Notwithstanding the area of control within which it is proposed to erect such a sign on Municipal owned land or buildings and subject to compliance with all other provisions of the By-law, the municipality may consider a sponsored sign for approval on condition that:

- (i) written detail which clearly indicates the recognised community goals which will be promoted by the erection or display of the proposed sign;
- (ii) signs with a political content will not be permitted;
- (iii) no more than 5% of the total surface of the sign is used for third party advertising.
- (iv) the maximum size of any such sign will be 6m x 3m; provided in the event of a V-shaped sign where the size may not exceed two panels of 6m x 3m each.
- (v) applications for billboards to be erected in terms of this section comply with the requirements as set out in Schedule 2.
- (vi) no sign erected in terms of this clause be located within 5 metres of a property's boundary line.

(c) *Non-profit body signs*

Notwithstanding the area of control within which it is proposed to erect a sign, and subject to compliance with all other provisions of this By-law, the municipality may consider the erection of a sign by or for the benefit of a non-profit body subject to compliance with the requirements set out in Schedule 17 hereto.

SCHEDULE 17

SIGNS ERECTED BY OR FOR THE BENEFIT OF NON-PROFIT BODIES

1. Notwithstanding the area of control within which it is proposed to erect a sign by or for the benefit of a non-profit body, and subject to compliance with all other provisions of this By-law, the municipality may consider such a sign for approval subject to the following:
 - (a) written details from the host non-profit body regarding the nature and extent of the support to be received from the erection or display of the sign must be delivered to the municipality together with the other information set out in section 3 of this By-law;
 - (b) the extent of involvement of previously disadvantaged communities, small businesses, job creation and empowerment will be considered in any proposal;
 - (c) that any proposal be evaluated on the following factors:
 - (i) the adherence to the principles or provisions of this By-law;
 - (ii) the design contribution;
 - (iii) the best community benefit offered;
 - (iv) the creativity and public safety; and
 - (v) the permanence of the contribution to the community goals or needs as opposed to the largest advertising opportunity or financial gain.

- (d) in the event of it being proposed that the said sign will be erected on municipal property:
 - (i) the municipality must evaluate the proposal;
 - (ii) the municipality as landowner reserves the right not to proceed with any proposal prior to final approval thereof; and
 - (iii) if accepted, a written agreement between the municipality, the person responsible for the erection of the sign and the non-profit body must be entered into.
- (e) In addition the following conditions will apply:
 - (i) signs with a political content will not be permitted;
 - (ii) the maximum size of any such sign is 6m x 3m; provided in the event of a V-shaped sign being proposed, its maximum size will not exceed two panels of 6m x 3m each;
 - (iii) applications for billboards to be erected in terms of this section must comply with the requirements as set out in Schedule 2;
 - (iv) no sign erected in terms of this clause may be located within 5 metres of a property's boundary line;
 - (v) the name of the non-profit body must be displayed on the sign with a maximum 300mm lettering height;
 - (vi) all parties that may be affected by the erection or display of such sign must be given opportunity for their input;
 - (vii) the municipality may require submission of impact assessment studies; and
 - (viii) no more than two individual signs of 6m x 3m each may be permitted, or alternatively one V-shaped sign with a maximum of two panels of 6m x 3m each on any one property. In addition, only one sign per street frontage will be permitted.

HESSEQUA MUNISIPALITEIT

VERORDENING INSAKE BUITEREKLAME EN ADVERTENSIE TEKENS

Ooreenkomstig die bepalings van artikel 156 van die Grondwet van die Republiek van Suid-Afrika, 1996, bepaal die Hessequa Munisipaliteit as volg:-

Inhoudsopgawe

1. Woordomsrywings
2. Beginsels en doelwitte

HOOFSTUK 1: INDIENING VAN AANSOEKE, GELDE EN ALGEMENE FAKTORE BY OORWEGING VAN AANSOEKE, WYSIGINGS EN VOORWAARDES VIR GOEDKEURING, FAKTORE MET BETREKKING TOT SPESIFIEKE TEKENS, GEBIEDE VAN BEHEER EN KOMMERSIEEL GEBORGDE TEKENS

3. Indiening van aansoeke
4. Gelde en algemene faktore by oorweging van aansoeke, wysigings en voorwaardes vir goedkeuring
5. Faktore met betrekking tot spesifieke tekens, gebiede van beheer en kommersieel geborgde tekens

HOOFSTUK 2: STANDAARDVOORWAARDES VIR GOEDKEURING, VEREISTES EN GOEDKEURING

6. Standaard voorwaardes vir goedkeuring
7. Elektriese vereistes
8. Verligtingsvereistes
9. Verkeersveiligheidsvereistes
10. Regsvereistes
11. Goedkeuring

HOOFSTUK 3: ALGEMENE BEPALINGS

12. Appèl
13. Tekens waarvoor die munisipaliteit se goedkeuring nie vereis word nie
14. Ontsiering
15. Skade aan munisipale eiendom
16. Toegang en inspeksies
17. Misdrywe
18. Vermoedens
19. Afdwinging en verwydering van tekens
20. Betekening van kennisgewings
21. Skakelforums in gemeenskappe
22. Landdroshof jurisdiksie
23. Vrystellings
24. Herroeping van verordeninge
25. Oorgangsbepalings
26. Kort titel en inwerkingtrede

BYLAES

- Bylae 1: Gebiede van beheer
Bylae 2: Aanplakborde
Bylae 3: Liggingegebonde vrystaande en samegestelde tekens
Bylae 4: Advertensies wat op mure van geboue aangebring word (plat- en uitsteektekens)
Bylae 5: Kimtekens
Bylae 6: Daktekens
Bylae 7: Tekens op 'n veranda, balkon, sondak, steun kolomme, pilare en pale
Bylae 8: Tekens op grensmure, heinings of bouterreine
Bylae 9: Plakkate met koerantopskrifte
Bylae 10: Baniere, vlag en ballonne
Bylae 11: Plakkate
Bylae 12: Eiendomsagenttekens

Bylae 13: Los draagbare tekens

Bylae 14: Lugtekens

Bylae 15: Transitoreklame

Bylae 16: Tekens op munisipale grond /geboue

Bylae 17: Tekens deur of vir nie-winsgewende liggame

1. Woordomsrywings

In hierdie verordening, tensy uit die samehang anders blyk, beteken:

“aanplakbord” enige vrystaande skerm of bord wat groter as 4,5m in totale omvang is; wat ondersteun word deur of uit ‘n struktuur bestaan wat gebruik word vir die aanplak, vertoon of wys van ‘n teken.

“advertensie” enige verteenwoordiging van ‘n woord, naam, letter, syfer of voorwerp of ‘n afskorting van ‘n woord of naam, of enige simbool; of enige lig wat nie uitsluitlik vir verligting of as ‘n waarskuwing teen enige gevare bedoel is nie en **“reklame”** het ‘n soortgelyke betekenis.

“banier” enige materiaal waarop ‘n teken op so ‘n wyse vertoon word dat dit in windstil toestande ten volle leesbaar is, vasgeheg aan een of meer toue, pale of vlagpale wat vertikaal, horisontaal of teen ‘n hoek uitsteek, of aan geboue of spesiale strukture bevestig is, maar sluit nie baniere in wat as deel van ‘n optog gedra word nie. ‘n Vlag wat nie op ‘n goedgekeurde vlagpaal vertoon word nie, word vir die doeleindes van hierdie verordening, ‘n banier geag te wees.

“bestaande teken” enige teken wat voorheen deur die munisipaliteit goedgekeur is.

“beweegbare teken” ‘n teken wat nie permanent bevestig is nie en nie bedoel is om in een posisie bevestig te bly nie, maar sluit nie enige bewegende deel op ‘n permanent bevestigde teken in nie.

“dakteken” ‘n teken wat op die dak van ‘n gebou aangebring is waar die boonste rand van enige punt van daardie teken nie die hoogte van die dakvlak waarop dit aangebring is, oorskry nie.

“derdeparty reklame” die reklame van goedere of dienste wat nie vervaardig, verkry, verkoop of afgelewer word vanaf die eiendom waarop die teken of teken wat daardie goedere of dienste adverteer, aangebring of geplaas is nie, en sluit reklame in wat nie liggingsgebonde is nie.

“diensstasie fasiliteit teken” ‘n vrystaande teken by petrol vulstasies, rus- en diensplekke langs die pad en sluit diensstasie-piloon tekens in.

“dikte” met betrekking tot ‘n uitsteekteken, die wydte van sodanige teken parallel gemeet met die vlak van die hoofmuur waarop sodanige teken aangebring is.

“doelgemaakte ontwerp” die ontwerp van enige teken met spesiale effekte soos spesialis karakteruitsnedes of figure of driedimensionele voorstellings of bewegende dele of ‘n kombinasie daarvan, en wat uniek vir oprigting op ‘n spesifieke plek ontwerp of gebou word.

“driedimensionele teken” ‘n teken wat meer as 2 dimensies bevat, insluitende produk replikas.

“eiendomsagentskap” ‘n persoon wat eiendomme bemark of verkoop met of sonder geboue wat daarop opererig is en **“eiendomsagent”** het ‘n ooreenstemmende betekenis.

“elektroniese teken” ‘n teken met ‘n elektronies beheerde, verligte oppervlak wat toelaat dat die hele teken of ‘n gedeelte daarvan op verskillende maniere verander of verlig kan word.

“erfenisimpakbeoordeling” (EIB) ‘n visuele beoordeling van die impak wat enige voorgestelde teken op die kulturele erfenis kan hê, hetsy gebou of erken by die plek waar die voorgestelde teken vertoon sal word.

“gebiede van beheer” daardie gebiede wat in Bylae 1 van die verordening uiteengesit word; en wat van tyd tot tyd verander of gewysig kan word, welke veranderinge en wysigings grafies uitgebeeld moet word by wyse van kaarte wat deur die munisipaliteit saamgestel sal word.

“geborgde teken” ‘n teken waarvan die primêre doel nie die advertering van goedere of dienste is nie maar wat ‘n grafika of inhoud vertoon wat gemeenskaps- of openbare bewustheid van ‘n erkende openbare- of gemeenskaps doelwit bevorder.

“gemeenskaplike grensfasade” enige fasade van ‘n gebou wat aangrensend aan die agterkant of sygrens van ‘n erf gebou word en welke fasade blind is, naamlik dat dit geen argitektoniese kenmerke, insluitende vensters, het nie.

“geprojekteerde teken” enige teken wat deur ‘n laserprojektor, videoprojektor of ander apparaat geprojekteer word.

“gesinjaleerde verkeerskruising” ‘n kruising wat deur verkeerseine beheer word.

“goedkeuring” goedkeuring deur die munisipaliteit en **“goedgekeur”** het ‘n ooreenstemmende betekenis.

“grafika” sluit enige komponent in wat tot die visuele voorkoms of estetika van ‘n teken bydra, insluitende die agtergrond daarvan, maar is nie daartoe beperk nie.

“handelsreklame” enige woorde, letters, logos, syfers, simbole, prentjies wat met die naam van ‘n besigheid, bedryf, vennootskap of individu verband hou, of enige inligting, aanbeveling of waarskuwing ten opsigte van enige bepaalde goedere wat vervaardig of verkoop word, of enige bepaalde dienste wat gelewer of aangebied word, of enige gebeurtenis vir handel of vermaak, insluitende sportbyeenkomste.

“hoofopskrif plakkaat” ‘n tydelike plakkaat wat die inhoud van ‘n dagblad of weeklikse koerant adverteer.

“hoogte van ‘n teken” word bereken deur die vertikale afstand tussen die boonste en laagste gedeeltes van die reklame paneel te meet.

“intern verligte teken” ‘n teken of struktuur wat gebruik word om ‘n teken te vertoon wat van elektriese of ander krag voorsien is en ‘n kunsmatige ligbron het wat ten volle of gedeeltelik in die struktuur of teken ingesluit is en welke lig bedoel is om die teken of ‘n gedeelte daarvan te verlig.

“kimteken” ‘n teken waarvan die boonste rand van enige punt daarvan die hoogte van die dakvlak waarop dit aangebring is, oorskry.

“klas 2 paaie” paaie wat die primêre netwerk vir die stedelike gebiede as geheel verskaf en wat gekenmerk word deur hoë volumes, beperkte toegang en redelike hoë spoed;

“klas 3 paaie” paaie wat verkeer versprei tussen die primêre residensiële- industriële en sakegebiede van die dorp en wat die skakel vorm tussen die primêre netwerk (klas 2 paaie) en die paaie binne residensiële gebiede;

“kommersiële geborgde teken” ‘n teken wat goedere of dienste adverteer, maar waarvan die oprigting ‘n tweede doel dien, naamlik om een of ander erkende openbare of gemeenskapsdoelwit- of funksie te bevorder of daartoe by te dra.

“konsultant” ‘n paslik gekwalifiseerde onafhanklike persoon of maatskappy wat namens of as agent optree van ‘n aansoeker om goedkeuring van ‘n teken ingevolge hierdie verordening.

“liggingsgebonde reklame” enige teken wat op ‘n spesifieke erf, perseel of gebou vertoon word en kan ‘n teken op grond in munisipale besit insluit wat naby, of aangrensend aan, of binne 5 meter vanaf die voorgenoemde erf, perseel of gebou is, welke teken na ‘n aktiwiteit, produk, diens of attraksie verwys wat op of van daardie erf of daardie perseel verskaf of voorsien word;

“los draagbare teken” ‘n vrystaande liggingsgebonde kennisgewing of reklamestruktuur wat in ‘n padreserwe of openbare oop ruimte geplaas of opgerig word.

“lugteken” ‘n teken wat in die lug vertoon of uitgevoer word, insluitende maar nie beperk nie tot ballonne en ballonskepe wat vanaf die munisipaliteit se regsgebied gesien kan word.

“munisipaliteit” die Hessequa Munisipaliteit gestig in terme van Artikel 12 van die Munisipale Strukturewet, 117 van 1998, en sluit in enige politieke struktuur, politieke ampsbekleder, raadslid, behoorlik gevolmagtigde agent daarvan of enige werknemer daarvan handelende ingevolge hierdie verordening uit hoofde van ‘n bevoegdheid van die munisipaliteit wat gedelegeer of gesubdelegeer is aan gemelde politieke struktuur, politieke ampsbekleder, raadslid, agent of werknemer;

“nie-winsgewende liggaam” ‘n liggaam wat hoofsaaklik daargestel is om ‘n gemeenskapsdoelwit of voordeel sonder direkte of persoonlike finansiële wins te bevorder en kan opvoedkundige, sport-, mediese en munisipale departemente, liggame sowel as liefdadigheids- of gemeenskapsorganisasies insluit.

“nuwe teken” enige teken wat vir die eerste keer na die afkondiging van hierdie verordening vertoon word.

“omgewingsimpakbeoordeling” (OIB) ‘n beoordeling wat ingevolge die munisipaliteit se riglyne vir buitereklaame onderneem word.

“ontwikkelingsbord” ‘n teken wat op ‘n perseel vertoon word waar boubedrywighede aan die gang is en met betrekking tot enige dienste verskaf, werk onderneem of goedere wat in verband met sodanige boubedrywighede voorsien word, of verband hou, maar sluit nie kontrakborde vir gebou- en siviele ingenieursprojekte soos vereis ingevolge die Wet op Nasionale Bouregulasies en Boustandaarde, 1977 (Wet 103 van 1977) in nie;

“openbare plek” enige openbare pad, openbare straat, deurgang, brug, duikweg, looppad, sypaadjie, voetpad, voetgang (of soortgelyke voetgangergedeelte van ‘n padreserwe), laan, plein, oopruimte, tuin, park of ingeslote plek wat by die munisipaliteit of ander staatsowerheid berus, of as sodanig op die Landmeter-Generaal se rekords aangedui word, of deur die publiek gebruik word of as sodanig ingevolge die toepaslike soneringskema gesoneer is.

“openbare fasade” enige fasade van ‘n gebou wat argitektoniese artikulasies het en wat sigbaar is vir die publiek.

“openbare pad” ‘n openbare pad soos omskryf in die Nasionale Padverkeerswet 1996 (Wet 93 van 1996).

“padreserwe” die gebied wat binne die statutêre breedte van ‘n pad geleë is, en sluit ryvlakke, skouers en sypaadjies in en die lugruimte bokant sodanige ryvlakke, skouers en sypaadjies en al die ander gebiede binne sodanige padreserwe;

“perimeter van ‘n kruising” die perimeter van die gebied wat ingesluit word by die verlenging van die padreserwelyne van twee of meer openbare paaie wat met enige hoek by mekaar aansluit, hetsy sodanige openbare pad die ander een kruis al dan nie.

“persoon” sluit in:

- a) enige staatsinstelling;
- b) enige maatskappy wat as sodanig ingevolge enige wet ingelyf of geregistreer is; en
- c) enige liggaam van persone, hetsy ingelyf al dan nie, wat as ‘n enkelentiteit vir watter doel ook al funksioneer.

“plakkaat” enige tydelike tekens wat aan die munisipaliteit se elektriese ligpale geheg kan word of op vaste strukture opgeplak word om byeenkomste of veldtogte te adverteer, insluitende verkiesings of referendums van beperkte duur, maar nie tekens wat markte, uitstallings of byeenkomste adverteer wat op ‘n gereelde grondslag gehou word nie;

“plat teken” ‘n teken wat aan ‘n muur van ‘n gebou bevestig of direk daarop geveerf is, maar nie op of oor vensters of deure of argitektoniese artikulasies nie, en wat nêrens meer as 250mm voor die oppervlak van sodanige muur uitsteek nie.

“poortroete” ‘n prominente roete met ‘n ingang tot of uitgang van ‘n spesifieke gedeelte van die munisipaliteit se jurisdiksie, bestaande uit kunsmatige of natuurlike kenmerke wat ‘n sterk sin van aankoms of vertrek skep en in ooreenstemming met stadsbeplannings- of ontwikkelingsraamwerkplanne beleid is en wat geografies uitgebeeld kan word by wyse van kaarte of gelys deur die munisipaliteit;

“reklamestruktuur” enige fisiese struktuur wat ontwerp is om ‘n teken te vertoon.

“ryvlak” daardie gedeelte van ‘n pad, straat of deurgang wat verbeter of vir voertuig verkeer bedoel is soos omskryf in die Nasionale Padverkeerswet, 1996 (Wet 93 van 1996).

“samegestelde teken” ‘n enkel vrystaande reklamestruktuur vir die vertoning van meer as een teken.

“sekuriteitteken” ‘n teken vir buurtwag- en soortgelyke skemas, en ‘n teken wat die naam, logo, adres en telefoonnommer van ‘n sekuriteitsmaatskappy bevat wat gekontraakteer is, of ‘n sekuriteitstelsel wat geïnstalleer is om die perseel waarop die teken vertoon word, te beskerm.

“sone” ‘n grondgebruiksone soos uiteengesit in die toepaslike soneringskema of skemaregulasies soos gewysig van tyd tot tyd en wat van toepassing is op enige erf waarop ‘n teken vertoon word of waarskynlik vertoon sal word en **“sonering”** het ‘n ooreenstemmende betekenis.

“staatsinstelling”

(a) enige staatsdepartement of administrasie in die nasionale, provinsiale of plaaslike sfeer van regering;

(b) enige ander funksionaris of instelling -

(i) wat ingevolge die Grondwet of ‘n provinsiale grondwet ‘n bevoegdheid uitoefen of ‘n funksie verrig; of

(ii) ingevolge enige ander wetgewing ‘n openbare bevoegdheid uitoefen of ‘n openbare funksie verrig.

“stadsgrens lyn” ‘n vooraf bepaalde punt-tot-punt grenslyn soos deur die munisipaliteit bepaal, met die doel om stedelike ontwikkeling te beperk.

“straatnaam tekens” tekens wat op ‘n paal gemonteer en dubbelsydig is, intern verlig of onverligte tekens wat in kombinasie met name van strate vertoon word, en nie 1m² oorskry nie;

“straat uitrusting” openbare fasiliteite en strukture wat nie hoofsaaklik vir reklame bedoel is nie en sluit sitbanke, planthouers, blikke, blikke wat aan ‘n paal gemonteer is, bus-skuilings, sypaadjehorlosies, drinkspuite, Telkom-kaste, verkeersbeheerders, elektrisiteitskaste, posbusse en telefoonhokkies in, maar is nie daartoe beperk nie, met uitsluiting van padverkeerstekens, verkeerseine, straatligte of enige ander padverwante strukture.

“teken” enige 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, aanplakbord asook ‘n teken wat in die argitektoniese ontwerp van ‘n gebou of struktuur ingevoeg is, in.

“totale hoogte”, met betrekking tot ‘n teken, die vertikale afstand tussen die boonste rand van die teken en die afgewerkte vlak van die grond, looppad of rypad onmiddellik onder die middelpunt van die teken.

“transitoreklame” reklame deur middel van ‘n beweegbare teken wat padlangs op of tesame met ‘n gemotoriseerde voertuig vervoer kan word, insluitende sleepwaens wat hoofsaaklik vir reklame gebruik word.

“tydelike tekens” tekens wat vir ‘n maksimum tydperk van 14 dae vertoon word, of sodanige ander tydperk wat deur die munisipaliteit goedgekeur mag word.

“uitsigpad” ‘n pad wat as sodanig in ‘n goedgekeurde soneringskema aangewys is of waarvandaan landskappe of kenmerke van estetiese of kulturele betekenis gesien of besigtig kan word, soos deur die munisipaliteit aangewys.

“uitsteekteken” ‘n teken wat aan ‘n muur van ‘n gebou bevestig word en wat by een of ander punt meer as 250mm voor die oppervlak van sodanige muur uitsteek.

“vensterteken” ‘n teken wat tydelik of permanent op die vensterglas van ‘n gebou geveerf of daaraan bevestig is.

“veranda” sluit ‘n vrydraende sondak en sonblinding in.

“verkeersein” ‘n padverkeersein soos bepaal in die Nasionale Padverkeerswet, 1996 (Wet 93 van 1996).

“verkeersimpakbeoordeling” (VIB) ‘n studie wat deur ‘n geregistreerde professionele ingenieur met bewysbare ondervinding op die gebied van verkeersingenieurswese onderneem is en wat die impak van ‘n voorgestelde teken op voertuig-, voetganger-, fietsryerseiligheid en verkeersbedryf aandui, welke studie enige versagende maatreëls wat as gevolg van daardie impak vereis mag word, aanbeveel.

“verkeersteken” ‘n padverkeersteken soos bepaal in die Nasionale Padverkeerswet 1996 (Wet 93 van 1996).

“vertoon” die vertoon van ‘n teken en sluit die oprigting van enige aanplakbord, teken of struktuur in wat uitsluitlik of hoofsaaklik vir die ondersteuning van ‘n teken of aanplakbord bedoel is, en sluit die vertoon van ‘n teken van ‘n besigheid, handelsvennootskap of individu in wat met die inhoud van die teken of die teken self

verband hou en “**vertoning**” het ‘n ooreenstemmende betekenis.

“**voertuig terminusse**” enige gebied wat deur die munisipaliteit as sodanig aangewys is, waar die formele verwisseling van openbare vervoermiddele deur die publiek plaasvind, insluitende maar nie beperk nie tot aangewese spoorwegstasies, amptelike taxi- en bus terminusse;

“**voortdurende misdryf**” ‘n misdryf ingevolge hierdie verordening wat na die verstryking van die kennis tydperk wat ingevolge hierdie verordening beteken is, voortduur.

“**vryhoogte**” met betrekking tot ‘n teken, die vertikale afstand tussen die laagste rand van die teken en die natuurlike vlak van die omliggende grond, looppad of rypad onmiddellik onder die teken.

“**vrystaande teken**” enige teken of groep tekens wat op een vrystaande struktuur vertoon word of daarin vervat is, welke struktuur nie aan ‘n gebou of enige ander struktuur of voorwerp wat nie vir die primêre doel van reklame beoog word, bevestig is nie.

“**wet**” enige wet, proklamasie, ordonnansie, Wet van Parlement of Provinsiale Wetgewer, of enige ander wetsvoorskrif wat regs krag het.

“**winkel**” ‘n gebou wat vir kleinhandel of -dienste gebruik word.

2. Beginsels en doelwitte

Die doel van hierdie verordening is om buitereklaam in die regsgebied van Hessequa Munisipaliteit te reguleer op ‘n wyse wat sensitief is vir die omgewingsgehalte van die verskillende dele van Hessequa Munisipaliteit. Die verordening poog om ‘n ewewig te vind tussen geleenthede vir buitereklaam en ekonomiese ontwikkeling aan die een kant, en die bewaring van visuele, toeriste-, omgewings- en erfeniskenmerke asook verkeersveiligheid aan die ander kant. ‘n Verdere doel van die verordening is om te verseker dat buitereklaam die integriteit van enige terrein waarop dit vertoon word, respekteer, en die karakter van die plek waar dit vertoon word, aanvul. Die verordening beoog dus om ‘n stel regulasies daar te stel vir die regulering van die gebruik van grond en geboue vir buitereklaam en tekens en vir aangeleenthede wat daarmee verband hou.

HOOFSTUK 1

INDIENING VAN AANSOEKE, GELDE EN ALGEMENE FAKTORE BY OORWEGING VAN AANSOEKE, WYSIGINGS EN VOORWAARDES VIR GOEDKEURING, FAKTORE MET BETREKKING TOT SPESIFIEKE TEKENS, GEBIEDE VAN BEHEER EN KOMMERSIEEL GEBORGDE TEKENS

3. Indiening van aansoek

(1) Behalwe vir die tekens bedoel in artikel 13(3) tot (10) hieronder, mag niemand enige advertensie vertoon of enige teken vir advertensiedoeleindes oprig of gebruik sonder die munisipaliteit se goedkeuring ingevolge hierdie verordening of enige ander toepaslike wetgewing nie.

(2) Elkeen wat voornemens is om ‘n nuwe teken te vertoon of ‘n bestaande goedgekeurde teken te verander of iets daartoe by te voeg of ‘n plan vir tekens ingevolge ‘n terreinontwikkelingsplan indien, moet skriftelik by die munisipaliteit aansoek doen, welke aansoek van die volgende inligting in tweevoud vergesel moet word-

- (a) ‘n terreinplan, geteken op ‘n skaal van nie minder nie as 1:200, wat aantoon- (i) die terrein waarop die teken opgerig of vertoon gaan word;
 - (ii) die posisie van die teken en die gebou, indien enige, waaraan dit bevestig gaan word;
 - (iii) elke gebou en bestaande tekens op die perseel;
 - (iv) huidige en voorgestelde terreinuitleg, verkeerseine en verkeerstekens; en
 - (v) die ligging, met afmetings van die teken in verhouding tot die grense van die terrein en die ligging van die strate aangrensend aan die terrein, tesame met bestaande goedgekeurde soneringsvoorwaardes;
- (b) ‘n tekening wat aan die vereistes van die Wet op Nasionale Bouregulasies en Boustandaarde, 1977 (Wet 103 van 1977) voldoen en voldoende besonderhede toon om die munisipaliteit in staat te stel om die voorkoms van die teken en al die betrokke konstruksiebesonderhede te oorweeg, insluitende ‘n beskrywing van die materiaal waaruit die teken gemaak gaan word, die kleure wat gebruik gaan word, en of die teken verlig gaan word al dan nie; in laasgenoemde geval moet die plan aandui of die teken ‘n elektroniese teken is of nie, en indien wel, moet volledige besonderhede verstrek word;

(3) Die tekening bedoel in subartikel 2(b), moet gedetailleerde tekeninge van sodanige teken insluit op ‘n skaal van nie minder nie as 1:20 en ‘n terreinplan wat die posisie van die teken op die terrein aandui op ‘n skaal van nie minder nie as 1:50;

- (4) Indien 'n teken aan die muur of fasade van 'n gebou bevestig of vertoon gaan word, kan die munisipaliteit vereis dat 'n addisionele tekening, geteken op 'n skaal van nie minder nie as 1:100, ingedien word wat die volgende aantoon-
- (i) 'n aansig van die gebou in kleur;
 - (ii) die besonderhede en posisie van die voorgestelde teken; en
 - (iii) die besonderhede en posisie van elke bestaande teken op die gebou; alternatiewelik kan die munisipaliteit 'n kleur-afdruk of 'n kunstenaar se fotografiese of rekenaargegenereerde afdruk van die gebou vereis met die besonderhede van die voorgestelde teken wat op sodanige grafika gesuperponeer word en wat so na as wat prakties moontlik is op dieselfde skaal as dié van die grafika geteken is.
- (5) Indien die aansoeker nie die geregistreerde eienaar is van die eiendom waarop die teken opgerig is of opgerig staan te word nie, moet die aansoeker die handtekening verkry van die geregistreerde eienaar van die grond of gebou waarop die teken opgerig is of opgerig staan te word en bevestiging van daardie persoon se kennis van en toestemming tot die aansoek.
- (6) Die munisipaliteit kan vereis dat enige of almal van die volgende studies of beoordeling ingedien word:
- (a) 'n Omgewingimpakbeoordeling (óf die 1ste stadium daarvan; synde die voltooiing van 'n Omgewingsoorsiglys, óf in sy geheel),
 - (b) 'n Erfenisimpakbeoordeling, en
 - (c) 'n Verkeersimpakbeoordeling.
- (7) Indien 'n gemeenskap of gedeelte daarvan, of 'n persoon deur die voorgestelde teken geraak gaan word, kan 'n openbare deelnameproses voor die oorweging van goedkeuring vereis word, welke openbare deelnameproses aan die munisipaliteit se beleid rakende openbare deelname moet voldoen.
- (8) Die munisipaliteit mag '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 vereis word om hom in staat te stel om 'n stelselmatige ontwerp meesterplan voor die beoordeling van enige afsonderlike tekens te oorweeg.
- (9) Die munisipaliteit moet die aansoeker binne 21 werksdae vanaf die datum waarop die oorspronklike aansoek ingedien en die aansoek gelde betaal is, in kennis stel van enige addisionele vereistes.
- (10) Die munisipaliteit moet 'n afskrif van elke dokument wat aan hom as deel van 'n aansoek voorsien word, behou.
- (11) Die munisipaliteit kan skriftelike kennisgewing vereis van die aansoeker of persoon wat 'n goedgekeurde teken oprig, dat sodanige teken opgerig is.

4. Gelde en algemene faktore by oorweging van goedkeuring, wysigings of voorwaardes van goedkeuring

- (1) Elkeen wat by die munisipaliteit aansoek doen om goedkeuring ingevolge hierdie verordening, moet by die indiening van die aansoek die aansoekfooi betaal soos deur die munisipaliteit bepaal en geen teken mag opgerig word alvorens die voorgeskrewe gelde ten volle betaal is nie.
- (2) Wanneer 'n aansoek vir die vertoning van 'n advertensie of die oprigting van 'n teken, of die wysiging van 'n goedkeuring of voorwaarde wat by 'n goedkeuring voorgeskryf is oorweeg word, moet die munisipaliteit die volgende faktore in ag neem:
- (a) die gebied van beheer waarin die voorgestelde teken opgerig of vertoon gaan word soos uiteengesit in Bylae 1; met dien verstande dat indien 'n teken in meer as een gebied van beheer val of indien 'n voorgestelde tekenterrein wat in een gebied van beheer geleë is 'n impak op 'n aanliggende gebied van beheer kan hê, die munisipaliteit die reg sal hê om die gebied van beheer wat op daardie aansoek betrekking het, te bepaal;
 - (b) die ligging of landskap en die reklamegeleenthede wat op daardie gebied van beheer betrekking het;
 - (c) die aantal tekens wat reeds op die erf en in die omliggende gebied van die betrokke erf vertoon word of vertoon gaan word;
 - (d) die bevindings van enige Verkeersimpakbeoordeling, Omgewingsimpak- of Erfenisimpakbeoordeling en openbare deelnameproses waar van toepassing;
 - (e) dat liggingsgebonde tekens verband moet hou met die wettige gebruik van 'n eiendom dat geen sodanige teken op woonpersele of gedeeltes daarvan aangebring of daarop geplaas mag word nie behalwe soos deur of vir tuisnywerhede en wettige tydelike gebruike toegelaat word; en
 - (f) dat geen teken of reklame so ontwerp of vertoon word dat-
 - (i) dit 'n gevaar vir enige persoon of eiendom inhou;
 - (ii) dit enige materiaal of grafika sal vertoon wat nie voldoen aan die vereistes van die Reklamestandaarde Owerheid van Suid Afrika nie;

- (iii) dit nadelig is vir die omgewing of aantreklikheid van die buurt vanweë grootte, intensiteit, herhaling, verligting, gehalte van die ontwerp, materiaal, voorgestelde grafika of ligging nie;
- (iv) dit enige ander tekens wat ingevolge hierdie verordening of sy voorganger goedgekeur is, sal belemmer; en
- (v) dit nadelig sal wees of andersins 'n nadelige impak op die omgewing sal hê, hetsy kunsmatig of natuurlik.

(3) Onderhewig aan die voorwaardes vervat in Bylae 16, mag enige nuwe tekens of reklamestrukture goedgekeur ingevolge hierdie verordening of enige daaropvolgende verordening vertoon word vir solank dit voldoen aan die vereistes van hierdie verordening of enige ander toepaslike wetgewing.

5. Faktore met betrekking tot spesifieke tekens, gebiede van beheer en kommersieel geborgde tekens

(1) Die munisipaliteit moet, benewens die faktore wat hierbo uiteengesit word, sekere minimumstandaarde op sekere spesifieke tekenstipes en voorgestelde liggings toepas wanneer 'n aansoek om goedkeuring ten opsigte daarvan gedoen word en moet spesifieke kriteria op aansoeke vir die oprigting van tekens deur nie-winsgewende liggings toepas. Hierdie spesifieke standaarde en kriteria word as Bylaes tot hierdie verordening uiteengesit. Bylae 1 tot hierdie verordening dui die gebiede van beheer aan waarin spesifieke tekenstipes toegelaat kan word, maar altyd onderhewig aan goedkeuring ingevolge hierdie verordening en verder onderhewig aan enige addisionele vereiste wat betrekking het op 'n spesifieke tekenstipe soos in die volgende Bylaes uiteengesit:

- (a) Bylae 1: Gebiede van Beheer;
 - (b) Bylae 2: Aanplakborde;
 - (c) Bylae 3: Liggingsgebonde vrystaande en samegestelde tekens;
 - (d) Bylae 4: Tekens wat op mure van geboue aangebring word (plat en uitsteektekens);
 - (e) Bylae 5: Kimtekens;
 - (f) Bylae 6: Daktekens;
 - (g) Bylae 7: Tekens op 'n veranda, balkon, sondak, op steunkolomme, pilare en pale;
 - (h) Bylae 8: Tekens op grens mure, heinings en bouterreine;
 - (i) Bylae 9: Plakkate met koerantopskrifte;
 - (j) Bylae 10: Baniere, vlage en ballonne;
 - (k) Bylae 11: Plakkate;
 - (l) Bylae 12: Eiendomsagent tekens;
 - (m) Bylae 13: Los draagbare tekens;
 - (n) Bylae 14: Lugtekens;
 - (o) Bylae 15: Transito-reklame;
 - (p) Bylae 16: Tekens op munisipale grond of geboue; en
 - (q) Bylae 17: Tekens deur of vir nie-winsgewende liggings;
- (2) Die beskrywing van gebiede of roetes in gemelde Bylae 1 moet saamgelees word met die definisies soos vervat in die munisipaliteit se Soneringskema Regulasies.
- (3) Die munisipaliteit kan 'n vrystelling van die voorwaardes van hierdie verordening toestaan ten opsigte van die soorte tekens of gebiede van beheer soos uiteengesit in Bylaes 10, 11 en 12 hiervan met betrekking tot-
- (a) die gebied van beheer waar die teken(s) vertoon gaan word;
 - (b) die aard van die byeenkoms;
 - (c) die duur van die oprigting of vertoning van die teken;
 - (d) die grootte van die voorgestelde teken;
 - (e) enige verkeers- omgewings- of erfenisimpakbeoordeling; en
 - (f) die uitkomst van enige openbare deelnameproses.

HOOFSTUK 2

STANDAARDVOORWAARDES VIR GOEDKEURING, VEREISTES EN GOEDKEURING

6. Standaardvoorwaardes vir goedkeuring

(1) Alle tekens en reklamestrukture moet behoorlik gebou word en van die vereiste sterkte wees, veilig wees en aan die vereistes van die Wet op Nasionale Bouregulasies en Boustandaarde, 1977 (Wet 103 van 1977) wat daarop betrekking het, voldoen.

(2) Die aansoeker aan wie goedkeuring verleen is en die eienaar van die eiendom of die gebou waarop dit aangebring word, is gesamentlik en afsonderlik aanspreeklik vir die instandhouding daarvan en moet minstens een inspeksie daarvan per jaar onderneem met die oog daarop om hulle van die veiligheid daarvan te vergewis.

- (3) Waar enige teken of reklamestruktuur en skeur of beskadig raak of andersins bouvallig word, moet die aansoeker aan wie goedkeuring verleen is en die eienaar van die toebehoorsel of eiendom waaraan of waarop 'n teken aangebring is, dit binne 7 werksdae vanaf 'n skriftelike kennisgewing om dit te doen, regmaak.
- (4) Alle tekens en hulle steunstrukture moet uit onbrandbare, duursame materiaal wat vir die funksie, aard en permanensie van die teken geskik is, gebou word.
- (5) Alle glas wat vir 'n teken gebruik word, behalwe glas wat vir verligting gebruik word, moet veiligheidsglas wees wat minstens 3mm dik is.
- (6) Glaspanele wat vir 'n teken gebruik word mag nie 0,9m² in oppervlakte oorskry nie, en elke paneel moet stewig aan die romp van die teken, struktuur of toestel los van al die ander panele bevestig word.
- (7) Elke teken en sy steunstruktuur moet in 'n goeie toestand gehou word.
- (8) 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 uitgangsmiddel van die gebou belemmer nie, of die beweging van mense van een deel van 'n dak na 'n ander verhinder nie.
- (9) Geen reklamestruktuur mag nader as die minimum afstand wat voorgeskryf word aan oorhoofse elektriese toerusting wees nie.

7. Elektriese vereistes

- (1) Alle tekens wat 'n elektriese aansluiting benodig moet verkieslik vanaf die bestaande elektriese toevoer op die erf waarop dit opgerig gaan word, voorsien word. Indien dit nie moontlik is nie, moet daar by die betrokke owerheid om elektrisiteitstoevoer wat met 'n meter gemeet word, aansoek gedoen word.
- (2) Elke teken in verband waarmee elektrisiteit gebruik word, moet van gepaste kondensators voorsien word om steuring met radio- en televisie-ontvangs te voorkom.
- (3) Elke kragkabel en leipyp wat elektriese geleiers ten opsigte van 'n teken bevat, moet so geplaas word en so bevestig word dat dit veilig, onsigbaar, ontoeganklik en kinder- en diere veilig is.
- (4) Elke interne hoëspanningsinstallasie wat sonder toesig werk (soos 'n vensteruitstalling) en elke eksterne hoëspanningsinstallasie moet 'n aanvaarbare tipe brandweer skakelaar hê in ooreenstemming met die vereistes soos bepaal in artikel 6.7.2 en 7.5 van SANS 0142 1993, afgekondig ingevolge die Wet op Beroepsgesondheid en Veiligheid.

8. Verligtingsvereistes

- (1) Die munisipaliteit kan 'n verligte teken goedkeur; met dien verstande dat daar aan die bepalings van hierdie verordening voldoen word en dat sodanige verligting nie 'n padveiligheidsgevaar uitmaak of oormatige ligverspilling veroorsaak nie.
- (2) Tekens mag nie verlig word as geen tekeninhoud vertoon word nie.
- (3) Vereistes vir interne verligting of elektroniese tekens :
- (a) Interne verligte en elektroniese tekens mag slegs in gebiede van gedeeltelike en minimum beheer vertoon word en moet minder as 2,1m² wees; daar kan van die voorwaarde ten opsigte van die grootte tot 'n maksimum grootte van 4,5m² in enige sodanige gebied afgesien word by ontvangs van 'n Omgewings- en Erfenisimpakbeoordeling wat aandui dat geen nadelige impak deur die voorgestelde vertoning veroorsaak sal word nie, of tot enige ander grootte wat deur die munisipaliteit gespesifiseer word in 'n gebied wat deur die munisipaliteit as 'n gebied aangewys word waarin verligte of elektroniese tekens aangemoedig word.
 - (b) Elektroniese tekens mag nie subliminale flitse hê nie.
 - (c) Die munisipaliteit kan voor die oprigting vereis dat 'n Verkeersimpakbeoordeling, Omgewingsimpakbeoordeling en Erfenisimpakbeoordeling onderneem word, welke resultate moet aandui dat geen nadelige impak op verkeer verwag word nie. Daarbenewens kan die munisipaliteit latere verkeersmonitering van enige intern verligte of elektroniese tekens vereis.
- (4) Vereistes vir eksterne verligting:
- (a) die ligbron wat van spreiligte afkomstig is moet nie vir verkeersbeweging in ieder rigting sigbaar wees nie;
 - (b) spreiligte mag nie so geplaas word dat hulle enige oormatige ligverspilling verby die oppervlakte van die teken veroorsaak nie; en
 - (c) goedgekeurde gebruiksregte moet van die elektriese departement verkry word voordat enige uitgrawings vir die installering van tekens gedoen word. Dit is ook van toepassing op tekens wat in die omgewing van oorhoofse kragpale opgerig word.

9. Verkeersveiligheidsvereistes

- (1) Tekens mag nie in 'n gebied opgerig word waar hulle 'n onaanvaarbare afleiding vir bestuurders is nie, en welke aanvaarbaarheid beoordeel mag word ingevolge die riglyne soos neergelê in die S.A. Handleiding vir Padverkeerstekens.

- (2) Elektroniese tekens word nie toegelaat waar hulle vanaf klas 2 of 3 paaie, 'n poort roete of uitsigpad sigbaar is tensy dit skriftelik deur die munisipaliteit goedgekeur word nie.
- (3) Reklame op brûe, torings, telekommunikasie maste, pilone of straat pale sal nie toegelaat word nie.
- (4) Die grafiese inhoud van 'n teken moet nie die potensiaal hê om visueel as 'n padverkeersteken vertolk te word nie, vanweë enige faktor, insluitende maar nie beperk nie tot die volgende:
- enige gestileerde of prentuitbeelding van 'n padverkeersteken of verkeersein;
 - enige woord, simbool, logo of ander toestel wat op 'n padverkeersteken gebruik word;
 - die gebruik van kombinasies van kleure wat vir padverkeerstekens gespesifiseer is, op 'n manier wat waarskynlik tot verwarring sal lei; en
 - enige weerkaatsende verf of materiaal;
- (5) Tekens mag nie in 'n gebied opgerig word waar die verkeersvolume, die gemiddelde volgfstand of ongeluksgeskiedenis 'n hoër versigtigheidsgraad van bestuurders vereis nie.
- (6) Tekens mag nie aan 'n padverkeersteken of verkeersein waarvoor daar spesifiek in die Suid-Afrikaanse Padverkeerstekenhandleiding of die Suid-Afrikaanse Ontwikkelingsgemeenskap se padverkeerstekenhandleiding voorsiening gemaak word, aangebring word of dit belemmer nie.
- (7) Tekens mag nie binne 'n padreserwe van enige openbare pad opgerig word tensy dit deur die munisipaliteit goedgekeur is nie.
- (8) Waar tekens by gesinjaleerde kruisings geplaas word, mag daar nie van die kleure rooi of geel of groen as die hoofkleur gebruik gemaak word nie en mag die tekens nie enige padverkeersteken of verkeersein belemmer nie.
- (9) Elektroniese tekens word nie binne 80m van die buiterand van 'n gesinjaleerde verkeerskruising toegelaat nie.
- (10) Flitsende of bewegende of veranderlike oorgangboodskappe met 'n boodskapsveranderingstussenpose van meer as 0,3sekondes of wat oorgangseffekte tussen die verandering van boodskappe het, sal nie toegelaat word indien dit van 'n openbare pad sigbaar is nie.
- (11) Eenvoudige oorgangtekens met statiese vertonings moet 'n volledige raamwerk vir 'n inligting sikluslengte van nie minder nie as 60 sekondes vertoon wanneer dit van 'n gesinjaleerde verkeerskruising sigbaar is en 30 sekondes by ander liggings.
- (12) Alle tekens wat groter is as 4,5m² en langs 'n openbare pad of in 'n spoorwegreserwe opgerig word met die doel van reklame vir persone wat klas 2 en 3 paaie gebruik, moet 'n minimum gespesifiseerde afstand van enige ander teken of padverkeersteken gespasieer word, welke afstand parallel met die middellyn van die ryvlak in ooreenstemming met Tabel 1 hieronder, gemeet moet word:

TABEL 1
LINIËRE RUIMTE TUSSEN TEKENS

Geval	Vereiste ruimte wanneer sigbaar vir verkeer op 'n pad met 'n spoed van		
	≤ 60 km/u	61 - 80 km/u	81 - 120 km/u
Waar 'n teken 'n padteken volg	120m	200m	300m
Waar 'n teken 'n teken volg	250m	250m	300m
Waar 'n teken 'n padteken voorafgaan	40m	70m	100m

- (13) Die minimum afstande wat in Tabel 1 hierbo gespesifiseer word, kan deur die munisipaliteit verminder word indien die teken binne 'n gebied van minimum beheer val, of in ander gebiede van beheer by indiening van 'n Verkeersimpakbeoordeling wat 'n vermindering van hierdie spasiering motiveer tot bevrediging van die munisipaliteit. Die munisipaliteit mag 'n lys of kaart van aangewese gebiede voorberei waarin die bogenoemde spasieringsvereistes nie van toepassing is nie.

10. Regsvereistes

Alle tekens wat opgerig of binne die regsgebied van die munisipaliteit vertoon gaan word moet benewens hierdie verordening, aan alle ander toepaslike wetgewing voldoen, insluitende enige toepaslike Soneringskema Regulasies of goedkeuringsvoorwaarde of enige afwyking van die toepaslike Soneringskema Regulasies.

11. Goedkeuring

- (1) Die munisipaliteit kan enige aansoek weier of goedkeur onderhewig aan die voorwaardes wat met die

oprigting of gebruik van die teken verband hou en insluitende 'n voorwaarde dat die eienaar van enige teken of aanplakbord van die grond of gebou waarop dit opgerig of vertoon word, of beide sodanige eienaar of die persoon wie se produk of dienste geadverteer word, die munisipaliteit teen enige gevolge wat uit die oprigting, vertoning of blote teenwoordigheid van sodanige teken ontstaan, vrywaar.

(2) Die munisipaliteit kan te eniger tyd die goedkeuring wat ingevolge hierdie of 'n vorige verordening verleen is, terugtrek of enige voorwaarde wysig of 'n verdere voorwaarde ten opsigte van sodanige goedkeuring oplê, indien 'n teken of reklamestruktuur-

- (a) bouvallig is;
- (b) vir meer as 90 opeenvolgende dae nie gebruik word nie;
- (c) oorbodig of uitgedien raak;
- (d) nie meer aan enige bepaling van hierdie verordening voldoen nie; of
- (e) aansienlik van die oorspronklike goedkeuring afwyk wat óf die struktuur óf die grafiese inhoud daarvan betref.

(3) Indien 'n teken nie binne 12 maande vanaf die datum van goedkeuring of binne sodanige ander tyd wat in die goedkeuring voorgeskryf word, opgerig word nie, vervel die goedkeuring tensy daardie tydperk voor verstryking skriftelik deur die munisipaliteit verleng word.

(4) Indien die struktuur wat sodanige teken ondersteun, voor die verstryking van die goedkeuringstydperk afgebreek word, vervel die goedkeuring en geen verdere teken of ondersteuningstruktuur mag opgerig word of heropgerig word sonder die munisipaliteit se goedkeuring nie.

(5) Alle besluite deur die munisipaliteit rakende aansoeke wat ingevolge hierdie verordening gedoen is, moet skriftelik wees en binne 60 kalenderdae vanaf die datum waarop 'n volledige aansoek ingedien is, aan die aansoekers voorsien word, of anders, indien dit deur die munisipaliteit vereis word, binne 60 kalenderdae van die ontvangs van enige addisionele inligting of oorwegings wat aan die munisipaliteit voorgelê word.

(6) Wanneer 'n applikant van 'n besluit ingevolge subartikel (5) in kennis gestel word, moet die munisipaliteit die applikant, asook enige beswaarmaker teen die toestaan van sodanige aansoek, in kennis stel van sy of haar reg tot appèl ingevolge artikel 12.

HOOFSTUK 3 ALGEMENE BEPALINGS

12. Appèl

Enigiemand wie se regte deur 'n besluit wat in verband met hierdie verordening deur die munisipaliteit geneem is, geraak word, kan ingevolge artikel 62 van die Wet op Plaaslike Regering: Munisipale Stelsels, Wet 32 van 2000, teen sodanige besluit appelleer deur binne 21 dae van die datum van die kennisgewing van die besluit skriftelike kennis van die appèl en redes aan die Munisipale Bestuurder te gee.

13. Tekens waarvoor die munisipaliteit se goedkeuring nie benodig word nie

(1) Indien enige teken nie aan die voorwaardes met betrekking tot elke teken tipe wat hieronder gelys word voldoen nie, word 'n aansoek ingevolge artikel 3 vereis.

(2) Onderhewig aan die voorwaardes met betrekking tot elke tipe teken wat in subartikels (3) tot (11) gelys word, en enige ander toepaslike wetgewing, of voorwaarde wat deur die munisipaliteit opgelê word, word geen aansoek om goedkeuring ingevolge hierdie verordening ten opsigte van die tekens genoem in subartikels (3) tot (11) benodig nie.

(3) *Ontwikkelingsborde*

- (a) Ontwikkelingsborde moet onmiddellik verwyder word wanneer boubedrywighede voltooi is of nadat boubedrywighede beëindig word, of wanneer die verskaffing van die dienste, die doen van die werk of die voorsiening van die goedere waarop die teken betrekking het, opgehou het;
- (b) Die munisipaliteit kan die verwydering van enige sodanige tekens gelas indien die boubedrywighede naasteby voltooi of beëindig is of 'n bewoningsertifikaat deur die munisipaliteit uitgereik is, of die verskaffing van die dienste, die doen van die werk of die voorsiening van die goedere waarop dit betrekking het, vir alle praktiese doeleindes opgehou het, en sodanige tekens moet dan onmiddellik verwyder word, maar nie later nie as 5 dae na die datum van die opdrag om dit te verwyder;
- (c) Indien die perseel waarop boubedrywighede aan die gang is, heeltemal vir woondoeleindes gebruik gaan word, mag slegs een ontwikkelingsbord vertoon word en sodanige ontwikkelingsbord mag nie 3m² in totale oppervlakte oorskry nie;
- (d) Indien die perseel nie heeltemal vir woondoeleindes gebruik gaan word nie, mag hoogstens twee ontwikkelingsborde opgerig word wat nie 5m² in totale oppervlakte oorskry nie;
- (e) Indien die teken, hetsy op vrystaande borde of buigsame gebou bedekkingsmateriaal, enige ander vorm van derdepartyreklame insluit, moet sodanige teken aan die bepalinge van Bylae 8

voldoen en goedkeuring vir die vertoning daarvan moet eers ingevolge hierdie verordening verkry word.

- (4) *Te Huur en Te Koop-tekens*
Dit sluit enige teken in wat nie 400mm x 500mm in totale oppervlakte oorskry nie en wat vertoon word by die bestaande perseel of op eiendomme waarop 'n nuwe gebou opgerig word, en wat met huisvesting wat te huur of te koop in die gebou aangebied word, verband hou, op voorwaarde dat enige sodanige teken binne 60 dae na die datum waarop die huisvesting waarop dit betrekking het vir bewoning gereed is, verwyder word.
- (5) *Besigheid tekens op die perseel*
Hierdie teken sluit enige onverligte teken in wat nie oor 'n openbare pad uitsteek nie en nie 0,2m² in totale oppervlakte oorskry nie en slegs die tipe handel, besigheid, nywerheid of beroep wat wettig onderneem word deur enige bewoner of permanente inwoner van die perseel waarop dit aangebring word, die naam van sodanige bewoner die tipe aktiwiteit, die adres en telefoonnommer van sodanige perseel en die diensure (indien enige) bekend maak; met dien verstande dat slegs een sodanige teken per bewoner vertoon mag word.
6. *Vensterstekens*
Hierdie tekens sluit enige liggingsgebonde tekens in wat tydelik of permanent op die vensterglas van 'n gebou wat vir kommersiële, kantoor-, nywerheids- of vermaaklikheids doeleindes gebruik word, geverf of bevestig is, of enige ander tydelike of permanente teken wat binne 2 meter van enige venster of eksterne opening vertoon word waardeur dit van die buitekant van sodanige gebou sigbaar is, op voorwaarde dat geen venster teken 4,5m² in 'n gebied van maksimum beheer mag oorskry nie.
- (7) *Tekens wat deel vorm van die voorkant van 'n gebou*
Enige teken wat 'n integrale deel van die materiaal van 'n gebou vorm (met uitsluiting van 'n geverfde teken of 'n teken wat op enige manier aan die gebou bevestig is), op voorwaarde dat geen sodanige teken 0.2m in totale oppervlakte mag oorskry nie.
- (8) *Tekens op sportvelde*
Behalwe wanneer dit vanaf uitsigpaaie sigbaar is, sal enige teken wat om die buiterand van 'n sportveld opgerig word, tot 'n maksimum grootte van 2 x 1meter elk, toegelaat word, met dien verstande dat groter tekens waarvan die voorkant op die veld uitkyk, en nie van enige ander openbare plek sigbaar is nie, ook toegelaat word.
- (9) *Sekuriteitstekens*
Enige sekuriteitteken wat nie oor 'n openbare pad uitsteek nie en nie 0,2m² in totale oppervlakte oorskry nie en wat aandui dat 'n sekuriteitswag skema in werking is of dat 'n sekuriteitsmaatskappy gekontrakteer is om die perseel waarop die teken vertoon word te beskerm, op voorwaarde dat -
(a) slegs een sodanige teken op enige openbare pad of elke straatfront van sodanig perseel vertoon word; en
(b) die genoemde tekens slegs die naam, logo, adres en telefoonnommer van 'n sekuriteitsmaatskappy vertoon wat gekontrakteer is om die perseel waarop die teken vertoon word, te beskerm.
- (10) *Geborgde, kommersieel geborgde tekens en tekens van nie-winsgewende liggame: minder as 4,5m²*
(a) Enige sodanige teken, hetsy dit deur of in verband met 'n nie-winsgewende liggaam opgerig word al dan nie, wat nie 4,5m² in totale oppervlakte oorskry nie, op voorwaarde dat nie meer as 5% van die totale oppervlakte van die teken vir derdepartyreklame gebruik word nie, en die teken nie verlig is nie en verder op voorwaarde dat slegs een sodanige teken per erf toegelaat word.
(b) Advertensies wat aan die bepalings van subartikel (a) voldoen, moet wanneer dit op munisipale grond opgerig word, eers opgerig word wanneer 'n ooreenkoms met die munisipaliteit aangegaan is waarin daar ooreengekom is oor die omvang van die gemeenskaps- of openbare voordeel daarvan soos gesamentlik besluit tussen die munisipale departemente wat vir die perseel of grond verantwoordelik is, en daar oor die voorwaardes rakende die oprigting van die teken ooreengekom is en 'n afskrif van die ooreenkoms moet by die munisipaliteit ingedien word.
(c) Alle ander geborgde tekens word in Bylaes 16 en 17 behandel.
- (11) *Advertensies op voertuie*
Advertensies moet regstreeks op die bak van 'n gemotoriseerde voertuig geverf of bevestig word.

14. Ontsiering

Niemand mag die voorkant of front van enige straat, padverkeersteken, muur, heining, grond, rots, boom of ander natuurlike kenmerk, of die voorkant of front of dak van enige gebou of struktuur op enige wyse hoegenaamd gedurende konstruksie of 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. Daarbenewens mag niemand enige teken wat wettiglik ingevolge hierdie verordening vertoon word, ontsier nie.

15. Skade aan munisipale eiendom

Niemand mag met die oprigting of verwydering van enige teken of banier, skade aan enige boom, elektriese paal of diens of ander munisipale installasie of eiendom en straattoerusting veroorsaak nie.

16. Toegang en inspeksies

Die munisipaliteit het die reg, deur sy behoorlik gemagtigde beamptes en met vooraf skriftelike kennis aan die eienaar of bewoner van 'n eiendom, om enige perseel op 'n redelike tyd te betree met die doel om enige inspeksie uit te voer wat vir die behoorlike bestuur en toepassing van die bepalinge van hierdie verordening nodig mag wees.

17. Misdrywe

Enigiemand wat -

- (a) enige bepaling van hierdie verordening of die standaarde en vereistes vervat in Bylaes 2 tot 17 van hierdie verordening oortree of versuim om daaraan te voldoen;
- (b) enige vereiste, wat in 'n kennisgewing uiteengesit is wat aan hom ingevolge hierdie verordening beteken is, oortree of versuim om daaraan te voldoen;
- (c) enige voorwaarde wat ingevolge hierdie verordening opgelê is, oortree of versuim om daaraan te voldoen; of
- (d) opsetlik 'n vals verklaring ten opsigte van enige aansoek ingevolge hierdie verordening maak, is pleeg 'n misdryf en is by skuldigbevinding strafbaar met-
 - (i) 'n boete of gevangenisstraf, of óf sodanige boete of sodanige gevangenisstraf óf beide sodanige boete en sodanige gevangenisstraf; en
 - (ii) in die geval van 'n voortdurende misdryf, met 'n addisionele boete, of 'n addisionele tydperk van gevangenisstraf of óf sodanige addisionele boete of sodanige addisionele gevangenisstraf, óf beide sodanige addisionele boete en gevangenisstraf vir elke dag wat sodanige misdryf voortduur, en
 - (iii) 'n verdere bedrag gelyk aan enige koste en uitgawes wat na bevinding van die hof deur die munisipaliteit aangegaan is as gevolg van sodanige oortreding of versuim.

18. Vermoedens

Enigiemand wat ingevolge hierdie verordening van 'n misdryf beskuldig word en-

- (a) alleen of gesamentlik met enige ander persoon vir die organisering van enige vergadering, funksie of byeenkoms waarmee 'n teken of plakkaat verband hou, verantwoordelik is of in beheer daarvan is, word, totdat die teendeel bewys word, geag elke onwettige teken of plakkaat wat in verband met sodanige vergadering, funksie of byeenkoms vertoon word, te vertoon of veroorsaak of toelaat dat dit so vertoon word;
- (b) die persoon is wie se naam op 'n onwettige teken verskyn of wie se produk of dienste op sodanige teken geadverteer word, word totdat die teendeel bewys word, geag sodanige teken te vertoon, of veroorsaak of toelaat dat dit vertoon word tensy die teendeel bewys word.
- (c) die eienaar is van enige grond of gebou waarop enige onwettige teken vertoon is of vertoon word, word totdat die teendeel bewys word, geag sodanige teken te vertoon, of veroorsaak of toelaat dat dit vertoon word.

19. Afdwinging en verwydering van tekens

- (1) Indien enige teken wat vertoon word strydig is met hierdie verordening, kan die munisipaliteit 'n kennisgewing aan die eienaar of huurder van die teken, of die grondeienaar op wie se grond die teken opgerig is of vertoon word, of die persoon wie se produk of dienste geadverteer word, beteken om binne 'n gespesifiseerde tydramwerk sodanige teken te verwyder of sodanige verandering daaraan aan te bring, of sodanige werk te doen wat in sodanige versoek of kennisgewing gespesifiseer word.
- (2) 'n Kennisgewing beteken ingevolge subartikel (1) kan deur die munisipaliteit teruggetrek of verander word met toestemming van die persoon aan wie dit beteken is, of by versuim van sodanige toestemming, met die betekening van 'n verdere kennisgewing.
- (3) Indien die eise van die munisipaliteit soos in die kennisgewing uiteengesit, nie binne die gespesifiseerde tydperk uitgevoer word nie, kan die munisipaliteit sonder verdere kennis die teken verwyder of verander of sodanige werk doen wat in sodanige kennisgewing gespesifiseer is.

- (4) Enige koste wat deur die munisipaliteit aangegaan is met die verwydering van tekens, of deur veranderinge of ander werk te doen wat ingevolge 'n kennisgewing vereis word, kan van die persoon aan wie die kennisgewing beteken is, verhaal word.
- (5) Ondanks enige bepalinge van hierdie verordening, indien 'n teken 'n gevaar vir lewe of eiendom is, of redelik beskou kan word om dit te wees, kan die munisipaliteit self, sonder vooraf kennisgewing en sonder 'n hofbevel, die verwydering van sodanige teken onderneem of reëlings daarvoor tref.
- (6) Enige koste wat deur die munisipaliteit vir die verwydering of reëlings vir die verwydering van sodanige teken aangegaan word, kan van die eienaar of huurder van die teken, of die grondeienaar op wie se grond die teken opgerig is, of die persoon wie se dienste geadverteer is, gesamentlik of afsonderlik verhaal word.
- (7) Onwettige tekens wat deur die munisipaliteit verwyder word, kan van die munisipaliteit teruggeëis word by volle betaling van enige koste wat deur die munisipaliteit met die verwydering van die genoemde teken aangegaan is, asook betaling binne twee maande van enige gelde wat vir die bewaring van sodanige teken opgeloop het.
- (8) Enige onwettige tekens wat deur die munisipaliteit verwyder word en nie binne twee maande van die datum van verwydering teruggeëis word nie, kan deur die munisipaliteit mee weggedoen word om die verwyderings- of bewaringskoste te bestry.

20. Betekening van kennisgewings

- (1) 'n Kennisgewing ingevolge hierdie verordening word geag behoorlik onderteken te wees indien dit deur 'n amptenaar van die munisipaliteit onderteken is.
- (2) Waar enige kennisgewing of ander dokument ingevolge hierdie verordening aan enige persoon beteken moet word, word dit geag behoorlik beteken te wees indien-
- dit persoonlik aan hom of haar beteken is;
 - dit by sy woonadres of besigheidsadres in die RSA, aan enige persoon klaarblyklik bo die eiendom van 16jaar, gelaat is;
 - dit met aangetekende of gesertifiseerde pos aan sodanige persoon se bekende woon- of besigheidsadres, gepos is en bewys van sodanige bestelling van die Poswese ontvang is;
 - sodanige persoon se adres in die RSA onbekend is, dit beteken is aan sy verteenwoordiger of agent in die RSA op die wyses bedoel in subartikels (a), (b) of (c);
 - sodanige persoon se adres of dié van sy agent of verteenwoordiger in die RSA onbekend is deur die plasing daarvan op 'n opsigtelike plek op die grond of perseel waarop dit van toepassing is;
 - sodanige persoon 'n beslote korporasie is, dit afgelewer is by die geregistreerde kantoor besigheidsadres, daarvan; of
 - dit op versoek van daardie persoon gestuur is aan sy of haar e-pos adres.
- (3) Betekening van 'n afskrif word geag betekening van die oorspronklike te wees.
- (4) Wanneer 'n kennisgewing of ander dokument op die eienaar, okkupeerder, of houer van eiendom of die reg in enige eiendom beteken word, is dit voldoende indien sodanige persoon in die kennisgewing of dokument beskryf word as die eienaar, okkupeerder of houer van die eiendom of reg in eiendom en hoef hy of sy nie by name genoem te word nie.

21. Skakel forums in gemeenskappe

- (1) Die munisipaliteit mag skakelforums in 'n gemeenskap stig vir die doeleindes van-
- aanmoediging van 'n gemeenskap om deel te neem aan die implementering, ontwikkeling en toepassing van hierdie verordening; en
 - bevordering van ekonomiese ontwikkeling, en die bewaring van die visuele- toerisme-, omgewings- en erfenis eienskappe van die Hessequa munisipale gebied.
- (2) Die forums soos bedoel in subartikel (1) mag bestaan uit-
- 'n lid of lede van 'n belangegroep of 'n geaffekteerde persoon of gemeenskap;
 - 'n aangewese amptenaar of amptenare van die munisipaliteit; en
 - 'n raadslid van die toepaslike raadskomitee.
- (3) Die munisipaliteit mag, tydens die implementering en toepassing van hierdie verordening-
- 'n forum versoek om insette te lewer;
 - gebruik maak van enige kundigheid of kapasiteit wat binne sodanige forum mag bestaan;
- (4) 'n Forum, of 'n persoon of persone soos bedoel in subartikel (2) mag uit eie beweging insette aan die munisipaliteit voorlê vir oorweging.

22. Jurisdiksie van landdroshof

Ondanks enige andersluidende bepaling wat in enige wet met betrekking tot die landdroshof vervat is, het 'n landdros jurisdiksie om by 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 is.

23. Vrystellings

Nieteenstaande die bepalinge van hierdie verordening mag die munisipaliteit, op skriftelike aansoek, enige persoon of klas persone vrystel van enige of al die bepalinge van hierdie verordening en tydens oorweging van sodanige aansoek om vrystelling kan enige voorwaardes of vereistes wat nodig geag word, opgelê word.

24. Herroeping van verordeninge

Die bepalinge van enige verordeninge wat voorheen deur die munisipaliteit of deur enigen van die afgeskafte munisipaliteite wat nou in die munisipaliteit geïnkorporeer is, afgekondig is, word hiermee herroep insoverre hulle betrekking het op sake waarvoor daar in hierdie verordening voorsiening gemaak word en insoverre dit op die munisipaliteit van toepassing gemaak is deur die magtiging vir die uitvoering van magte en funksies ingevolge Artikel 84(3) van die Wet op Plaaslike Regering: Munisipale Strukture, Wet 117 van 1998.

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 bepalinge van hierdie verordening en die herroeping in artikel 24 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 is, wat nie ingevolge 'n bepaling gedoen is wat in hierdie verordening herroep is nie, en onwettig was, sal in die geval waar sodanige daad of teken nie aan die bepalinge van hierdie verordening voldoen nie, onwettig wees en sal die munisipaliteit geregtig wees om ingevolge die bepalinge van artikel 19 hiervan op te tree.

26. Kort titel en inwerkingtrede

Hierdie verordening heet die Verordening insake Buitereklame en Advertensietekens en tree in werking op die datum van publikasie daarvan in die Provinsiale Koerant

BYLAE 1

GEBIEDE VAN BEHEER

Natuurlike gebied	MAKSIMUM		GEDEELTELIK	MINIMUM
	Landelike gebied (Buite Stadsrand)	Stedelike gebied	Stedelike Gebied (Binne Stadsrand)	Stedelike Gebied (Binne Stadsrand)
Geproklameerde Natuurreservate	Landbou gebiede / sones	(a) Stedelike bewaringsgebiede (b) Binne gebiede van spesiale betekenis	(a) Sentrale Sake distrikte (b) Buite gebiede van besondere betekenis)	Nywerheidsone
Beskermdede natuurlike omgewings	Tuinboukundige gebiede	Verklaarde Erfenisterreine (landelik en natuurlik)	Gemengde gebruik handels- en residensiële gebiede	Aangewese vervoerterminusse
Wildreservate	Landelike kleinhoewes	Gegradeerde geboue en plekke	Handels strook ontwikkeling en aktiwiteitskorridors	Aangewese gebiede binne onbepaalde sones
Geproklameerde voëlparke	Groot private oop ruimtes (bv. gholfbane)	Residensiële sones en aangrensende pad- en spoorweg reserwes	Handels- en sake distrikte en aangrensende strate en spoorweg reserwes	Spesifieke gebiede of terreine aangewys as minimum beheer by wyse van 'n kaart wat deur die munisipaliteit voorberei is
Bosbou gebiede	Uitsigpaaie	Mobiliteit roetes	Vermaaklikheid distrikte of komplekse met handel sones	
Rivier korridors	Natuurskoon	Voetganger deurlope en voetgangerpleine	Sportvelde en stadions	

1:100 Jaar-vloed vlaktes	Landskapkenmerke	Skool terreine en institusionele sones	Onbepaalde sones (Insluitende spoorweg reserwes, vervoer gebruik sones)	
Moeraslande	Munisipale Parke	Landskapkenmerke	Spesifieke gebiede of terreine aangewys as gedeeltelike beheer deur middel van 'n kaart wat deur die munisipaliteit voorberei is	
Uitsigpaaie	Stedelike randsones of soos omskryf in die Stedelike Rand Beleid	Uitsigpaaie		
Vergroening van stadnetwerk	Landbou- en Tuinboukundige gebiede en aangrensende pad- en spoorweg reserwes	Poorte		
Spesifieke gebiede of terreine aangewys as maksimum natuurlik by wyse van 'n kaart wat deur die munisipaliteit voorberei is	Spesifieke gebiede of terreine wat as maksimum landelik aangewys is by wyse van 'n kaart wat deur die munisipaliteit voorberei is	Openbare oopruimtes		
		Private Oopruimtes		
		Stedelike kleinhoewes		
		Intensiewe stedelike landbougebiede		
		Selfversorgende stedelike landbougebiede		
		1:100 Jaar vloedvlaktes		
		Rivier korridors		
		Moeraslande		
		Gemeenskapsfasiliteite (met uitsluiting van sportfasiliteite en stadions)		
		Kern flora bewaringsterreine soos deur die Nasionale Botaniese Inst. geïdentifiseer		
		Spesiale handelsoes		
		Woonkomponente van gemengde gebruik geboue		

		Spesifieke gebiede of terreine wat as maksimum stedelik aangewys is by wyse van 'n kaart deur die munisipaliteit voorberei		
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BYLAE 2

AANPLAKBORDE

1. Onderhewig aan goedkeuring ingevolge hierdie verordening, word die oprigting of vertoning van aanplakborde, hetsy doelgemaak of van 'n standaard ontwerp, slegs in gebiede van minimum en gedeeltelike beheer toegelaat. Daarbenewens moet aanplakborde aan die volgende vereistes voldoen:

- (a) indien die voorgestelde erf waar die aanplakbord opgerig gaan word aan 'n klas 2 of 3 pad grens, mag die aanplakbord nie minder as 5 meter van die erf grens van die eiendom geplaas word nie. Indien die voorgestelde terrein waarop 'n aanplakbord opgerig gaan word as 'n poort aangewys is, word geen aanplakborde binne sodanige poort toegelaat nie.
 - (b) aan die standaardvoorwaardes vir goedkeuring wat in hierdie verordening uiteengesit word, voldoen.
 - (c) nie die grenslyn van die eiendom waarop dit opgerig is, oorskry, hetsy sodanige oorskrydings in die lug of op grondvlak is nie.
 - (d) 'n minimum vryhoogte van 2,4m en 'n struktuur hê wat nie 'n maksimum hoogte van 7,5m bokant die natuurlike grondvlak oorskry nie.
 - (e) nie 'n maksimum totale grootte van 6m x 3m (18m²) oorskry nie, met dien verstande dat twee sodanige panele op enige V-vormige enkelstruktuur toegelaat word.
 - (f) tussen die hoeke van 90° en 60° tot die rigting van aankomende verkeer vertoon word.
 - (g) 'n minimum afstand van mekaar gespaseer word soos vereis in artikel 9 van hierdie verordening.
 - (h) indien dit by gesinjaleerde verkeerskruisings geplaas word, mag dit nie binne 50m van die perimeter van die kruising opgerig of vertoon word indien dit nie verlig is nie; en nie binne 80m van die perimeter van die kruising indien dit verlig is nie.
 - (i) enige aanplakbord wat aan die regterkant van 'n gedeelte van 'n pad opgerig word sodat sy grafika van '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 het, te vervang.
 - (j) 'n minimum letter- of nommer hoogte van 285mm hê.
2. Die inligtingsinhoud van 'n voorgestelde teken sal in "bis" gemeet word. Wanneer die inligtingsinhoud van 'n voorgestelde teken bereken word, sal die bisgewigte wat in die onderstaande tabel getoon word, gebruik word.
3. Die totale bis in 'n voorgestelde teken mag nie 15 oorskry nie.
4. Geen driehoek aansigtekens is toelaatbaar nie.

Elemente van die teken		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 9m ²	0.5
	tussen 9 en 18m ²	1.0
	tussen 18 en 27m ²	1.5
	groter as 27m ²	2.0

BYLAE 3**LIGGINGSGEBONDE VRYSTAANDE EN SAMEGESTELDE TEKENS**

1. Onderhewig aan goedkeuring ingevolge hierdie verordening, word die oprigting of vertoning van liggingsgebonde vrystaande tekens slegs in stedelike gebiede van maksimum, gedeeltelike en minimum beheer toegelaat. Daarbenewens:
 - (a) word liggingsgebonde vrystaande tekens slegs in die volgende gevalle toegelaat:
 - (i) waar sakepersele 15 meter of meer van die grens van 'n padreserwe inspring;
 - (ii) waar dit nie redelikerwys moontlik is om gepaste tekens aan 'n gebou aan die bring nie;
 - (iii) waar sodanige teken nodig is sodat die publiek die ingang tot sakepersele kan vind; en
 - (iv) waar die bestaan van 'n vrystaande samegestelde teken die vermenigvuldiging van tekens sal verhinder.
2. Liggingsgebonde vrystaande samegestelde tekens mag nie 4,5 meter in hoogte oorskry nie en mag daarbenewens nie 4,5m² in totale oppervlakte oorskry nie. Hierdie beperking kan verslap word tot 'n maksimum hoogte van 7,5 meter en 'n maksimum totale oppervlakte van 10m² per kant met inagneming van die volgende faktore:
 - (a) indien sodanige verhoging die aantal afsonderlike tekens wat op enige afsonderlike straatgrens van die terrein uitkyk, verminder om sodoende die visuele impak op die omliggende omgewing te minimaliseer;
 - (b) indien meer as twee belangrike paaie die betrokke terrein nader;
 - (c) die aantal besighede wat op sodanige teken gaan adverteer;
 - (d) die aantal toegangs- of uitgangsoetes tot die betrokke terrein;
 - (e) die toepaslike sonering van die gebied rondom die betrokke terrein.
3. Dienstasie vrystaande tekens moet liggingsgebonde wees en mag slegs opgerig of vertoon word by dienstasies aangrensend aan en wat regstreeks van die openbare pad waar sodanige teken opgerig word, toeganklik is, en slegs een dienstasie vrystaande fasiliteit teken per straatgrens sal toegelaat word.
4. Dienstasie vrystaande tekens mag nie 7,5 meter in hoogte oorskry nie en mag nie uit meer as agt teken panele van 4,5m² elk in totale oppervlakte bestaan die. Hierdie beperking kan verslap word tot 'n maksimum hoogte van 16m en agt teken panele wat nie 6m² elk in totale oppervlakte oorskry nie met inagneming van die faktore genoem in item 2 hierbo. In areas van maksimum beheer is die maksimum hoogte van 4,5 meter van toepassing en 'n oppervlakte van 7,0m² aan weerskante.

BYLAE 4**ADVERTENSIES WAT AAN MURE VAN GEBOUE BEVESTIG WORD: PLAT EN UITSTEEKTEKENS**

Onderhewig aan goedkeuring ingevolge hierdie verordening, word die oprigting of vertoning van plat en uitsteektekens is alle gebiede van maksimum, gedeeltelike of minimum beheer toegelaat. Daarbenewens, plat en uitsteektekens:

1. Word nie binne 0,6 meter van die rand van 'n pad toegelaat nie en mag ook nie tot binne 0,6m van die rand van 'n pad uitsteek nie.
2. Mag nie meer as 1,5 meter voor 'n muur uitsteek nie in die geval van 'n teken met 'n vryhoogte van meer as 7,5 meter of meer as 1m in die geval van enige vryhoogte wat minder is nie.
3. Mag nie meer as 250mm oor 'n voetpad uitsteek nie tensy sodanige teken 'n vryhoogte van meer as 2,4 meter het nie.
4. Mag nie die uitsig uit enige venster of enige ander 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.
5. Mag nie 54m² in totale oppervlakte oorskry nie en nie een kwart van die algehele oppervlakte waarop hulle aangebring of gevef is, oorskry nie, watter een ook al die minste is. Daar kan van hierdie grootte beperking afgesien word op voorwaarde dat-
 - (a) 'n omgewingsimpakbeoordeling aan die munisipaliteit voorgelê word wat aandui dat geen nadelige omgewingsimpak verwag word nie;
 - (b) indien dit die voorneme is om 'n plat of uitsteekteken in 'n bewarings gebied op te rig, 'n erfenisimpakbeoordeling ingedien word wat aandui dat geen nadelige impak ten opsigte van erfenisbronne verwag word nie; en
 - (c) sodanige teken slegs grafika sal vertoon wat deur 'n paslik gekwalifiseerde konsultant ontwerp en geskep is.

6. Sal vir goedkeuring op oop gemeenskaplike grensfasades van nie-woon eiendomme oorweeg word.
7. Indien die teken op openbare fasades van enige gebou verskyn-
 - (a) so ontwerp wees dat dit 'n integrale deel van die ontwerp van die gebou word; en
 - (b) indien dit 'n derdepartyteken is, word dit slegs toegelaat indien dit doelgemaak is en onderhewig aan die vereistes van 5(a) tot (c) hierbo.

BYLAE 5

KIMTEKENS

1. Onderhewig aan goedkeuring ingevolge hierdie verordening, word die oprigting of vertoning van kimtekens, hetsy doelgemaak of van 'n standaard ontwerp, slegs in gebiede van minimum beheer toegelaat en daarbenewens moet kimtekens:
 - (a) tot 'n maksimum totale grootte van 4,5m² beperk word, met dien verstande dat daar van hierdie groottevereiste tot 'n maksimum van 18m² afgesien kan word by ontvangs van 'n Omgewingsimpakbeoordeling wat aandui dat geen nadelige omgewingsimpak verwag word nie; en
 - (b) die uitsig van enige ander gebou nie belemmer word nie.
2. Word kimtekens langs die boonste rand van die dak van geboue van kulturele, historiese of argitektoniese belang slegs toegelaat indien dit liggingsgebonde, onverligte tekens is en uit afsonderlik uitgesnyde letters of logo's bestaan.
3. Word die inligtingsinhoud van 'n voorgestelde teken word in "bis" gemeet; wanneer die inligtingsinhoud van 'n voorgestelde teken bereken word, moet die bis gewigte wat in die bostaande tabel getoon word, gebruik word.
4. Mag die totale bits in 'n voorgestelde teken nie 15 oorskry nie.

Elemente van die teken		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	.5
	5 - 8 syfers	1.0
	meer as 8 syfers	2.0
Logos, simbole en grafika	kleiner as 9m ²	0.5
	tussen 9 en 18m ²	1.0
	tussen 18 en 27m ²	1.5
	groter as 27m ²	2.0

BYLAE 6

DAKTEKENS

1. Onderhewig aan goedkeuring ingevolge hierdie verordening, word die oprigting of vertoning van daktekens in alle stedelike gebiede van beheer toegelaat behalwe gebiede wat vir residensiële doeleindes in gebiede van maksimum beheer gesoneer is. Daarbenewens:
 - (a) Moet die totale oppervlakte van enige dakteken wat gelykvlakkig op 'n dak van 'n gebou aangebring of daarop gevef is, nie een kwart van die algehele oppervlakte van die dak waarop dit aangebring of gevef is, oorskry nie.
 - (b) Wanneer dit aan die onderrand van 'n dak of vertikaal halfpad op die dak van 'n gebou bevestig word, mag sodanige teken nie 1 meter in hoogte oorskry nie en sy totale oppervlakte mag nie 25% van die dakoppervlakte waaraan dit bevestig is, oorskry nie.
2. Mag 'n dakteken 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 maar dit mag nie langs meer as twee rande van sodanige dak opgerig word nie en mag nie 3.6m² in totale oppervlakte (6 x 0.6m) oorskry nie; met 'n maksimum hoogte van 1meter.

BYLAE 7**TEKENS OP 'n VERANDA, BALKON, SONDAK, STEUNKOLOMME, PILARE EN PALE**

Onderhewig aan goedkeuring ingevolge hierdie verordening, word die oprigting en of vertoning van tekens op 'n veranda, balkon, sondak, steunkolomme, pilare en pale in alle gebiede van beheer toegelaat op voorwaarde dat hulle ook aan die volgende voorwaardes voldoen:

1. Geen sodanige teken word op of oor argitektoniese kenmerke van geboue toegelaat nie.
2. Sodanige tekens kan plat op 'n borswerings muur, balustrade of reling van 'n veranda of balkon, balk of fassie van 'n veranda of balkon aangebring of geverf word.
3. Die teken mag nie 1 meter in hoogte oorskry nie of bokant of onder elke end van die oppervlakte waarop dit aangebring is, uitsteek nie, of meer as 250mm voor die oppervlakte waarop dit aangebring is of oor 'n pad of binne 0,6m van die rand van 'n pad uitsteek nie.
4. Sodanige teken kan plat op steunkolomme, pilare en pale aangebring of geverf word. In hierdie verband mag geen teken meer as 50mm voor die oppervlakte waarop dit aangebring is, uitsteek nie en mag ook nie verby enige van die eindpunte van sodanige kolom, pilaar of paal uitsteek nie. Tekens wat plat op nie-reghoekige steunstrukture aangebring word, moet gerond wees om by die vorm van sodanige struktuur te pas.
5. Slegs een teken per kolom, pilaar of paal sal toegelaat word.
6. Sodanige teken wat onder die dak van 'n veranda, sondak of die vloer van 'n balkon opgehang word, mag nie 1,8 meter in lengte of 600mm in hoogte oorskry nie.
7. Elke sodanige teken moet reghoekig tot die boulyn wees.
8. Geen tekens wat onder 'n sondak opgehang word mag verby die eksterne rand van die sondak of veranda waaraan dit bevestig is, uitsteek nie.
9. Alle hangtekens moet 'n onbelemmerde hoogte van 2,4 meter hê.
10. 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 ondersteuningsmiddels bestaan en mag nie langs meer as twee rande van sodanige dak van 'n veranda of balkon opgerig word nie.

BYLAE 8**TEKENS OP GRENSMURE EN HEININGS EN OP BOUTERREIN SKUTTINGS**

Onderhewig aan goedkeuring ingevolge hierdie verordening, word die oprigting en of vertoning van tekens op grens mure en heinings slegs vir liggingsgebonde tekens in stedelike gebiede van maksimum, minimum of gedeeltelike beheer toegelaat en daarbenewens-

1. In stedelike gebiede van maksimum en gedeeltelike beheer, kan die munisipaliteit 'n aansoek om 'n liggingsgebonde teken teen 'n grensmuur aan te bring, slegs goedkeur 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 50mm van die voorkant van sodanige muur uitsteek nie.
2. In gebiede van minimum beheer, kan die munisipaliteit die volgende goedkeur:
 - (a) 'n aansoek om 'n liggingsgebonde teken plat op 'n grensmuur aan te bring slegs indien dit nie meer as 50mm van die voorkant van sodanige muur uitsteek nie; en
 - (b) 'n aansoek om 'n liggingsgebonde plat teken met 'n maksimum grootte van 0,5m² op die permanente heining van 'n erf aan te bring.
3. Moet derdeparty- en liggingsgebonde reklame op bouterreinskuttings en heinings aan die volgende voorwaardes voldoen:
 - (a) enige afsonderlike teken mag nie 'n vertikale afmeting van 3 meter en 'n totale oppervlakte van 18m² oorskry nie en in die geval van konstruksieterrein bedekking moet die grafika voldoen aan die vereistes van die Reklamestandaarde Vereniging van Suid Afrika.
 - (b) enige sodanige teken mag nie meer as 100mm voor die skutting of heining waarop dit aangebring word, uitsteek nie;
 - (c) dit mag nie in gebiede van maksimum en gedeeltelike beheer verlig word nie; en
 - (d) geen reklame mag op bouterreinskuttings en heinings wat binne die gesigsveld van motoriste by gesinjaleerde kruisings is, opgerig word nie.

BYLAE 9**PLAKKATE MET HOOFOPSKRIFTE**

Onderhewig aan goedkeuring ingevolge hierdie verordening, word die oprigting of vertoning van plakkaat met hoofopskrifte in alle gebiede behalwe natuurlike en landelike gebiede van maksimum beheer toegelaat. Daarbenewens:

1. Mag plakkaat met hoofopskrifte nie 0,9m x 0,6m in oppervlakte oorskry nie.
2. Mag die kommersiële inhoud van die plakkaat nie 20% van die oppervlakte van die plakkaat oorskry nie en die kommersiële letters mag nie groter as die hoof letterwerk in die res van die plakkaat wees nie.
3. Mag die plakkaat aan munisipale elektriese liggale bevestig word slegs op die plekke wat deur die munisipaliteit vir hierdie plakkaat goedgekeur is.
4. Plakkaat mag nie aan verkeerseinpale, of ander pale waarop verkeerstekens aangebring is of wat vir enige ander doel opgerig is of enige ander straatuitrusting, muur, heinings, bome, rotse of ander natuurlike verskynsels bevestig word nie.
5. Mag plakkaat met hoofopskrifte nie op munisipale elektriese liggale geplak word nie maar moet op 'n bord gemonteer word en met sterk tou of plastiese bind bande stewig vasgemaak word tensy 'n permanente raam vir hierdie doel goedgekeur is.
6. Word slegs een plakkaat met hoofopskrifte per paal toegelaat, ongeag watter koerant groep dit is.
7. Moet daar streng aan die aantal plakkaat asook die aangewese gebiede vir die vertoning van plakkaat met hoofopskrifte soos deur die munisipaliteit goedgekeur, voldoen word.
8. Moet alle "spesiale gebeurtenis"- plakkaat aan die volgende voldoen:
 - (a) die naam van die koerant groep, die "spesiale gebeurtenis" en die datum van die "spesiale gebeurtenis" moet op die plakkaat in letters wat nie minder as 50mm in hoogte is nie, verskyn.
 - (b) die plakkaat vir spesiale gebeurtenisse mag nie meer as 7 dae voor die datum van die gebeurtenis vertoon word nie en moet binne 24 uur van die datum van die gebeurtenis wat op die plakkaat verskyn, verwyder word.
9. Moet plakkaat met hoofopskrifte en hulle hegstukke op 'n daaglikse grondslag verwyder word, by versuim waarvan die plakkaat op die koerantgroep se koste in ooreenstemming met die standaardgeld vir die verwydering van plakkaat verwyder sal word.
10. Kan die munisipaliteit die koste vir die verwydering van ongemagtigde plakkaat en die herstel van die oppervlakte waarvan sodanige plakkaat verwyder is, van die persoon of persone wat vir die vertoning van sodanige plakkaat verantwoordelik is, of die betrokke koerantgroep, verhaal.
11. Mag die munisipaliteit enige plakkaat wat strydig met die bogenoemde voorwaardes vertoon word, verwyder.
12. Mag enige plakkaat wat nie op 'n daaglikse grondslag verwyder word nie of 'n plakkaat wat met 'n "spesiale gebeurtenis" met die vervaldatum bedoel in item 8(b) verband hou, deur die munisipaliteit verwyder word.
13. Is die vertoning van ongemagtigde plakkaat onwettig en die munisipaliteit mag sodanige plakkaat verwyder.
14. Mag die munisipaliteit die koste wat by die verwydering van ongemagtigde plakkaat betrokke is, bepaal.
15. Moet aansoek om toestemming deur elke koerantgroep om sodanige plakkaat te vertoon op 'n jaarlikse grondslag gedoen word onderhewig aan 'n jaarlikse geld per koerantgroep.
16. Moet elke koerantgroep wie plakkaat wil aanbring jaarliks 'n deposito betaal waarteen 'n koste vir die verwydering van enige plakkaat wat strydig met die verordening is, gehef sal word. In die geval waar die deposito verbruik is, moet toestemming om sodanige plakkaat te vertoon, teruggetrek word totdat 'n verdere deposito by die munisipaliteit ingedien is.

BYLAE 10**PLAKKATE, BANIERE, VLAE EN BALLONNE**

Onderhewig aan goedkeuring ingevolge hierdie verordening, word die oprigting of vertoning van plakkaat, banier en vlag ander dan dié genoem in Bylae 11, of ballonne in alle gebiede toegelaat behalwe in natuurlike- en landelike gebiede en gebiede van maksimum beheer. Daarbenewens:

1. Word die vertoning van plakkaat, banier, vlag en ballonne op enige brug of oor enige openbare pad verbied, en langs enige pad wat deur die Munisipaliteit aangewys word, tensy spesifieke toestemming van die Munisipaliteit verkry is.
2. Mag plakkaat, banier, vlag en ballonne nie so bevestig word dat dit verbygaande voetgangers of voertuigverkeer belemmer of 'n gevaar vir hulle inhoud nie.
3. Mag geen banier, of vlag-tipe banier groter as 5m² wees nie en mag geen vlag groter wees as 2m² nie; verder mag geen vlagpaal die toepaslike hoogtebeperking van die sonering van die perseel oorskry nie tot 'n maksimumhoogte van 8 meter bo die natuurlike grondvlak, gemeet direk onder die vlagpaal nie.

4. Mag geen plakkat, banier, vlag of ballon binne 30 meter van enige padverkeerstekens of verkeersein vertoon word nie.
5. Mag plakkate, baniere, vlag en ballonne nie aan bome, verkeer seinpale, elektriese of diensowerheidsdistribusiekaste, of ander pale wat verkeerstekens dra, rotse, ander natuurlike verskynsels, straat uitrusting of ander Munisipale eiendom bevestig word nie.
6. Mag plakkate, baniere, vlag en ballonne nie op so 'n wyse bevestig word dat hulle ander besighede of organisasies op 'n onregverdigende wyse sal benadeel of enige goedgekeurde bestaande advertensies sal belemmer nie.
7. Sal slegs een banier per perseel toegelaat word tensy die Munisipaliteit se skriftelike toestemming vir meer as een banier verkry word.
8. (i) 'n Maksimum van 5 vlagpale bevattende nasionale vlag mag opgerig word op die perseel van 'n verblyfonderneming op 'n enkelresidensiële perseel;
(ii) Onderhewig aan die bepalings van paragraaf 4 mag 'n maksimum van drie vlag vertoon word waarop die naam, korporatiewe simbool of die aard van die besigheid op die perseel waarop dit vertoon word, aangedui word.
9. Plakkate, baniere, vlag en ballonne wat in 'n toestand van verval is mag nie vertoon word nie en moet op kennisgewing van die munisipaliteit verwyder word.

BYLAE 11

PLAKKATE, BANIERE EN VLAE IN OPENBARE PAAIE EN OPENBARE PLEKKE

Onderhewig aan goedkeuring ingevolge hierdie verordening word die oprigting of vertoning van plakkate, baniere of vlag in openbare paaie en plekke in alle gebiede van beheer toegelaat behalwe natuurlike en landelike gebiede van maksimum beheer.

Daarbenewens-

1. Sal goedkeuring vir derdeparty reklame op plakkate, baniere, vlag en ballonne slegs vir 'n funksie of byeenkoms vir godsdienstige, opvoedkundige, maatskaplike welsyns-, dierewelsyns-, sport-, burgerlike en kulturele doeleindes verleen word, of aan 'n funksie of byeenkoms wat met 'n Munisipale, Provinsiale of Parlementêre verkiesing of referendum verband hou. Die vertoning van sodanige baniere moet aan die Munisipaliteit se standaard voorwaardes met betrekking tot die vertoning van baniere soos hieronder uiteengesit, voldoen.
2. Moet die naam van die gasheer organisasie, die datum en plek van die funksie in letters van nie minder nie as 50 mm in hoogte op die materiaal verskyn.
3. Plakkate, baniere en vlag mag slegs opgerig word om die byeenkoms te adverteer en die naam of embleem van die borg mag nie meer as 20% van die oppervlakte van die materiaal beslaan nie.
4. Die Munisipaliteit mag 'n tarief hef om die koste te dek vir die verwydering van materiaal wat sonder die goedkeuring van die Munisipaliteit onder die hand van 'n gemagtigde amptenaar uitgereik is.
5. Plakkate, baniere en vlag mag nie meer as 14 dae voor die datum van die funksie/byeenkoms vertoon word nie en moet binne 2 dae vanaf die datum van die funksie of die laaste dag daarvan, soos van toepassing, verwyder word.
6. Plakkate met 'n maksimum afmeting van 80 cm x 50 cm moet op 'n bord gemonteer word en met sterk tou of plastiese bind stukke stewig vasgemaak word en op so 'n wyse vasgemaak word dat dit nie die pale waaraan dit geheg word beskadig nie. Geen bind materiaal met 'n metaal inhoud word toegelaat nie.
7. Plakkate, baniere en vlag uitgesonderd verkiesingsplakkate en vlag, mag slegs in die strate of plekke soos deur die Munisipaliteit aangedui, aangebring word en mag nie in residensiële gebiede en op brûe aangebring word nie. Geen politieke baniere word toegelaat nie.
8. Slegs een plakkaat per organisasie mag teen elke tweede straatlig paal opgerig word.
9. Plakkate moet op 'n eenvormige hoogte van ongeveer 2 m opgerig word.
10. Geen plakkate, baniere of vlag mag op bome, middelmannetjies, verkeerstekens, verkeerseine, bestaande advertensie tekens of teen enige ander munisipale eiendom of oor brandkraan-aanduidings tekens aangebring word nie.
11. Geen plakkaat, banier of vlag mag binne 30 meter van enige padverkeerstekens of verkeersein vertoon word nie.
12. Alle heg materiaal moet saam met die plakkaat verwyder word.
13. Die Munisipaliteit mag enige aanstootlike of stukkende plakkate, baniere of vlag en wat in die mening van die Munisipaliteit 'n verkeersgevaar veroorsaak, verwyder.
14. Die Munisipaliteit word gevrywaar teen enige eise wat as gevolg van die vertoon van plakkate, baniere of vlag ingestel mag word.
15. Die vertoning van plakkate, baniere en vlag uitsluitlik vir kommersiële reklame word nie toegelaat nie,

met dien verstande dat plakkate, baniere en vlae wat met 'n sport, die kunste of 'n kulturele gebeurtenis verband hou, toegelaat kan word ten spyte daarvan dat dit 'n kommersiële elemente bevat. Die kommersiële element mag nie 20% van die oppervlakte van die plakkate, baniere of vlae oorskry nie.

16. Organisasies of persone wat goeieuring verkry het om plakkate of vlae op te rig moet 'n deposito betaal soos deur die Munisipaliteit bepaal, wat die persoon die reg gee om die plakkate vir 'n maksimum van 14 dae of sodanige ander tydperk wat deur die Munisipaliteit bepaal word, te vertoon. Geen plakkaat of vlag mag sonder dat sodanige deposito betaal is vertoon word nie.

17. Die Munisipaliteit mag alle plakkate, baniere en vlae verwyder of die applikant versoek om dit te verwyder indien die bogenoemde voorwaardes nie aan voldoen word nie.

18. Plakkate, baniere of vlae wat nie teen die vervaldatum verwyder is nie, mag deur die Munisipaliteit verwyder word met verbeuring van die deposito betaal.

19. Baniere sal deur die Munisipaliteit opgerig en verwyder word teen betaling van tariewe soos van tyd tot tyd goedgekeur, en die banier moet aan die spesifikasies voldoen soos deur die Munisipaliteit voorgeskryf.

BYLAE 12

EIENDOMSAGENT TEKENS

Onderhewig aan goedkeuring ingevolge hierdie verordening, word die oprigting of vertoning van eiendomsagent tekens in alle gebiede behalwe natuurlike gebiede van maksimum beheer toegelaat. Daarbenewens:

1. Mag "skouhistekens" slegs van 12:00 op Vrydag tot 20:00 op Sondag vertoon word.
2. Mag eiendomsagent tekens nie aan bome, verkeerseinpale, straat pale of ander pale wat verkeerstekens dra, mure, heinings, rotse, ander natuurlike verskynsels of verfraaide gebiede, straatuitrusting of ander munisipale eiendom bevestig word tensy sodanige ander vertoning skriftelike deur die munisipaliteit gemagtig word.
3. Moet die bewoording "Op Skou", "Toon huis", "Toon woonstel" of "Toon erf" met die agentskap se naam en rigtingpyltjie op elke teken vertoon word.
4. Kan tekens op penne vertoon word deur 'n ontwerp te gebruik wat deur die munisipaliteit goedgekeur is. Eiendomsagent tekens mag nie op beton-, voormengsel- of geplaveide oppervlaktes vertoon word nie. Die penne mag nie dieper as 15cm in die grond ingedryf word nie.
5. Mag eiendomsagent tekens nie 0,3m² in totale oppervlakte oorskry nie.
6. Word nie meer as ses eiendomsagent rigtingaanwysers per toonhuis, toonerf of woonstelblok waarin 'n toon woonstel vertoon word, toegelaat nie. Die definisie van een teken sluit die vertoning van twee tekenborde in slegs wanneer sodanige borde met hulle rugkante teen mekaar rondom 'n elektriese paal bevestig is.
7. Mag eiendomsagent tekens nie langs uitsigpaaie of enige brug, in 'n openbare park of openbare oopruimte vertoon word nie.
8. Mag slegs een rigtingsteken per toonhuis/-woonstel/-erf langs klas 2 of 3 paaie vertoon word, met uitsluiting van paaie bedoel in item 7 hierbo.
9. Mag geen eiendomsagent teken 'n padverkeersteken belemmer nie.
10. Mag geen eiendomsagent teken op middeleilande vertoon word nie.
11. Mag geen eiendomsagent teken op so 'n wyse opgerig word dat enige gedeelte daarvan nader as 1,5m van 'n straatrand is nie.
12. Moet rigtingaanwyser slegs langs hoofroetes vertoon word wat die kortste roete van 'n hoofweg na die eiendom is.
13. Mag geen eiendomsagent tekens op enige geteerde gedeeltes van sypaadjies opgerig word nie.
14. Moet "Verkoop"- / "Te Koop"- / "Te Huur"- tekens gelykvlakkig teen die heining of muur van die eiendom opgerig word.
15. Kan "Verkoop" tekens gelykvlakkig teen die heining of muur van 'n eiendom vir 'n maksimum tydperk van twee weke vertoon word.
16. Mag geen tekens wat enigiets anders as eiendom te koop aandui, deur eiendomsagente of agentskappe opgerig of vertoon word nie.
17. Moet elke eiendomsagentskap op 'n jaarlikse grondslag aansoek doen om toestemming om eiendomsagent tekens te vertoon en goedkeuring is onderhewig aan betaling van 'n jaarlikse geld ooreenkomstig die munisipaliteit se Skedule van Tariewe.
18. Die munisipaliteit mag 'n deposito vereis waarteen die koste vir die verwydering van enige teken wat strydig met die verordening is, gehef sal word. In die geval waar die genoemde deposito verbruik is sal toestemming om sodanige tekens te vertoon, teruggetrek word totdat 'n verdere deposito aan die munisipaliteit betaal is.
19. Is enige eiendomsagent teken wat onwettig of in stryd met die bepaling van hierdie Bylae opgerig word, onderhewig aan 'n koste deur die munisipaliteit; in geval die teken nie deur die munisipaliteit verwyder word nie, mag fotografiese bewys van die onwettige teken deur die munisipaliteit verkry word alvorens die bedoelde koste gehef word.

BYLAE 13

LOS DRAAGBARE TEKENS

Onderhewig aan goedkeuring ingevolge hierdie verordening, word die oprigting of vertoning van los draagbare tekens in gebiede van minimum en gedeeltelike beheer asook aangewese gebiede binne stedelike gebiede van maksimum beheer toegelaat. Daarbenewens:

1. Mag los draagbare tekens nie in 'n padreserwe of in openbare oopruimtes sonder die skriftelike toestemming van die munisipaliteit toegelaat word nie.
2. Kan die munisipaliteit los draagbare tekens wat sonder die munisipaliteit se goedkeuring in 'n padreserwe of op eiendom in die munisipaliteit se besit geplaas word, verwyder en daarop beslag lê. Eienaars kan hulle tekens by betaling van die voorgeskrewe fooi soos deur die munisipaliteit bepaal terugkry, welke bedrag gebruik sal word om die koste van verwydering, bewaring en vervoer te dek.
3. Die volgende kriteria sal van toepassing wees ten opsigte 'n aansoek ingevolge item 1 :
 - (a) dit nie 'n gevaar ten opsigte van veiligheid vir die publiek inhou nie;
 - (b) dit nie die publiek vanweë die fisiese grootte of die ligging van die teken, belemmer of verontrief nie;
 - (c) dit nie ander handelaars onregverdig benadeel nie;
 - (d) dit, of die voorgestelde aantal daarvan, nie aan die aantreklikheid van die plaaslike straatlandskap of plaaslike omgewing afbreuk doen nie;
 - (e) dit alleenlik gebruik word om die naam van die besigheid, goedere of dienste te koop vanaf die adverteerder se perseel, te adverteer.
 - (f) die maksimum afmetings daarvan 1,2m (hoog) x 0,6m (wyd) is;
 - (g) dit direk voor die adverteerder se perseel geplaas word, met dien verstande dat daar aan die bogenoemde kriteria voldoen word; en
 - (h) 'n minimum onbelemmerde looppad wydte van 1,8 meter aangrensend aan die teken oop gehou word en 2,5 meter in die sentrale sakekern en sypaadjies met hoë voetganger volume.
4. Kan die munisipaliteit gebiede in die padreserwe of op munisipale eiendom afbaken vir los draagbare tekens, waar aansoekers dan die goedgekeurde los draagbare teken gedurende gewone handelsure kan plaas. Die teken moet buite die gewone handelsure verwyder word en bewaar word waar dit nie deur die publiek gesien kan word nie.
5. Kan die munisipaliteit tariewe hef vir die vertoning van los draagbare tekens, welke tariewe vooruit betaalbaar sal wees vir 'n maksimum tydperk van ses maande.
6. Moet aansoekers die munisipaliteit teen enige eise vir derde partye wat weens die plasing van los draagbare tekens in die padreserwe of op munisipale eiendom mag ontstaan, vrywaar.
7. Ondanks die bogenoemde, kan die munisipaliteit los draagbare teken(s) verwyder en daarop beslag lê indien die aansoeker enige van die bogenoemde voorwaardes oortree.

BYLAE 14

LUGTEKENS

Onderhewig aan goedkeuring ingevolge hierdie verordening, word die oprigting of vertoning van lugtekens slegs in stedelike gebiede van gedeeltelike of minimum beheer toegelaat. Daarbenewens:

1. Mag geen lugtekens wat aan enige gebou of struktuur bevestig is teen 'n hoogte van meer as 45m van die oppervlakte wat vanaf die grondvlak gemeet word, vertoon word nie.
2. Mag lugtekens nie bokant 'n openbare pad vertoon word nie.

BYLAE 15

TRANSITO - REKLAME

Onderhewig aan goedkeuring ingevolge hierdie verordening, word die oprigting of vertoning van transitoreklame slegs in stedelike gebiede van gedeeltelike of minimum beheer toegelaat. Daarbenewens:

1. Word die parkering van 'n transitoteken wat van 'n openbare pad of 'n openbare plek vir die doel van derdeparty reklame sigbaar is, verbied behalwe indien dit op 'n aangewese reklameterrein vertoon word wat ingevolge hierdie verordening goedgekeur is.
2. Moet transitotekens wat op private eiendom vir stoordoeleindes geparkeer word, so geplaas word dat dit nie van 'n straat of openbare plek sigbaar is nie.

3. Mag die tekenpaneel of gedeelte van die voertuig wat vir transitoreklame gebruik word nie 'n kumulatiewe totaal van 18m² in gebiede van gedeeltelike beheer oorskry nie, welke grootte tot 'n maksimum grootte van 36m² in gebiede van minimum beheer verhoog kan word.
4. Kan die munisipaliteit terreine in gebiede van gedeeltelike en minimum beheer vir transitoreklame aanwys en sodanige terreine adverteer.
5. Ondanks enige bepalings van hierdie verordening, kan die munisipaliteit sonder vooraf kennisgewing enige ongemagtigde transitotekens van munisipale eiendom verwyder, en in die geval van ongemagtigde transitoreklame op private eiendom, kan die munisipaliteit ingevolge hierdie verordening 'n kennisgewing vir die verwydering beteken.
6. Moet transitotekens op die grond by die plek waar dit geparkeer word, vasgemaak word.

BYLAE 16

TEKENS OP MUNISIPALE GROND OF GEBOUE

1. Geen teken mag op grond in munisipale besit opgerig word sonder die toestemming van die munisipaliteit nie.
2. Die volgende spesifieke voorwaardes en kriteria sal geld ten opsigte van tekens soos vermeld in (a) tot (c) hieronder:

(a) *Kommersieel geborgde tekens, behalwe dié bedoel in artikel 13(10)*

Nieteenstaande die gebied van beheer waarin daar beoog word om 'n kommersieel geborgde teken op munisipale grond op te rig, en onderhewig aan die nakoming van al die ander bepalings van hierdie verordening, kan die munisipaliteit 'n kommersieel geborgde teken vir goedkeuring onderhewig aan die volgende oorweeg-

- (i) openbare of gemeenskaplike behoeftes of doelwitte moet deur die munisipaliteit geïdentifiseer word of aanvaar word en indien sodanige behoeftes geheel en al of gedeeltelik aangespreek kan word deur vergunnings aan spesifieke persone vir die oprigting van kommersieel geborgde tekens toe te staan, kan die munisipaliteit publieke insette vir sodanige openbare of gemeenskapsbehoefte of doelwitte en die reklamegeleentheid wat daarmee verband hou, aanvra.
- (ii) ten einde sodanige openbare of gemeenskapsbehoefte of doelwitte te identifiseer, sal die munisipaliteit of ander belangstellende owerhede geraadpleeg word voordat die voorstelle aangevra word, ten einde die voorwaardes, kriteria en beperkings ten opsigte van sodanige reklame te bepaal.
- (iii) die munisipaliteit se verkrygingsbeleid sal toegepas word.
- (iv) dat enige voorstel op die volgende basis beoordeel word-
 - (aa) voldoening aan die beginsels van hierdie verordening nagekom word;
 - (bb) die ontwerpbydrae;
 - (cc) die beste gemeenskapsvoordeel wat dit bied;
 - (dd) die kreatiwiteit en openbare veiligheid;
 - (ee) die permanensie van die bydrae tot die gemeenskapsdoelwit of behoefte; en
 - (ff) die verhalingskoste oor die oprigtingstydperk van die teken in teenstelling met die grootste reklamegeleentheid of finansiële voordeel.
- (v) wanneer bydraes in goedere deur die munisipaliteit verhaal moet word, sal 'n omrekening daarvan tot 'n geldelike bydrae tot die munisipaliteit se inkomstebasis bepaal word.
- (vi) die munisipaliteit as grondeienaar, behou die reg om nie met enige voorstel voor die finale goedkeuring daarvan voort te gaan nie en die uitnodiging vir voorstelle, in enige opsig, sal nie as 'n besluit deur die munisipaliteit beskou word om met die oprigting van 'n teken ten opsigte van 'n spesifieke terrein voort te gaan nie.
- (vii) wanneer dit aanvaar is, moet enige teken wat ingevolge hierdie Bylae opgerig gaan word, die onderwerp wees van 'n skriftelike ooreenkoms tussen die munisipaliteit as grondeienaar en die persoon wat vir die oprigting van die teken verantwoordelik is.

(b) *Geborgde Tekens*

Nieteenstaande die gebied van beheer waarin sodanige teken op grond in munisipale besit opgerig gaan word en onderhewig aan voldoening aan al die ander bepalings van die verordening, kan die munisipaliteit 'n geborgde teken vir goedkeuring oorweeg op voorwaarde dat:

- (i) skriftelike besonderhede verstrek word wat die erkende gemeenskapsdoelwit wat deur die oprigting of vertoning van die voorgestelde teken bevorder sal word, duidelik aandui;
- (ii) tekens met 'n politieke inhoud nie toegelaat sal word nie;
- (iii) nie meer as 5% van die totale oppervlakte van die teken vir derdepartyreklame gebruik word nie;

- (iv) die maksimum grootte van enige sodanige teken 6m x 3m is, met dien verstande dat waar 'n V-vormige teken voorgestel word sy maksimum grootte nie twee panele van 6m x 3m elk sal oorskry nie;
 - (v) aansoeke vir die oprigting van aanplakborde ingevolge hierdie item aan die vereistes soos in Bylae 2 uiteengesit, voldoen;
 - (vi) geen teken wat ingevolge hierdie item opgerig word binne 5 meter van 'n eiendom se grenslyne geleë is nie.
- (c) *Nie-winsgewende tekens*
 Nieteenstaande die gebied van beheer waarin 'n teken opgerig gaan word en onderhewig aan voldoening aan al die ander bepalings van hierdie verordening, kan die munisipaliteit die oprigting van 'n teken deur of ten bate van 'n nie-winsgewende liggaam oorweeg onderhewig aan nakoming van die vereistes wat in Bylae 17 hiervan uiteengesit word.

BYLAE 17

TEKENS WAT DEUR OF TEN BATE VAN NIE-WINSGEWENDE LIGGAME OPPERIG WORD

1. Nieteenstaande die gebied van beheer waarin 'n teken deur of ten bate van 'n nie-winsgewende liggaam opgerig gaan word, en onderhewig aan voldoening aan al die ander bepalings van hierdie verordening, kan die munisipaliteit sodanige teken vir goedkeuring oorweeg onderhewig aan die volgende:
 - (a) skriftelike besonderhede van die gasheer nie-winsgewende liggaam rakende die aard en omvang van die ondersteuning wat na aanleiding van die oprigting of vertoning van die teken ontvang sal word, aan die munisipaliteit verstrekkend word tesame met die ander inligting wat in gemelde artikel 3 van die verordening uiteengesit word;
 - (b) die omvang van betrokkenheid van voorheen benadeelde gemeenskappe, klein sake, werkskepping en bemagtiging by enige voorstel in ag geneem word;
 - (c) dat enige voorstel op die volgende basis beoordeel word-
 - (i) voldoening aan die beginsels van hierdie verordening;
 - (ii) die ontwerpbydrae;
 - (iii) die beste gemeenskapsvoordeel wat dit bied;
 - (iv) die kreatiwiteit en openbare veiligheid; en
 - (v) die permanensie van die bydrae tot die gemeenskapsdoelwit of behoefte in teenstelling met die grootste reklame geleentheid of finansiële voordeel.
 - (d) indien daar voorgestel word dat die genoemde teken op munisipale grond opgerig moet word;
 - (i) moet die munisipaliteit die voorstel oorweeg;
 - (ii) behou die munisipaliteit as grondeienaar die reg om nie met enige voorstel voor die finale goedkeuring daarvan voort te gaan nie;
 - (iii) indien dit aanvaar is, moet 'n skriftelike ooreenkoms tussen die munisipaliteit, die persoon wat vir die oprigting van die teken verantwoordelik is en die nie-winsgewende liggaam aangegaan word;
 - (e) Daarbenewens is die volgende voorwaardes van toepassing-
 - (i) tekens met 'n politieke inhoud sal die toegelaat word nie;
 - (ii) die maksimum grootte van enige sodanige teken is 6m x 3m, met dien verstande dat waar 'n V-vormige teken voorgestel word sy maksimum grootte nie twee panele van 6m x 3m elk oorskry nie;
 - (iii) aansoeke vir die oprigting van aanplakborde ingevolge hierdie item moet aan die vereistes soos uiteengesit in Bylae 2 voldoen;
 - (iv) geen teken wat ingevolge hierdie item opgerig word mag binne 5 meter van 'n eiendom se grenslyne geleë wees nie;
 - (v) die naam van die nie-winsgewende liggaam moet op die teken met 'n maksimum letterhoogte van 300mm vertoon word;
 - (vi) al die partye wat deur die oprigting of vertoning van sodanige teken geraak word, moet geleentheid gegee word om insette te lewer;
 - (vii) die munisipaliteit kan vereis dat 'n omgewingsimpakbeoordeling of verkeers impak- of erfenisimpakbeoordeling ooreenkomstig sy riglyne daarvoor, ingedien moet word; en
 - (viii) nie meer as twee afsonderlike tekens van 6m x 3m elk sal toegelaat word nie, of anders, een V-vormige teken met 'n maksimum grootte van twee panele van 6m x 3m elk op enige spesifieke eiendom. Daarbenewens sal slegs een teken per straat voorkant toegelaat word.

**HESSEQUA MUNICIPALITY:
CEMETERIES AND CREMATORIA BY-LAWS**

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996, the Hessequa Municipality enacts as follows:-

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1. Interpretation

(1) In this by-law, unless the context otherwise indicates –

“**adult**” means a deceased person over the age of 16 years, and where the word is used to define a corpse, a deceased person whose coffin will fit into the grave opening prescribed for adults in section 15;

“**aesthetic section**” means a section of a cemetery which has been set aside by the municipality wherein only headstones may be erected;

“**approved**” means approved by the municipality;

“**ashes**” means the cremated remains of a corpse;

“**berm**” means a concrete base laid at the head of a grave and on which a memorial is erected;

“**burial**” means interment in earth, a sepulchre or tomb;

“**burial order**” means an order issued in terms of the Births and Deaths Registration Act, 1992 (Act 51 of 1992);

“**caretaker**” means the official whom the municipality appoints from time to time in a supervisory capacity with regard to a cemetery or crematorium or his or her delegate;

“**cemetery**” means a land or part of a land within the municipal area set aside by the municipality for the interment of corpses;

“**ceremony**” means any ceremony relating to the interment of a corpse;

“**child**” means a person who is not an adult, and where the word is used to define a corpse, means a deceased person whose coffin will fit into the grave opening prescribed for children in section 18, and includes the corpse of a stillborn child and a foetus;

“**columbarium**” means a place set aside in the basement of a crematorium or chapel containing rows of niches for the purpose of placing receptacles containing the ashes of cremated corpses therein;

“**corpse**” means the remains of a deceased person and includes a still-born child and foetus;

“**cremation**” means the process whereby a corpse is disposed of by fire or by any other means that yields a comparable result;

“**crematorium**” means a place where corpses are cremated;

“**cremated remains**” means all recoverable ashes after the cremation;

“**exhumation**” means the removal of a corpse from its grave ;

“**Garden of Remembrance**” means a section of a cemetery or crematorium set aside for the erection of memorial work or a wall of remembrance;

“**grave**” means a piece of land, within a cemetery or heritage site, excavated for the burial of a corpse and includes the headstone, number or marker of and a structure on or associated with the grave;

“**Heroes Acre**” means an area of land set aside for the burial of a military hero;

“**interment**” means any method used for disposing of a corpse;

“**memorial section**” means a section of a cemetery set aside for the erection of memorials;

“**memorial work**” means any headstone, monument, plaque, other work or object, erected or intended to be erected in a cemetery or crematorium to commemorate a deceased person, and includes a kerb demarcating a grave, and a slab covering a grave;

“**municipality**” means the Hessequa Municipality and includes any political structure, political office-bearer, duly authorised agent thereof, or a service provider fulfilling a responsibility under this by-law assigned to it in terms of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) or any other law, as the case may be, or any employee thereof, acting in connection with this by-law by virtue of a power vested in the municipality and delegated to such political structure, political office bearer, agent or employee;

“**niche**” means a compartment in a columbarium or wall of remembrance for the placing of ashes;

“**open section**” means a section in a cemetery set aside by the municipality where memorial work may be erected at a later stage at the prescribed fee;

“**prescribed**” means prescribed by the municipality;

“**prescribed fee**” means a fee set by the municipality in terms of its Customer Care and Revenue Management By-law;

“**private cemetery**” means a cemetery which is used as a cemetery but which has not been set aside as such by the municipality;

“**tomb**” means an above-ground burial vault;

“**wall of remembrance**” means a structure in a cemetery which contains niches in which urns containing ashes can be stored.

2. Principles and objectives

The purpose of this by-law is to make provision for the allocation of land for the purposes of the burial of human remains, to develop and maintain existing cemeteries, to permit its residents to dispose of a corpse by cremation and to provide space allowing the preservation of the remains of a cremation in a dignified manner.

CHAPTER 1: ESTABLISHMENT AND MAINTENANCE OF CEMETERIES

3 Establishment and maintenance of cemeteries

(1) The municipality may set apart any piece of land within its area of jurisdiction for the purposes of a cemetery and is responsible for the general maintenance of such cemetery.

(2) The municipality may, within such a cemetery, provide separate areas for exclusive use by different religious or cultural groups, taking into consideration the customs or religious conventions of such groups.

(3) The establishment of a cemetery as contemplated in subsection (1) must be preceded by a process of public participation and the submission of a geotechnical report.

(4) Notwithstanding the provisions of subsection (1), the responsibility for the maintenance of the areas contemplated in subsection (2) rests with the group to which exclusive use was granted.

4. Alternatives to burial

The municipality may, if compelled to do so by environmental considerations, or the shortage of land for burial purposes, and subject to the provisions of any other law regarding the rights of a person, request that a corpse be disposed of by any other accepted method other than burial.

CHAPTER 2: GENERAL PROVISIONS RELATING TO PLACES OF INTERMENT

5 Appointment of caretaker

(1) The municipality may appoint a caretaker for each place of interment or crematorium to control and administer the place of interment.

(2) The caretaker must take into account the customs of the deceased person and the people responsible for the interment and must accommodate these within the framework of this by-law.

6. Hours of admission for public

(1) Places of interment are normally open to the public during the hours determined by the municipality, but if it is in the interest of the public, the municipality may close a place of interment or part thereof for such periods as may be necessary.

(2) No person, excluding workers or persons with permission, may be in or remain in a place of interment before or after the hours mentioned in sub-section (1) or during a period when it is closed to the public.

(3) The municipality must display the hours that every place of interment is open to the public on a notice board that must be placed at each entrance to the place of interment.

7. Keeping to paths

Except for purposes permitted by this by-law, a person may only use a path provided in the place of interment, and failure to do so constitutes an offence.

8. Prohibited conduct

(1) No person may in a place of interment:

- (a) commit or cause a nuisance;
- (b) ride an animal or cycle except with the approval of the caretaker;
- (c) with the exception of a blind person making use of a guide dog, bring into or allow an animal to wander inside such cemetery;
- (d) plant, uproot, cut, pick or remove a tree, plant, shrub or flower without the permission of the caretaker;
- (e) hold or take part in a demonstration;
- (f) interrupt a funeral or an official or workman employed by the municipality during the performance of his or her duties;
- (g) obstruct, resist or oppose the caretaker in the course of his or her duty or refuse to comply with an order or request which the caretaker is entitled to make under this by-law;
- (h) mark, draw, scribble, erect an advertisement or object on a wall, building, fence, gate, memorial work or other erection;
- (i) use water for any form of gardening without the permission of the caretaker;
- (j) leave or dump any rubbish, soil, stone, debris or litter;
- (k) in any way damage, destroy or deface a grave, memorial, wall, building, fence, railing, path or other construction or any part thereof;
- (l) solicit any business, order or exhibit, or distribute or leave a tract, business card or advertisement;
- (m) treat a grave or memorial work with disrespect, such as climbing or sitting on a grave or memorial work;
- (n) enter an office, building or fenced place except in connection with lawful business;
- (o) expose a corpse or a part thereof;
- (p) exceed the prescribed speed limit of 20 km per hour;
- (q) allow or cause any animal to enter, with the exception of a caretaker living on site and who is keeping pets with the prior approval of the municipality;
- (r) bring in any alcohol or consume any alcohol;
- (s) be in possession of any fire arms or traditional weapons except in the case of a police or military funeral;
- (t) overnight; or
- (u) erect any shelter.

(2) A person who contravenes any of the provisions of subsection (1) commits an offence.

(3) The municipality may impound an animal found in any place of interment.

9. Right of interest in ground

(1) No person shall acquire any right to or interest in any ground or grave in a cemetery other than such rights or interests as may be obtainable under this by-law.

(2) The municipality may, subject to the provisions of section 17, and on payment of the prescribed fee, reserve a grave plot in a cemetery.

CHAPTER 3: GENERAL PROVISIONS RELATING TO INTERMENT

10. Consent required

(1) No person may dispose of a corpse in any other manner than that prescribed by the municipality, and a person who wishes to dispose of a corpse must obtain the written consent of the municipality and must comply with any requirements set by the municipality.

(2) A person who wishes to obtain the consent as contemplated in subsection (1) must submit to the caretaker an application in writing together with:

- (a) proof of payment of the prescribed fee;
- (b) a death certificate;

- (c) a burial order issued in terms of the Births and Deaths Registration Act, 1992; and
 - (d) if the application relates to a corpse in which was inserted radioactive material or a pacemaker, a statement indicating whether the said material or pacemaker was removed from the corpse and the caretaker may not approve the application unless all of the above requirements are met.
- (3) An application must be submitted to the caretaker, in respect of:
- (a) an interment allowing sufficient time to prepare the place of interment; and
 - (b) practices that need to be adhered to by certain religious groups other than those prescribed by this by-law.
- (4) Should any alteration be made in the day or hour previously fixed for an interment, or an interment be cancelled, in the instance where the municipality is responsible for the digging of a grave, notice of the alteration must be given to the caretaker at least eight hours before the time fixed for the interment, and no refund will be made on monies paid in respect of the opening of an existing grave.
- (5) An application contemplated in subsection (2) must be signed by a surviving relative of the deceased person; however, if the caretaker is satisfied that the signature of a surviving relative cannot be obtained timeously, or for any other valid reason, he or she may, in his or her discretion, grant an application signed by any other interested person
- (6) The municipality reserves the right to:
- (a) inspect the contents of a coffin before interment; and
 - (b) decide which method of interment may be used.
- (7) The municipality may refuse a person, including a funeral undertaker, to inter a corpse if documentation required by the municipality has not been submitted.

11. Interment times

- (1) An interment may take place during the times determined by the municipality.
- (2) A person contemplated in section 10(2) will be allocated an interment time by the caretaker, and interments that are not undertaken within the times allocated will result in such interment being postponed until such time as an interment time is available without inconveniencing other interments taking place within the time allocated.
- (3) Despite the provisions of subsection (1), the caretaker to whom an application is made may, in the case of emergency, permit interment outside the times contemplated in subsection (1), in which case an additional fee as prescribed by the municipality from time to time is payable.
- (4) A person who interms a corpse in contravention of the provisions of subsection (1) or (2) commits an offence.

12. Register

The caretaker must keep a record of all interments, and the record must contain:

- (a) The particulars of the person who requested the interment;
- (b) the particulars of the deceased person whose corpse is to be interred, such as the name, address, and identification number;
- (c) the date of the interment; and
- (d) the number of the grave in which the corpse is interred.

13. Interment of destitute persons

- (1) The removal and interment of a destitute person who has died within the area of jurisdiction of the municipality is the responsibility of
- (a) the municipality if:
 - (i) the destitute person's corpse has not been claimed by a competent person; or
 - (ii) a competent person has undertaken to inter the corpse of the destitute person but has failed to do so;
 - (b) a hospital or other institution in terms of the provisions of section 48(2) of the Health Act, 1977 (Act 63 of 1977), if the destitute person died in that hospital or other institution.
- (2) In terms of section 48(2A)(a) of the Health Act, 1977 (Act 63 of 1977), the municipality may direct that the corpse of a destitute person be interred in any manner it sees fit instead of being buried.
- (3) The corpses of more than one destitute person may be buried in one grave.
- (4) Where a corpse contemplated in subsection (2) is cremated, the caretaker of the crematorium must retain the ashes, and should the ashes not be claimed, such caretaker must bury the ashes in an area set aside for that purpose.

14. Number of corpses in one coffin

- (1) Subject to the provisions of subsection (2) and section 13(3), only one corpse may be contained in a coffin.
- (2) More than one corpse may be contained in one coffin if the consent of the caretaker has been obtained and the prescribed fee have been paid, in the case of :
 - (a) a mother and child who died during childbirth; or
 - (b) family members who:
 - (i) died together; or
 - (ii) died a short while after each other, and the interment of the first dying member has not yet taken place.
- (3) A person who contravenes a provision of subsection (1) or who fails to obtain the consent as contemplated in subsection (2) commits an offence.

CHAPTER 4: BURIAL**15. Dimensions of graves**

- (1) The standard dimensions of a grave for an adult person are as follows: Length: 2200 mm; Width: 900 mm; Depth: 2000mm.
- (2) Any person requiring a grave of a size larger than the standard dimensions must, when submitting an application in terms of section 10, specify the measurements of the coffin, and pay the charges fee prescribed by the municipality from time to time for the enlarging of a grave
- (3) A person who digs a grave in contravention of the dimensions stipulated in subsection (1) commits an offence.

16. Burial

- (1) The lid of the coffin, or where one coffin has been buried on top of another coffin, the lid of the top coffin, may not be less than 1200 mm from the natural ground level.
- (2) A person responsible for the burial must ensure that surrounding property is not damaged and must prevent graves from caving in.
- (3) Soil mounds on a grave may be removed by the municipality one month after the burial.
- (4) On completion of a burial, it is the duty of the undertakers, or the person who dug the grave, to clear the surrounding areas (pathways and graves) of all soil, debris, etc.
- (5) A person, who buries a coffin in contravention of the provisions of subsection (1) or who contravenes subsections (2) or (4) commits an offence.

17. Reservation of grave plots

- (1) A person desiring to reserve the use of a grave plot must submit an application to the caretaker and must pay the prescribed fee.
- (2) A restriction is placed on the reservation of grave plots, and reservations shall only be accepted for adult grave plots in the monumental section as set out in subsection (3).
- (3) Only one adjoining grave plot may be reserved for a surviving family member for a period of 20 years, against payment of the fee prescribed by the municipality, subject to the provisions of section 20, and no refund will be considered if the right provided by the reservation is not exercised.
- (4) Where another person, other than the applicant, has mistakenly used a grave, the caretaker must allocate another grave within the cemetery to the applicant.

18. Child's grave

The dimensions of a child's grave will be the same as that of an adult and more than one child may be interred in the same grave, provided that there is at least 200 millimetres of soil between the coffins and provided further that there is at least 1200 millimetres of soil between the top coffin and the natural ground level

19. Construction material of coffin

- (1) A coffin interred in a grave must be constructed of bio-degradable material.
- (2) A person who inter a coffin in contravention of subsection (1) commits an offence.

20. Number of bodies in one grave

Subject to the provisions of sections 14(2), 16(1) and 18, more than one corpse may be interred in a single grave.

21. Hearse and vehicle at cemetery

- (1) No hearse or other vehicle may enter a cemetery without the prior permission of the caretaker.
- (2) No hearse or other vehicle may use any other route to enter a cemetery than the routes set aside for that purpose.

22. Music inside cemetery

Only sacred singing is allowed in a cemetery, except in the case of a police or military funeral, in which case the prior permission of the caretaker must be obtained.

23. Number on grave

No person may bury a corpse in a grave on which a peg marked with the number of the grave has not been fixed.

CHAPTER 5: EXHUMATION OF CORPSE AND RE-OPENING OF GRAVE**24. Disturbance of mortal remains**

(1) Subject to permission from the municipality, or the provisions of an exhumation order given in terms of section 3(4) of the Inquests Act, 1959 (Act 58 of 1959) or any other provision of any Act relating to the exhumation of corpses, no person may without an Environmental Health Practitioner being present:

- (a) disturb a corpse or mortal remains or ground surrounding it in a cemetery; or
- (b) remove a corpse from a grave.

(2) Any person requesting for a corpse to be exhumed or a grave to be opened must provide the municipality with an affidavit certifying that he or she has the authority to do so, and such an affidavit must be accompanied by any supporting documentation that may be required in terms of any Act relating to the exhumation of corpses.

(3) The prescribed fee for exhumation must be paid to the municipality at least two days before the date fixed for the exhumation or removal of the corpse.

(4) A person who contravenes the provisions of subsection (1) commits an offence.

25. Time of exhumation

No person may exhume or cause a corpse to be exhumed at any other time than that specified by the municipality.

26. Re-opening of grave

(1) No person may re-open a grave for the purpose of interring a second corpse in the same grave without permission of the municipality

(2) When considering an application contemplated in subsection (1), the municipality may impose such conditions it may deem necessary.

(3) The municipality may re-open a grave for the purpose of establishing the identity of the corpse.

(4) In the event of a police investigation, a corpse may be exhumed on receipt of a written request from the investigating officer, provided that the provisions of the Inquests Act, 1959 (Act 58 of 1959) have been complied with.

(5) A person who contravenes subsection (1) or any condition imposed in terms of subsection (2) commits an offence.

CHAPTER 6: CARE OF GRAVES**27. Shrubs and flowers**

The municipality may, at any time, prune, cut down, dig up or remove any shrub, plant, flower, foliage, wreath or adornment if it becomes unsightly, is damaged or wilted.

28. Care of grave

(1) The maintenance of a grave is the responsibility of the person contemplated in section 10(1).

(2) The municipality may, on application by a person contemplated in section 10(1), and upon payment of a fee prescribed by the municipality, undertake to keep any grave in order for any period.

CHAPTER 7: CREMATION

29. Receptacles and ashes

- (1) Unless the ashes are to be buried by the municipality, the person contemplated in section 10(1) must provide a receptacle, on which the full name of the deceased person is indicated, for receiving the ashes.
- (2) The quantity of ashes to be kept, as indicated on the application form by the person contemplated in subsection (1) must, after the cremation, be collected by him or her, and should he or she fail to collect the ashes, the ashes will be dealt with in terms of section 30(1)
- (3) Where a receptacle is intended to be placed in a niche in the columbarium
 - (a) it must:
 - (i) be made of wood or stone; and
 - (ii) be of a size and design as to fit into the niche; and
 - (b) if the niche is not meant to be sealed, have affixed to it a plate on which the full name of the deceased person is inscribed.

30. Burial and exhumation of ashes

- (1) In the absence of an arrangement between the caretaker and the person contemplated in section 29 regarding the ashes, the caretaker may bury or scatter the ashes in a garden of remembrance, where such a facility is available.
- (2) A person may deposit ashes in a
 - (a) grave; or
 - (b) niche in a –
 - (i) columbarium;
 - (ii) wall of remembrance; or
 - (ii) memorial work.
- (3) A person must obtain the consent of the caretaker and an immediate family member, if the applicant is not an immediate family member, if he or she wishes to:
 - (a) bury ashes in a grave;
 - (b) exhume ashes from a grave; or
 - (c) scatter ashes,and the caretaker must, on receiving payment of the prescribed fee:
 - (i) give written consent to the applicant to bury, exhume or scatter the ashes; and
 - (ii) in the instance of burial or exhumation, prepare the grave for burial or exhumation.
- (4) A grave for the burial of ashes or a niche in a columbarium must measure 610 mm in length, 610 mm in width and 610 mm in depth.

31. Cremation certificate

- (1) On completion of a cremation, the caretaker must supply a cremation certificate to the person contemplated in section 29(1).
- (2) The caretaker must, on application and after receipt of the prescribed fee, issue a duplicate cremation certificate to a person.

CHAPTER 8: ERECTION AND MAINTENANCE OF MEMORIAL WORK

32. Consent of municipality

- (1) No person may bring any memorial work into a cemetery or erect, alter, paint, clean, renovate, decorate, remove or otherwise interfere with any memorial work or cut any inscription thereon without the written consent of the municipality.
- (2) When erecting a memorial work, the following must be submitted:
 - (a) a plan which gives an indication of the measurements and the position;
 - (b) specification of the material of which the memorial work is to be constructed; and
 - (c) the wording of the epitaph.
- (3) The plan must be submitted 30 days before the erection commences, and the municipality may impose such conditions as it deems necessary.
- (4) No person may bring into a cemetery any material for the purpose of constructing therewith any memorial work on any grave unless:
 - (a) the provisions of subsection (1) to (3) have been complied with; and
 - (b) proof of payment in respect of work to be carried out has been submitted.

(5) The municipality's consent of the proposed work is valid for six months only, and in the event of the memorial work not being erected within the prescribed time, a new application must be submitted.

(6) The grave number must be indicated, in a workmanlike manner, in figures 30 mm in size.

(7) A person who contravenes a provision of subsection (1), (4)(a) or (6) commits an offence

33. Requirements for erection of memorial work

(1) A person erecting a memorial work must comply with the following:

(a) he or she must be in possession of a plan approved by the municipality;

(b) all work must be effected according to the conditions contemplated in section 32(3);

(c) proceedings must be of such a nature that no damage be caused to any structure or offence given;

(d) where a memorial has a pedestal on ground level or on the berm, the pedestal may not be more than 900 mm in length, 250 mm in width and 250 mm in height for a single grave, and not more than 2700 mm in length, 250 mm in width, and 250 mm in height for a double grave;

(e) with the next of kin's permission, the name of the maker can be displayed on a memorial work, but no address or any other particulars may be added thereto, and the space utilized for it may not be larger than 40 x 100 mm; and

(f) tiles in the Garden of Remembrance must be 240 mm x 300 mm large and must be manufactured out of non-corrosive metal;

(g) all unused material, after the completion of the work, must be removed, the adjoining areas are to be left neat and clean and any damage caused must be repaired at the cost of the person responsible for such damage and should the responsible person fail to effect such repair, after due notice, the municipality will undertake the remedial work at the cost of the person who erected the memorial work

(2) A person who does not comply with a provision in subsection (1) commits an offence.

34. Position, movement and removal of memorial work

(1) No person may erect a memorial work on a grave before the position in which such memorial work is to be placed has been indicated by the municipality.

(2) Should the condition of subsection (1) not be complied with, the municipality has the right to alter the position of the memorial work and to recover the costs of the alteration from the person who erected the memorial work.

(3) In the instance where a memorial work has originally been placed in a certain position with the express consent of the municipality, any alteration of the position in terms of the provisions of this section is executed at the expense of the municipality.

(4) A memorial work placed, erected, constructed, built, altered, decorated, painted or otherwise dealt with in a cemetery in such manner that any provisions of this by-law are contravened thereby, may be removed, after due notice, by the municipality at the cost of the person who erected the memorial work, without payment of any compensation.

35. Repairs to memorial work

(1) Should the person who erected a memorial work allow such memorial work to fall into such a state of disrepair that it may cause danger or deface the cemetery, the municipality may cause a notice of compliance, as contemplated in section 56, to be served on such a person.

(2) If the person contemplated in subsection (1) fails to comply with the notice of compliance, the municipality may demolish or remove the memorial work and recover the cost for demolition or removal from the person served with the notice of compliance.

(3) If the person contemplated in subsection (1) cannot be traced, the municipality may demolish or remove the memorial work.

36. Supervision of work

A person engaged upon any work in a cemetery must effect the work under the supervision of the caretaker, and failure to do so constitutes an offence.

37. Conveying of memorial work

No person may convey any stone, brick or memorial work or a portion thereof within a cemetery upon a vehicle or truck, which may cause damage to the paths or grounds or structures of the cemetery.

38. Vehicle and tools

Every person engaged in work upon a grave or plot must ensure that the vehicles, tools or appliances be of such a kind as not to contravene this by-law and by no means block any road or roads.

39. Times for bringing in material and doing work

- (1) No person may bring memorial work or material into or do any work, other than the dismantling of memorial work for burial purposes, within a cemetery except during official working hours of the municipal employees on Mondays to Fridays.
- (2) No person may engage in work which may disturb a funeral in progress and for the duration of the funeral.

40. Production of written permission

A person charged with a work or on his or her way to or from work within the cemetery must, upon demand from the municipality, produce the written consent issued to him or her in terms of section 32.

41. Memorial work in crematorium

- (1) Unless a corpse was cremated in the crematorium, or a cremation certificate issued by another crematorium is submitted, no person may, without the prior consent of the caretaker, erect a memorial work in a crematorium.
- (2) A memorial work
 - (a) if erected in a Garden of Remembrance:
 - (i) must be made of marble or granite; and
 - (ii) may not exceed a size of 250 mm in width, 305 mm in length, and 25 mm in thickness;
 - (b) if intended to seal a niche, must conform in size and material to the memorial work next to it and may have a photograph of the deceased person affixed to it; or
 - (c) erected on a grave, may not exceed 1,2 m in height, 610 mm in length, and 610 mm in width.

42. Commonwealth War Graves

The graves of people who fell in conflict, whose graves are cared for or maintained by the Commonwealth War Graves Commission in terms of the Commonwealth War Graves Act, 1992, (Act 8 of 1992), or the South African Heritage Resources Agency in terms of the National Heritage Resources Act, 1999 (Act 25 of 1999), or by any other recognised body, or by any foreign government, may, on application to the municipality, be exempted from the requirements of this chapter.

CHAPTER 9: SECTIONS IN CEMETERIES**43. Municipality may establish sections**

- (1) The municipality may establish one or more of the following sections in a cemetery:
 - (a) memorial section;
 - (b) open section;
 - (c) aesthetic section
 - (d) berm section.
 - (e) Heroes Acre; and
 - (f) Garden of Remembrance

44. Memorial section

- (1) Memorial work may be erected upon the whole surface of a grave subject to the provisions of section 33 and provided that the following measurements may not be exceeded:
 - (a) Height: 2000 mm.
 - (b) Width: 900 mm in case of a single grave, and 700 mm in case of a double grave.
 - (c) Thickness: 250 mm.
- (2) Flowers, foliage, wreaths or any adornment may be placed upon the berm only of graves, except in the case of graves which have not yet been levelled.
- (3) A person commits an offence if he or she:
 - (a) exceeds the measurements stipulated in subsection (1); or
 - (b) contravenes section (2).

45. Open section

This section allows for the purchase of the grave only, and at a later stage may request permission to erect memorial work on payment of the prescribed fee.

46. Aesthetic section

- (1) Only a headstone may be erected, and a slab may not be erected on, and a kerb may not be erected around a grave.
- (2) The dimensions of a headstone are as follows:
 - (a) Adult's grave:
 - (i) Single grave: 900 mm in length by 260 mm in width.
 - (ii) Double grave: 2200 mm in length by 260 mm in width.
 - (b) Child's grave:
 - (i) Single grave: 610 mm in length by 260 mm in width.
 - (ii) Double grave: 1200 mm in length by 260 mm in width.
- (3) No headstone may exceed a height of 1500 mm above the berm.
- (4) A person who contravenes a provision of this section commits an offence.

47. Berm section

- (1) A concrete base is laid at the head of a grave and on which a memorial is erected;
- (2) The following measurements must be adhered to:
 - (a) base not to exceed 1200mm wide and 250mm deep
 - (b) horizontally on ground level; and
 - (c) on a concrete foundation.
- (3) A person who contravenes a provision of subsection (2) commits an offence.

48. Garden of Remembrance

- (1) This section contains the wall of remembrance with niches, and a garden area in which plaques can be erected.
- (2) A container intended to be placed in a niche may not exceed 300 mm x 150 mm x 150 mm in size.
- (3) Flowers and wreaths may only be placed on the places provided for them.

49. Heroes' Acre

- (1) A Heroes' Acre consists of a structure erected for the purpose and contains no corpse but is a memorial only.
- (2) No person may erect such structure without the written approval of the municipality and the municipality decides upon the merits of such matters.
- (3) The size of the structure must be 500 mm x 350 mm and must be manufactured from a non-corrodible metal or masonry upon which, *inter alia*, the contribution made by the person in question is mentioned.
- (4) A person who inter a corpse in contravention of subsection (1) or contravenes subsection (2) or who fails to comply with the requirements of subsection (3) commits an offence.

CHAPTER 10: PRIVATE CEMETERIES**50. By-laws apply**

The provisions of this by-law apply, *mutatis mutandis*, to private cemeteries.

51. Establishment and continued use of cemeteries

- (1) No person may, without the municipality's prior consent, establish a private cemetery, and no proprietor of a private cemetery already in existence may, if the use of the cemetery was not previously authorised by the municipality, continue to use the existing cemetery for burial purposes.
- (2) A person who wishes to apply for the municipality's consent to establish a cemetery or use a cemetery as contemplated in subsection (1), must submit to the municipality a written application, together with:
 - (a) a locality plan to a scale of not less than 1:10 000 which shows:
 - (i) the position of the proposed cemetery or existing cemetery in relation to the boundaries of the land on which it is proposed to establish it or upon which it is situated, as the case may be;
 - (ii) the registered description of the site; and

- (iii) all streets, public places and privately-owned property within a distance of 100 metres of the site;
 - (b) a "block" plan to a scale of not less than 1: 500 showing the position of external boundaries, internal roads and paths, sub-divisions, grave sites, drainage and any buildings existing or proposed to be erected;
 - (c) a plan and sections to a scale of not less than 1: 100 of any building existing or proposed to be erected, and which must, in this case, conform with the National Building Regulations and the Water Services and Sanitation By-laws of the municipality;
 - (d) a list of registers or records kept or proposed to be kept with reference to:
 - (i) identification of graves;
 - (ii) sale of grave sites, transfer of grave sites; and
 - (iii) interments;
 - (e) the full name and address of the proprietor;
 - (f) particulars regarding the nature of the title under which the proprietor will hold or holds the land on which cemetery is to be established or which is being used as a cemetery, and whether such land is subject to any mortgage or trust; and
 - (g) a schedule of the burial fees proposed to be charged or actually in force.
- (3) On receipt of an application, the municipality must cause to be inserted in one or more newspapers circulating in the municipal area, a notice stating the nature of the application and specifying the date, being not less than 14 days after the date of publication of such notice, by which objections to the granting of an application may be lodged with the municipality.
- (4) The municipality may, upon receipt of the payment of the prescribed fee, and if satisfied, after consideration of the application and any objections which may have been lodged, that no interference with any public amenity, or nuisance or danger to the public health is likely to take place or arise as a result, grant written consent for the establishment of the proposed private cemetery or the continued use of the private cemetery in accordance with the plans submitted and subject to any variation or amendment, which it may require and to any conditions which it may prescribe.
- (5) No departure from the plans as approved are permitted without the prior approval of the municipality.
- (6) A person who contravenes a provision of subsections (1) or (5) commits an offence.

52. Duties of proprietors

- (1) The proprietor of a private cemetery for which the consent of the municipality has been obtained must:
- (a) comply with:
 - (i) any special conditions prescribed by the municipality; and
 - (ii) the relevant provisions of this by-law and any other applicable law;
 - (b) keep a record which shows:
 - (i) the number of each grave site and the ownership of the site; and
 - (ii) the number of interments in each grave site and the name, age, sex, last known address, date and cause of death of the deceased;
 - (c) maintain the grounds, fences, gates, roads, paths and drains in good order and condition and clear of weeds and overgrowth;
 - (d) provide for the identification of grave sites by subdividing the cemetery into blocks, each containing a number of graves or grave sites, and:
 - (i) each block must be demarcated by means of signs showing the number and situation of each block;
 - (iii) the graves or grave sites in each block must be separately numbered by means of durable number plates; and
 - (iii) all signs and number plates must be maintained in a neat and legible condition;
 - (e) allow an official to enter or inspect the cemetery and all records kept in connection therewith;
 - (f) render a monthly return to the municipal manager on or before the 7th day in each month of all burials, which sets out the:
 - (i) name, last known address, age, sex, date and cause of death of each deceased person interred in the cemetery;
 - (ii) name of the medical practitioner who issued the death certificate;
 - (iii) authority which issued the burial order;

- (iv) block and grave site number;
 - (v) date of burial; and
 - (vi) particulars of a change in the identity of the caretaker or of a person newly appointment;
 - (g) render an annual return to the municipal manager on or before the 31st day of June each year, which contains a detailed list of the names and addresses of all trustees, committee members or persons controlling the place of interment; and
 - (h) appoint a caretaker to manage the cemetery and to keep the records.
- (2) The owner of a private cemetery or private property may refuse permission to have a corpse interred in the cemetery.
- (3) A person who contravenes a provision of subsection (1) commits an offence.

CHAPTER 11: DISUSED CEMETERIES

53. Use of disused cemeteries

- (1) Notwithstanding any provision in this by-law, and subject to the provisions of subsection (4), the municipality may use any cemetery or portion thereof, which has been closed or disused for a period of not less than 20 years, and of which the municipality is the cemetery authority, for such purpose as will not desecrate the ground, any human remains or any memorials in such cemetery.
- (2) The municipality may, subject to the provisions of subsection (4), remove to another cemetery the human remains, memorials and other structures from a cemetery of which it is the cemetery authority, which has been closed or disused for a period of not less than 20 years and which has been approved for other usage.
- (3) All rights possessed or enjoyed by any person in respect of a cemetery contemplated in subsection (2) shall thereupon cease.
- (4) Before acting in terms of subsections (1) and (2) the municipality must give notice of its intention to do so in terms of its public participation policy.

CHAPTER 12: MISCELLANEOUS

54. Authentication and service of order, notice or other document

- (1) An order, notice or other document requiring authentication must be signed by the municipality.
- (2) Any notice or other document that is served on a person in terms of this by-law, is regarded as having been served when it is served in accordance with section 115(1) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000).
- (3) Service of a copy shall be deemed to be service of the original.
- (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 municipal manager's office.

55. Complaint

A person wishing to lodge a complaint must lodge such complaint in writing with the municipality.

56. Notice of compliance and representations

- (1) A notice of compliance must state:
- (a) the name and residential and postal address, if either or both of these be known, of the person;
 - (b) the nature of the state of disrepair;
 - (c) in sufficient detail to enable compliance with the notice, the measures required to remedy the memorial work;
 - (d) that the person must, within a specified time period, take the measures to comply with the notice, to diligently continue with the measures, and to complete the measures before a specific date;
 - (e) that failure to comply with the requirements of the notice within the period contemplated in paragraph (d) is an offence;
 - (f) that written representations, as contemplated in subsection (3), may, within the time period stipulated under paragraph (d) above, be made to municipality at a specified place.
- (2) The municipality, when considering any measure or time period envisaged in subsections (1)(d) and (e), must have regard to:

- (a) the principles and objectives of this by-law;
 - (b) the state of disrepair;
 - (c) any measures proposed by the person on whom measures are to be imposed; and
 - (d) any other relevant factors.
- (3) A person may, within the time period contemplated in paragraph (1)(f), make representations, in the form of a sworn statement or affirmation to municipality at the place specified in the notice.
- (4) Representations not lodged within the time period will not be considered, except where the person has shown good cause and the municipality condones the late lodging of the representations.
- (5) The municipality must consider the representations and any response thereto by an authorised official or any other person, if there be such a response.
- (6) The municipality may, on its own volition, conduct any further investigations to verify the facts, if necessary, and the results of the investigation must be made available to the person, who must be given an opportunity of making a further response if he or she so wishes, and the municipality must also consider the further response.
- (7) The municipality must, after consideration of the representations and response, if there be such a response, make an order in writing and serve a copy of it on the person.
- (8) The order must:
- (a) set out the findings of the municipality;
 - (b) confirm, alter or set aside in whole, or in part, the notice of compliance; and
 - (c) specify a period within which the person must comply with the order made by the municipality.
- (9) If the notice of compliance is confirmed, in whole or in part, or is altered but not set aside, the municipality will inform the person that he or she:
- (a) must discharge the obligations set out in the notice; or
 - (b) may elect to be tried in court.
- (10) If the person elects to be tried in court, he or she must, within seven calendar days, notify the municipality of his or her intention to be so tried.
- (11) If the person does not elect to be tried in court, he or she must, within the prescribed manner and time, discharge his or her obligations under the order.

57. Costs

Should a person fail to take the measures required of him or her by notice, the municipality may recover from such person all costs incurred as a result of it acting in terms of section 56.

58. 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 therefore in terms of section 62 of the Local Government: Municipal Systems Act (Act 32 of 2000) to the municipal manager within 21 days of the date of the notification of the decision.

59. Charges

Should a person fail to pay a prescribed fee, the municipality may act in accordance with the provisions of its Customer Care and Revenue Management By-law.

60. Penalties

A person who has committed an offence in terms of this by-law is, on conviction, and subject to penalties prescribed in any other law, 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.

61. Exemptions

- (1) Any person may by means of a written application, in which the reasons are given in full, apply to the municipality for exemption from any provision of this by-law.
- (2) The municipality may:
- (a) grant an exemption in writing and the conditions in terms of which, if any, and the period for which such exemption is granted must be stipulated therein;
 - (b) alter or cancel any exemption or condition in 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 conditions imposed by the municipality under subsection (2); however, if an activity is commenced before such undertaking has been submitted to the municipality, the exemption lapses.
- (4) If any condition of an exemption is not complied with, the exemption lapses immediately.

62. Liaison forums in community

- (1) The municipality may establish one or more liaison forums in a community for the purposes of developing and maintaining cemeteries and crematoria and promoting the achievement of a healthy environment
- (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 cemetery or crematorium exists;
 - (c) a designated official or officials of the municipality; and
 - (d) the councillor responsible for cemeteries.
- (3)
- (a) The municipality may, when considering an application for consent, permit or exemption certificate 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 their own initiative, submit an input to the municipality for consideration.

63. Revocation 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, and insofar as it has been made applicable to the municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Local Government: Municipal Structures Act, Act 117 of 1998.

64. Short title and commencement

This by-law may be cited as the Cemeteries and Crematoria By-law, and commences on the date of publication thereof in the Provincial Gazette.

HESSEQUA MUNISIPALITEIT: BEGRAAFPLASE EN KREMATORIA VERORDENINGE

Kragtens die bepalings van artikel 156 van die Grondwet van die Republiek van Suid-Afrika, 1996, verorden die Hessequa Munisipaliteit as volg:-

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1. Interpretasie

(1) In hierdie verordening, tensy uit die samehang anders blyk –

“**as**” beteken die veraste oorblyfsels van ‘n lyk;

“**begraafplaas**” beteken grond of gedeelte van grond binne die munisipale gebied wat deur die Munisipaliteit opsygesit is vir ‘n begraafplaas;

“**begrawe**” beteken teraardebestelling in grond, ‘n graf of grafkelder;

“**begravingsbevel**” beteken ‘n bevel uitgereik ingevolge die Wet op die Registrasie van Geboortes en Sterftes, 1992 (Wet 51 van 1992);

“**berm**” beteken ‘n betonstrook gelê by die kop van die graf en waarop ‘n gedenksteen opgerig is;

“**estetiese afdeling**” beteken ‘n begraafplaas of afdeling van ‘n begraafplaas wat deur die Munisipaliteit opsygesit is waarin slegs kopstene opgerig mag word;

“**gedenksteenwerk**” beteken enige kopsteen, monument, plaket, ander werk of voorwerp, opgerig of beoog om opgerig te word in ‘n begraafplaas of krematorium ten einde hulde te bring aan ‘n oorlede persoon, en sluit in die randsteen wat die graf afbaken en die blad wat die graf bedek;

“**graf**” beteken ‘n stuk grond binne ‘n begraafplaas of erfenisperseel, uitgegrawe vir die begrawe van ‘n lyk en sluit in die kopsteen, nommer of merker van en ‘n struktuur op of geassosieer met die graf;

“**begrafnisondernemersperseel**” het die betekenis daaraan geheg in regulasie 1 van die Regulasies;

“**goedgekeur**” beteken goedgekeur deur die Munisipaliteit;

“**grafkelder**” beteken ‘n bogrondse kelder;

“**helde akker**” beteken ‘n area grond opsygesit vir die begrawe van ‘n held;

“**kind**” beteken ‘n persoon wat nie ‘n volwassene is nie, en waar die woord gebruik word om ‘n lyk te beskryf, beteken ‘n oorlede persoon wie se lyk inpas in ‘n graf opening voorgeskryf vir kinders ingevolge artikel 18, en sluit in die lyke van ‘n doodgebore kind en ‘n fetus;

“**kolumbarium**” beteken ‘n plek opsygesit in die kelder van ‘n krematorium of kapel wat rye nisse bevat vir die doel om houers bevattende die as van veraste lyke in te plaas;

“**krematorium**” beteken ‘n krematorium soos omskryf in artikel 1 van die Ordonnansie en sluit in die geboue waarin ‘n begraafplaas bedryf word en die verassing uitgevoer word;

“**lyk**” beteken die oorblyfsels van ‘n oorlede persoon en sluit in ‘n doodgebore kind en fetus;

“**monumente afdeling**” beteken ‘n afdeling in ‘n begraafplaas opsygesit vir die oprigting van monumente;

“**munisipaliteit**” beteken die Hessequa Munisipaliteit ingestel ingevolge artikel 12 van die Munisipale Strukture Wet, 117 van 1998, Provinsiale Kennisgewing 484 gedateer 22 September 2000 en sluit in enige politieke strukture, politieke ampsbekleër, raadslid, behoorlik gemagtigde agent of enige werknemer wat ingevolge hierdie verordening handel uit hoofde van ‘n bevoegdheid wat by die Munisipaliteit berus en gedelegeer of gesubdelegeer is aan sodanige politieke strukture, politieke ampsbekleër, raadslid, agent of werknemer;

“**muur van herinnering**” beteken ‘n struktuur (in ‘n begraafplaas) wat nisse bevat waarin kruike met as gebêre kan word;

“**nis**” beteken ‘n kompartement in ‘n kolumbarium of muur van herinnering vir die plasing van as;

“**opgrawing**” beteken die verwydering van ‘n lyk uit sy graf;

“**opsigter**” beteken die beampte wat van tyd tot tyd deur die Munisipaliteit in ‘n toesighoudende hoedanigheid in verband met ‘n begraafplaas of krematorium aangestel word;

“**ordonnansie**” beteken die Krematorium Ordonnansie, 1965 (Ordonnansie No. 18 van 1965);

“**panoramiese afdeling**” beteken ‘n afdeling in ‘n begraafplaas wat deur die Munisipaliteit opsygesit is waar gedenksteenwerk beperk word tot ‘n plaket of gedenksteenblad;

“**private begraafplaas**” beteken ‘n begraafplaas of wat as ‘n begraafplaas gebruik word maar wat nie as sodanig deur die Munisipaliteit opsygesit is nie;

“**Regulasies**” beteken die Begrafnisondernemersperseel Regulasies, uitgevaardig ingevolge artikels 33 en 39 van die Wet op Gesondheid, 1977 (Wet 63 van 1977) en gepubliseer as Goewermentskennisgewing No. 237 van 8 Februarie 1985;

“**tuin van herinnering**” beteken ‘n afdeling van ‘n begraafplaas of krematorium opsygesit vir die oprigting van gedenksteenwerk of ‘n muur van herinnering;

“**veras**” beteken die proses waardeur ‘n lyk met vuur mee weggedoen word;

“**veraste oorskot**” beteken alle herwinbare as na ‘n verassing;

“**voorgeskryf**” beteken voorgeskryf deur die Munisipaliteit;

“**voorgeskrewe gelde**” beteken gelde bepaal deur die Munisipaliteit in sy Kliëntediens en Inkomste Bestuur Verordening;

“**volwassene**” beteken ‘n oorlede persoon oor die ouderdom van 12 jaar en waar die woord gebruik word om ‘n lyk te beskryf, ‘n oorlede persoon wie se lyk inpas in ‘n graf opening voorgeskryf vir volwassenes ingevolge artikel 15.

(2) Indien enige bepaling in hierdie verordening enige mag, funksie of plig van die Munisipaliteit in of op ‘n beampte van die Munisipaliteit laat berus of op lê en sodanige mag, funksie of plig is ingevolge artikel 81(2) van die Wet op Plaaslike Regering : Munisipale Stelsels, 2000 (Wet 32 van 2000), of enige ander wet opgedra aan ‘n diensverskaffer, moet die verwysing na sodanige beampte gelees word as ‘n verwysing na die diensverskaffer of, waar van toepassing, ‘n beampte en die diensverskaffer deur die Munisipaliteit gemagtig.

2. Beginsels en oogmerke

Die doel van hierdie verordening is om begrafnisondernemerspersele te beheer, om voorsiening te maak vir die aanwysing van grond vir doeleindes van begraving van menslike oorskot, om bestaande begraafplase te ontwikkel en te onderhou, om inwoners toe te laat om ‘n lyk mee weg te doen deur verassing en om ruimte te voorsien ten einde toe te laat dat die oorskot van ‘n verassing op ‘n waardige wyse bewaar word.

HOOFSTUK 1: VESTIGING VAN BEGRAAFPLASE

3. Vestiging van begraafplase

(1) Die munisipaliteit mag enige grond binne sy jurisdiksiegebied reserveer vir gebruik as ‘n begraafplaas en is verantwoordelik vir die algemene onderhoud van so ‘n begraafplaas.

(2) Binne so ‘n begraafplaas mag die munisipaliteit afsonderlike areas beskikbaar stel vir uitsluitlike gebruik deur verskillende godsdienstige of kulturele groepe met inagneming van die gebruike of godsdienstige oorweging van sulke groepe.

(3) Die daarstelling van ‘n begraafplaas soos bedoel in subartikel (1) moet deur ‘n openbare deelname proses en die indiening van ‘n geotegniese verslag voorafgegaan word.

(4) Nieteenstaande die bepalings van subartikel (1), is die groepe bedoel in subartikel (2), aan wie areas vir uitsluitlike gebruik toegestaan is, verantwoordelik vir die onderhoud van daardie areas.

4. Alternatiewe vir teraardebestelling

Indien daartoe genoodsaak deur die vereistes van die omgewing, 'n tekort aan grond vir begrafnisdoeleindes, en ondergeskik aan die bepalings van enige ander wet ten opsigte van die regte van persone, mag die munisipaliteit versoek dat enige metode anders as 'n begrafnis gebruik word o moor 'n lyk te beskik.

HOOFSTUK 2: ALGEMENE BEPALINGS IN VERBAND MET BEGRAAFPLASE EN KREMATORIA**5. Aanstelling van opsigter**

(1) Die Munisipaliteit mag 'n opsigter aanstel vir elke begraafplaas of krematorium om die begraafplaas of krematorium te beheer en te administreer.

(2) Die opsigter moet die gebruike van die oorlede persoon en die persone verantwoordelik vir die begraving of verassing in ag neem en dit binne die raamwerk van hierdie verordening akkommodeer

6. Toegangsure vir publiek

(1) Elke begraafplaas is oop vir die publiek gedurende die ure wat deur die munisipaliteit bepaal word, maar indien dit in die belang van die publiek is, mag die Munisipaliteit 'n begraafplaas of krematorium of deel daarvan, vir die publiek sluit vir sodanige tye as wat nodig mag wees.

(2) Geen persoon, uitgesluit werkers en persone met toestemming, mag in of aanbly in 'n begraafplaas of krematorium of deel daarvan voor of na die ure gemeld in subartikel (1) nie, of gedurende die tye wat dit vir die publiek gesluit is nie.

(3) Die munisipaliteit moet die ure waartydens elke plek vir teraardebestelling oop is vir die publiek op 'n kennisgewingbord by die ingang na die plek van teraardebestelling aanbring.

7. Bly op paadjies

Behalwe vir doeleindes toegelaat ingevolge hierdie verordening, mag 'n persoon slegs 'n paadjie wat in 'n begraafplaas voorsien is gebruik, en versuim om dit te doen is 'n misdryf.

8. Verbode optrede binne begraafplase en crematoria

(1) Geen persoon mag in 'n begraafplaas of krematorium –

(a) 'n steurnis veroorsaak nie;

(b) 'n dier of fiets ry sonder die goedkeuring van die opsigter nie;

(c) 'n dier in 'n begraafplaas bring of dit toelaat om daar te dwaal nie, met die uitsondering van 'n blinde persoon wat 'n gidshond gebruik;

(d) 'n boom, plant, struik of blom sonder die toestemming van die opsigter plant, sny, pluk of verwyder nie;

(e) 'n demonstrasie hou of daaraan deelneem nie;

(f) 'n begrafnis onderbreek of 'n amptenaar, werker, of arbeider in diens van die Munisipaliteit in die uitvoering van sy of haar pligte steur nie;

(g) die opsigter in die loop van sy of haar pligte belemmer, weerstaan of teenstaan nie, of weier om aan 'n bevel of versoek te voldoen wat die opsigter gemagtig is om ingevolge hierdie verordening te rig;

(h) 'n advertensie of voorwerp op enige muur, gebou, heining, hek, gedenkteken of ander oprigting uitmerk, teken, skryf of oprig nie;

(i) water gebruik vir enige vorm van tuinmakery sonder die toestemming van die opsigter nie;

(j) enige vullis, grond, klippe, rommel of afval agterlaat nie;

(k) enige deel van 'n begraafplaas of krematorium of enigiets daarin op enige wyse beskadig of skend nie;

(l) enige besigheid, bestelling of uitstalling versoek nie, of 'n traktaatjie, besigheidskaart of advertensie versprei of agterlaat nie;

(m) 'n graf of gedenkteken met disrespek behandel nie, soos daarop klim of sit nie;

- (n) 'n kantoor, gebou of omheinde plek binnegaan nie, behalwe in verband met wettige besigheid;
 - (o) 'n lyk of deel daarvan ontbloom nie;
 - (p) die voorgeskrewe maksimum spoed van 20 km per uur oorskrei nie;
 - (q) enige dier toelaat nie, met die uitsondering van 'n opsigter wat op die perseel woon en wat troeteldiere met die toestemming van die munisipaliteit aanhou;
 - (r) enige alkohol bring of verbruik nie;
 - (s) in besit wees van enige vuurwapen of tradisionele wapen behalwe in die geval van 'n polisie- of militêre begrafnis;
 - (t) oornag; of
 - (u) enige skuiling oprig nie.
- (2) 'n Persoon wat 'n bepaling van subartikel (2) oortree, begaan 'n misdryf.

9. Reg op belang in grond

- (1) Geen persoon sal enige reg op of belang in enige grond of graf in 'n begraafplaas verkry nie, anders as dit wat ingevolge hierdie verordening verkrygbaar mag wees.
- (2) Die Munisipaliteit mag, onderworpe aan die bepalings van artikel 17 en teen betaling van die voorgeskrewe fooi, 'n graf in 'n begraafplaas reserveer.

HOOFSTUK 3: ALGEMENE BEPALINGS IN VERBAND MET TERAARDEBESTELLINGS

10. Toestemming vereis

- (1) Geen persoon mag oon 'n lyk beskik op enige ander wyse as wat deur die munisipaliteit voorgeskryf word nie en enige persoon wat oor 'n lyk wil beskik moet vooraf die skriftelike toestemming van die munisipaliteit verkry en die munisipaliteit mag vereistes stel.
- (2) 'n Persoon wat die toestemming beoog in subartikel (1) wil verkry, moet 'n skriftelike aansoek aan die opsigter voorlê in 'n formaat soortgelyk aan die vorm in Bylae 1 tesame met –
- (a) die voorgeskrewe gelde;
 - (b) 'n doodsertifikaat;
 - (c) 'n begrawingsbevel uitgereik ingevolge die Wet op die Registrasie van Geboortes en Sterftes, 1992; en
 - (d) indien die aansoek verband hou met 'n lyk waarin radio-aktiewe material of 'n pasaangeër aangebring toe die persoon nog lewend was, 'n verklaring wat aandui of die radio-aktiewe material of pasaangeër uit die liggaam verwyder is
- en die opsigter mag nie die aansoek goedkeur nie tensy al die bogenoemde vereistes nagekom is.
- (3) 'n Aansoek moet aan die opsigter voorgelê word ten opsigte van –
- (a) 'n teraardebepaling wat genoegsame tyd toelaat om die graf voor te berei; en
 - (b) praktyke wat deur sekere geloofsgroepe nagekom moet word wat anders is as wat deur hierdie verordening voorgeskryf word.
- (4) Indien enige verandering gemaak word in die dag en uur wat vooraf vasgestel is vir 'n teraardebepaling of verassing, of as 'n teraardebepaling of verassing gekanselleer word, in die geval waar die Munisipaliteit verantwoordelik is om die graf te grawe, moet kennis van sodanige verandering aan die opsigter gegee word ten minste agt ure voor die tyd wat vasgestel is vir die teraardebepaling of verassing, en geen terugbetaling sal gemaak word ten opsigte van gelde wat betaal is ten opsigte van die oopmaak van 'n bestaande graf nie.
- (5) Die aansoek bedoel in subartikel (2) moet onderteken wees deur die naaste oorlewende naasbestaande van die oorlede persoon, indien die opsigter egter tevrede is dat die handtekening van die naaste oorlewende naasbestaande nie betyds verkry kan word nie, of vir enige geldige rede, mag hy of sy die aansoek onderteken deur enige ander belanghebbende persoon, toestaan.
- (6) Die munisipaliteit behou die reg voor om –
- (a) die inhoud van 'n kis voor die begrafnis na te gaan; en
 - (b) te besluit watter metode van teraardebepaling gebruik mag word.
- (7) Die munisipaliteit mag weier dat enige persoon, insluitende 'n begrafnisondernemer, 'n lyk teraardebepaling indien enige dokumentasie soos die munisipaliteit vereis, ontbreek.

11. Tye vir teraardebestedings en verassings

- (1) 'n Teraardebesteding en verassing mag plaasvind gedurende die tye deur die munisipaliteit goedgekeur.
- (2) Die opsigter sal aan 'n persoon bedoel in artikel 10(2) 'n tyd vir teraardebesteding toeken en tye wat nie soos toegeken gebruik word nie, sal uitgestel word tot 'n tyd wat beskikbaar is en wat nie ander teraardebestedings verontrief wat op hul toegewese plaasvind nie.
- (3) Ondanks die bepalings van subartikel (1), mag die opsigter teraardebesteding of verassing toelaat buite die tye beoog in subartikel (1) in welke geval die Munisipaliteit addisionele gelde mag hef.
- (4) 'n Persoon wat 'n lyk teenstrydig met subartikels (1) en (2) ter aarde bestel of veras begaan 'n misdryf.

12. Register

Die opsigter moet 'n rekord hou van alle teraardebesteding, en die rekord moet die volgende bevat :

- (a) die besonderhede van die persoon wat die teraardebesteding of verassing versoek het;
- (b) die besonderhede van die oorlede persoon soos die naam, adres en identiteitsnommer;
- (c) die datum van teraardebesteding of verassing; en
- (d) in die geval van 'n teraardebesteding, die nommer van die graf.

13. Teraardebesteding van armlastige persone

- (1) Die verwydering en teraardebesteding van 'n armlastige persoon wat binne die jurisdiksiegebied van die munisipaliteit gesterf het is die verantwoordelikheid van –
 - (a) die munisipaliteit indien:
 - (i) die armlastige persoon se lyk nie deur 'n bevoegde persoon ge-eis is nie; of
 - (ii) indien 'n bevoegde persoon onderneem het om die lyk van 'n armlastige ter aarde te bestel, maar versuim het om dit te doen;
 - (b) 'n hospitaal of ander instelling ingevolge die bepalings van artikel 48(2) van die Wet op Gesondheid, 1977 (Wet 63 van 1977), indien die armlastige persoon in daardie hospitaal of ander instelling gesterf het.
- (2) Die munisipaliteit mag ingevolge die bepalings van artikel 48(2A)(a) van die Wet op Gesondheid, 1977 (Wet 63 van 1977) opdrag gee dat daar oor die lyk van 'n armlastige beskik mag word op enige ander geskikte wyse behalwe deur dit te begrawe.
- (3) Die lyke van meer as een armlastige mag in een graf begrawe word.
- (4) Waar die lyk van 'n armlastige persoon soos bedoel in subartikel (2) veras word, moet die opsigter van die krematorium die as hou en die as in 'n graf begrawe indien dit nie opgeëis word nie.

14. Getal lyke in een doodkis

- (1) Onderhewig aan die bepalings van subartikel (2) en artikel 13(3), mag 'n doodkis slegs een lyk bevat.
- (2) Indien die toestemming van die opsigter verkry is en die voorgeskrewe gelde betaal is, mag 'n doodkis meer as een lyk bevat in die geval van –
 - (a) 'n moeder en kind wat tydens kindergeboorte gesterf het; of
 - (b) familielede wat –
 - (i) saam dood is; of
 - (ii) kort na mekaar dood is, en die teraardebesteding of verassing van die eerste oorlede lid nog nie plaasgevind het nie.
- (3) 'n Persoon wat die bepalings van subartikel (1) oortree of wat versuim om die toestemming bedoel in subartikel (2) te verkry begaan 'n misdryf.

HOOFSTUK 4: TERAARDEBESTELLING**15. Afmetings van grafte**

- (1) Die standaard afmetings van 'n graf is soos volg: Lengte: 2200mm, Wydte: 900mm en Diepte: 2000mm.

(2) Enige persoon wat 'n groter gat vereis as die afmetings uiteengesit in subartikel (1) moet, wanneer 'n aansoek ingevolge artikel 10 voorgelê word, die mates van die doodkis spesifiseer, en die gelde voorgeskryf deur die Munisipaliteit vir vergroting van die gat betaal.

(3) 'n Persoon wat 'n graf teenstrydig met die afmetings uiteengesit in subartikel (1) grawe, gegaan 'n misdryf.

16. Begrafnis

(1) Die deksel van 'n kis, of waar een kis bo-op 'n ander begrawe is, die deksel van die boonste kis, mag nie minder as 1200mm vanaf die natuurlike grondvlak af wees nie.

(2) 'n Persoon wat vir 'n begrafnis verantwoordelik is moet toesien dat die omliggende eiendom nie beskadig word nie en dat grafte nie inkalwe nie.

(3) Grondhope bo-op grafte mag 'n maand na die begrafnis deur die munisipaliteit verwyder word.

(4) Wanneer 'n begrafnis afgehandel word is dit die plig van die ondernemers of die prsoon wat die graf gegrawe het, om toe te sien dat daar geen grond of enige ander afval op of in die omliggende areas (paadjies en grafte) is nie.

(5) Enige persoon wat 'n kis in stryd met die bepalings van subartikel (1) begrawe of wat subartikels (2) of (4) oortree, pleeg 'n misdryf.

17. Reservering van graf

(1) 'n Persoon wat 'n graf wil reserveer moet 'n aansoek aan die opsigter voorlê en die voorgeskrewe gelde betaal.

(2) 'n Beperking mag op die reservering van grafte geplaas word, en reserverings sal slegs aanvaar word vir grafte vir volwassenes in die monumente afdeling soos bepaal in subartikel (3).

(3) Slegs een aangrensende graf mag vir 'n oorlewende familielid vir 'n periode van 20 jaar gereserveer word, teen betaling van die voorgeskrewe fooi aan die munisipaliteit, onderworpe aan die bepalings van artikel 20 en geen terugbetaling sal gedoen word in die geval waar die reg wat deur die reservering verleen word nie uitgeoefen word nie.

(4) Waar 'n ander persoon, anders as die aansoeker, verkeerdelik 'n graf gebruik het moet die opsigter 'n ander graf in die begraafplaas aan die aansoeker toeken.

18. Kindergraf

Die afmetings van 'n kind se graf is dieselfde as wat vir 'n volwassene voorgeskryf word en meer as een kind mag in dieselfde graf begrawe word, met dien verstande dat daar ten minste 200mm grond tussen die kiste is en dat daar ten minste 1200mm grond tussen die deksel van die boonste kis en die natuurlike grondvlak is.

19. Konstruksiemateriaal van doodkis

(1) 'n Doodkis wat in 'n graf ter aarde bestel word moet van bio-afbreekbare materiaal vervaardig wees.

(2) 'n Persoon wat 'n doodkis teenstrydig met die bepalings van subartikel (1) begrawe pleeg 'n misdryf.

20. Getal lyke in een graf

Onderhewig aan die bepalings van artikels 14(2), 16(1) en 18, mag meer as een lyk in 'n enkel graf begrawe word.

21. Lykswa en voertuie in begraafplase

(1) Geen lykswa of voertuig mag 'n begraafplaas binnegaan sonder dat die opsigter se toestemming vooraf verkry is nie.

(2) Geen lykswa of voertuig mag 'n begraafplaas binnegaan anders as deur die roetes wat vir daardie doel opsygesit is nie.

22. Musiek in begraafplaas

Slegs gewyde musiek word in 'n begraafplaas toegelaat, behalwe in die geval van 'n polisie of militêre begrafnis, in welke geval die vooraf toestemming van die opsigter verkry moet word.

23. Nommer op graf

Geen persoon mag 'n lyk in 'n graf begrawe waarop 'n pen gemerk met die nommer van die graf nie aangebring is nie.

HOOFSTUK 5 : OPGRAWING VAN LYK EN HER-OOPMAAK VAN GRAF**24. Versteuring van stoflike oorskot**

(1) Onderhewig aan die goedkeuring van die munisipaliteit, die bepalings van 'n opgrawingsbevel gegee ingevolge artikel 3(4) van die Wet op Geregtelike Doodsondersoeke, Wet 58 van 1959 en die bepalings van enige ander Wet met betrekking tot die opgrawing van lyke mag geen persoon sonder dat 'n Omgewingsgesondheidspraktisyn teenwoordig is –

- (a) 'n lyk of menslike oorskot of die grond rondom dit versteur nie; of
- (b) 'n lyk uit 'n graf verwyder nie.

(2) Enige persoon wat aansoek doen om die opgrawing van 'n lyk of die oopmaak van 'n graf, moet die munisipaliteit van 'n verklaring voorsien waarin dit gesertifiseer word dat hy of sy die bevoegdheid het om so 'n aansoek te rig en die verklaring moet gestaaf word deur dokumentasie wat ingevolge enige wetgewing wat op die opgrawing van lyke betrekking het vereis mag word.

(3) Die gelde wat vir opgrawing bepaal is moet ten minste twee dae voor die datum van die opgrawing of verwydering van 'n lyk aan die Munisipaliteit betaal word.

(4) 'n Persoon wat subartikel (1) oortree pleeg 'n misdryf.

25. Tyd van opgrawing

Geen persoon mag 'n lyk opgrawe of veroorsaak dat 'n lyk opgegrawe word op enige tyd behalwe die tyd wat deur die munisipaliteit voorgeskryf is nie.

26. Heropening van 'n graf

(1) Geen persoon mag sonde doe goedkeuring van die munisipaliteit 'n graf her-oopmaak vir die doel om 'n tweede lyk in dieselfde graf ter aarde te bestel nie.

(2) By die oorweging van 'n aansoek ingevolge subartikel (1) mag die munisipaliteit enige voorwaardes stel wat dit nodig ag.

(3) Die Munisipaliteit mag 'n graf heropen om die identiteit van die lyk vas te stel.

(4) In die geval van 'n polisieondersoek mag 'n lyk opgegrawe word by ontvangs van 'n skriftelike versoek van die ondersoekbeampte, met dien verstande dat die bepalings van die Wet op Nadoodse Ondersoeke, 1959 (Wet 58 van 1959) nagekom is.

(5) 'n Persoon wat subartikel (1) of enige voorwaarde wat in terme van subartikel (2) oortree opgelê is, pleeg 'n misdryf.

HOOFSTUK 6 : VERSORGING VAN GRAFTE**27. Struik en blomme**

Die Munisipaliteit mag te enige tyd enige struik, plant, blom, lower, kranse of versiering snoei, afkap, opgrawe of verwyder indien dit onooglik, beskadig of verlep is.

28. Versorging van graf

(1) Die onderhoud van 'n graf is die verantwoordelikheid van die persoon bedoel in artikel 10(1).

(2) Die Munisipaliteit mag, op aansoek van 'n persoon bedoel in artikel 10(1) en by betaling van die gelde deur die Munisipaliteit voorgeskryf, onderneem om enige graf vir enige tydperk te onderhou.

HOOFSTUK 7 : VERASSING**29. Houers en as**

(1) Tensy die as deur die Munisipaliteit begrawe gaan word, moet die persoon bedoel in artikel 10(1) 'n houer voorsien waarop die volle naam van die oorlede persoon aangetoon is.

(2) Die as moet, na verassing, deur die persoon bedoel in artikel 10(2) afgehaal word en indien hy of sy sou versuim om die as af te haal, sal die as mee gehandel word ingevolge artikel 30(1).

(3) Waar dit beoog word om 'n houer in 'n nis in die kolumbarium te plaas–

- (a) moet dit –
 - (i) van hout of klip gemaak wees; en
 - (ii) van 'n grootte en ontwerp wees om in die nis te pas; en
- (b) indien die nis nie bedoel is om geseël te word nie, moet daarop bevestig wees 'n plaatjie waarop die volle naam van die oorlede persoon gegraveer is.

30. Begrawing en opgraving van as

- (1) Waar daar nie 'n reëling tussen die opsigter en die persoon bedoel in artikel 29 met betrekking tot as getref is nie, mag die opsigter die as in 'n tuin van herinnering begrawe of strooi, waar sodanige fasiliteit beskikbaar is.
- (2) 'n Persoon mag as stort in 'n –
 - (a) graf; of
 - (b) nis in 'n –
 - (i) kolumbarium;
 - (ii) muur van herinnering; of
 - (iii) gedenkteken.
- (3) 'n Persoon moet die toestemming van die opsigter verkry indien hy of sy van voorneme is om –
 - (a) as in 'n graf te begrawe;
 - (b) as uit 'n graf op te grawe; of
 - (c) as te strooi;
 en die opsigter moet, by ontvangs van betaling van die voorgeskrewe gelde –
 - (i) skriftelike toestemming aan die aansoeker verleen om die as te begrawe, opgrawe of te strooi; en
 - (ii) in die geval van begrawe of opgrawe, die graf daarvoor voorberei.
- (4) 'n Graf vir die begrawe van as of 'n nis in 'n kolumbarium moet 610mm in lengte, 610mm in breedte en 610mm in diepte meet.

31. Verassingsertifikaat

- (1) Die opsigter moet by voltooiing van 'n verassing, 'n verassingsertifikaat aan die persoon bedoel in artikel 29(1) voorsien.
- (2) Die opsigter moet op aansoek en by betaling van die voorgeskrewe gelde, 'n duplikaat verassingsertifikaat aan 'n persoon voorsien.

HOOFSTUK 8: OPRIGTING EN ONDERHOUD VAN GEDENKTEKENWERKE

32. Toestemming van Munisipaliteit

- (1) Geen persoon mag sonder die skriftelike toestemming van die Munisipaliteit enige gedenktekenwerk by 'n begraafplaas inbring, oprig, verander, verf, skoonmaak, restoureer, versier, verwyder of andersins daarmee inmeng nie, of enige inskripsie daarop aanbring nie.
- (2) Wanneer gedenktekenwerk opgerig word, moet die volgende voorsien word:
 - (a) 'n plan wat 'n aanduiding verstrek van die afmetings en ligging;
 - (b) spesifikasies van die materiaal waarvan die gedenktekenwerk vervaardig gaan word; en
 - (c) die bewoording op die grafskrif.
- (3) Die plan moet 30 dae voordat die oprigting 'n aanvang neem voorgelê word en die munisipaliteit mag na goeddunke voorwaardes vasstel.
- (4) Geen persoon mag enige materiaal vir die vervaardiging van gedenktekenwerk by 'n begraafplaas inbring nie, tensy:
 - (a) die bepalinge van subartikels (1) tot (3) nagekom is; en
 - (b) bewyse van die betaling van alle gelde verskuldig ten aansien van sodanige graf voorgelê is.
- (5) Die Munisipaliteit se toestemming vir die voorgestelde werk is slegs vir ses maande geldig, en indien die gedenktekenwerk nie binne die voorgeskrewe tydperk opgerig is nie, moet 'n nuwe aansoek voorgelê word.

- (6) Die grafnommer moet op 'n vakkundige wyse aangetoon word in syfers wat 30mm in grootte is.
- (7) 'n Persoon wat die bepalings van subartikels (1),(4)(a) of (6) oortree begaan 'n misdryf.

33. Vereistes vir oprigting van gedenktekenwerke

- (1) 'n Persoon wat 'n gedenktekenwerk oprig moet aan die volgende voldoen:
 - (a) hy of sy moet in besit wees van 'n plan wat deur die munisipaliteit goedgekeur is;
 - (b) alle werk moet voldoen aan die voorwaardes wat ingevolge artikel 32(3) opgelê is;
 - (c) die verrigtinge moet van so 'n aard wees dat geen skade aan enige struktuur veroorsaak word nie en dat geen aanstoot gegee word nie;
 - (d) waar die gedenkteken 'n voetstuk op grondvlak of op die berm het, mag die voetstuk nie meer as 900mm in lengte, 250mm in breedte en 250mm in hoogte vir 'n enkel graf, en nie meer as 2700mm in lengte, 250mm in breedte en 250mm in hoogte vir 'n dubbel graf, wees nie;
 - (e) die naam van die vervaardiger mag met die naasbestaandes se toestemming op 'n gedenktekenwerk vertoon word, maar geen adres of ander besonderhede mag bygevoeg word nie, en die spasie wat dit in beslag neem mag nie groter as 40 x 100mm wees nie;
 - (f) teëls in die Tuin van Herinnering moet 240mm x 300mm groot wees en uit korrosiebestande metaal bestaan; en
 - (g) na oprigting van 'n gedenktekenwerk moet alle ongebruikte material verwyder word en die aangrensende areas netjies- en skoongemaak word, en enige skade wat in die proses veroorsaak is moet reggemaak word op onkoste van die persoon wat die skade veroorsaak het, en indien die betrokke party sou versuim om herstelwerk te onderneem, nadat hy daarvan in kennis gestel is, sal die munisipaliteit sodanige remediërende werk op die koste van die persoon wat die gedenktekenwerk opgerig het onderneem.
- (2) 'n Persoon wat nie aan die bepalings van subartikel (1) voldoen nie begaan 'n misdryf.

34. Plasing, beweging en verwydering van gedenktekenwerke

- (1) Geen persoon mag 'n gedenktekenwerk op 'n graf oprig alvorens die posisie waarin sodanige gedenktekenwerk geplaas gaan word deur die munisipaliteit aangedui is nie.
- (2) Indien die bepalings van subartikel (1) nie nagekom word nie, het die munisipaliteit die reg om die posisie van die gedenktekenwerk te verander en die koste te verhaal van die persoon wat die gedenkteken opgerig het.
- (3) Waar 'n gedenktekenwerk aanvanklik in 'n sekere posisie geplaas is met die uitdruklike toestemming van die munisipaliteit of sy werknemer, word enige verandering van die posisie ingevolge hierdie artikel op die koste van die munisipaliteit uitgevoer.
- (4) 'n Gedenktekenwerk wat geplaas, opgerig, gebou, verander, versier, geverf of andersens mee gehandel word op 'n wyse wat teenstrydig is met die bepalings van hierdie verordening mag, na behoorlike kennisgewing, deur die munisipaliteit verwyder word op koste van die persoon wat dit opgerig het, en geen vergoeding sal betaal word nie.

35. Herstelwerk aan gedenktekenwerke

- (1) Indien die persoon wat 'n gedenktekenwerk opgerig het toelaat dat dit sodanig verval dat dit gevaar inhou of die begraafplaas ontsier, mag die munisipaliteit 'n kennisgewing van voldoening soos bedoel in artikel 56 op sodanige persoon beteken.
- (2) Indien die persoon soos bedoel in subartikel (1) versuim om aan die kennisgewing van voldoening gehoor te gee, mag die munisipaliteit die gedenktekenwerk afbreek of verwyder en die kostes verbonde aan sodanige afbreek of verwydering van die persoon op wie die kennisgewing beteken is verhaal.
- (3) Indien die persoon bedoel in subartikel (1) nie opgespoor kan word nie, mag die munisipaliteit die gedenktekenwerk afbreek of verwyder.

36. Toesighouding oor werk

‘n Persoon wat besig is met werk in ‘n begraafplaas moet die werk onder die toesig van die opsigter onderneem en enige versuim om sy of haar instruksies na te kom is ‘n misdryf.

37. Vervoer van gedenktekenwerke

Geen persoon mag enige stene, bakstene of gedenktekenwerk in ‘n begraafplaas op ‘n voertuig of vragmotor vervoer wat skade aan die paaie of gronde of strukture van die begraafplaas mag veroorsaak nie.

38. Voertuie en gereedskap

Enige persoon wat besig is met werk op ‘n graf of perseel moet seker maak dat die voertuie, gereedskap en toerusting van so ‘n aard is dat hierdie verordening nie oortree word nie en dat dit nie enige pad blokkeer nie.

39. Tye vir inbring van materiaal en doen van werk

(1) Geen persoon mag gedurende enige ander tyd as die amptelike werksure van munisipale werknemers van Maandag tot Vrydag enige gedenktekenwerk of materiaal by ‘n begraafplaas inbring of werk verrig nie, behalwe die aftakeling van gedenktekenwerke vir begraafnisdoeleindes.

(2) Geen persoon mag werk verrig wat steurend mag wees wanneer ‘n begrafnis gehou word nie en dit geld vir die duur van die begrafnis.

40. Bewys van skriftelike toestemming

‘n Persoon enige werk verrig of op pad is na of van werk in ‘n begraafplaas, moet op aandrang van die munisipaliteit, die skriftelike toestemming toon wat ingevolge artikel 32 uitgereik is.

41. Gedenktekenwerke in krematorium

(1) Tensy ‘n lyk in ‘n krematorium veras is, of indien ‘n verassingsertifikaat uitgereik deur ‘n ander krematorium voorgelê word, mag geen persoon sonder die voorafverkreë toestemming van die opsigter ‘n gedenksteenwerk in ‘n krematorium oprig nie.

(2) ‘n Gedenksteenwerk

(a) indien opgerig in ‘n tuin van herinnering:

(i) moet van marmer of graniet gemaak wees; en

(ii) mag nie 250mm in wydte, 305mm in lengte en 25mm in dikte oorskry nie;

(b) indien dit beoog word om ‘n nis te seël, moet die grootte en materiaal pas by die gedenksteen langsaan, en ‘n foto van die oorlede persoon mag daarop aangebring wees; of

(c) op ‘n graf, mag nie 1,2m in hoogte, 610mm in lengte en 610mm in dikte oorskry nie.

42. Statebond Oorlogsgrafte

Die grafte van persone wat gesneuwel het in oorloë en na wie se grafte omgesien word of wat in stand gehou word deur die Statebond Oorlogsgraftekommissie ingevolge die Statebond Oorlogsgrawetwet, 1992, (Wet 8 van 1992), of die Suid Afrikaanse Erfenisbronneagentskap ingevolge die Nasionale Erfenisbronnwet, 1999 (Wet 25 van 1999), of deur enige ander erkende liggaam, of deur enige ander regering mag, deur ‘n aansoek aan die munisipaliteit te rig, van die bepalings van hierdie hoofstuk vrygestel word.

HOOFSTUK 9 : AFDELINGS IN BEGRAAFPLASE**43. Munisipaliteit mag afdelings instel**

Die munisipaliteit mag een of meer van die volgende afdelings in ‘n begraafplaas instel.

- (a) monumente afdeling;
- (b) ope afdeling;
- (c) estetiese afdeling;
- (d) berm afdeling;
- (e) Helde-akker; en

- (f) Tuin van Herinnering.

44. Monumente afdeling

- (1) Gedenksteenwerke mag op die hele oppervlakte van die graf opgerig word onderhewig aan die voelendoening van die bepalings van artikel 33 en mits die volgende afmetings nie oorskry word nie :
- (a) Hoogte: 2000mm
 - (b) Wydte: 900mm in die geval van 'n enkel graf, en 700mm in die geval van 'n dubbel graf
 - (c) Dikte: 250mm
- (2) Blomme, lower, kranse of enige versiering mag slegs op die berm van grafte geplaas word.
- (3) 'n Persoon begaan 'n misdryf indien hy of sy :
- (a) die mates uiteengesit in subartikel (1) oorskry; of
 - (b) subartikel (3) oortree.

45. Ope Afdeling

In hierdie afdeling mag slegs 'n graf gekoop word, en op 'n latere stadium mag toestemming gevra word om 'n gedenksteenwerk op te rig teen betaling van die voorgeskrewe gelde.

46. Estetiese Afdeling

- (1) Slegs 'n kopsteen mag opgerig word, en 'n blad mag nie gelê word nie en 'n randsteen mag nie om die graf aangewend word nie.
- (2) Die afmetings van 'n kopsteen is as volg:
- (a) Volwasse grafte:
 - (i) Enkelgraf: 900mm in lengte by 260mm in breedte.
 - (ii) Dubbelgrafte: 2200mm in lengte by 260mm in breedte.
 - (b) Kindergrafte:
 - (i) Enkelgraf: 610mm in lengte by 260mm in breedte.
 - (ii) Dubbelgraf: 1200mm in lengte by 260mm in breedte.
- (3) Geen kopsteen mag 'n hoogte van 1500mm bo die berm oorskry nie.
- (4) 'n Persoon wat hierdie bepaling oortree begaan 'n misdryf.

47. Berm afdeling

- (1) A sementbasis word gelê aan die kop van die graf waarop 'n gedenksteenwerk aangebring word;
- (2) Daar moet aan die volgende afmetings voldoen word:
- (a) die basis mag nie 1200mm in wydte en 250mm in dikte oorskry nie;
 - (b) horisontaal op grondvlak; en
 - (c) op 'n sement fondasie.
- (3) 'n Persoon wat hierdie bepaling oortree begaan 'n misdryf.

48. Tuin van Herinnering

- (1) Hierdie afdeling bevat die muur van herinnering met nisse, en 'n tuin area waarin plake opgerig mag word.
- (2) 'n Houer wat in 'n nis geplaas moet word mag nie 300mm x 150mm x 150mm in grootte oorskry nie.
- (3) Blomme en lower mag slegs op plekke geplaas word waar daarvoor voorsiening gemaak is.

49. Helde-akker

- (1) 'n Helde-akker bestaan uit 'n struktuur wat spesifiek vir dié doel opgerig is en bevat geen lyk nie, maar is slegs 'n gedenkteken.
- (2) Geen persoon mag sodanige struktuur sonder die skriftelike goedkeuring van die munisipaliteit oprig nie, en die munisipaliteit besluit self oor die meriete van so 'n aangeleentheid.

(3) Die grootte van die struktuur moet 500mm x 350mm wees en moet van korrosievrye metaal of messelwerk vervaardig wees waarop, onder andere, die bydrae wat deur die persoon gemaak is aangeteken word.

(4) 'n Persoon wat 'n lyk teenstrydig met subartikel (1) ter aarde bestel of subartikel (2) oortree of wat versuim om te voldoen aan die vereistes van subartikel (3), begaan 'n misdryf.

HOOFTUK 10: PRIVATE BEGRAAFPLASE

50. Verordening van toepassing

Die bepalings van hierdie verordening is *mutatis mutandis* van toepassing op private begraafplase

51. Vestiging en voortgesette gebruik van begraafplase

(1) Geen persoon mag sonder die voorafverkreë goedkeuring van die munisipaliteit 'n private begraafplaas vestig nie, en geen eienaar van 'n private begraafplaas wat alreeds bestaan mag, indien die gebruik van die begraafplaas nie voorheen deur die munisipaliteit gemagtig is nie, voortgaan om die bestaande begraafplaas vir begrafnisdoeleindes te gebruik nie.

(2) 'n Persoon wat van plan is om by die munisipaliteit aansoek te doen om toestemming om 'n begraafplaas soos bedoel in subartikel (1) te vestig, moet 'n skriftelike aansoek aan die munisipale bestuurder voorlê tesame met :

- (a) 'n liggingsplan op 'n skaal van nie minder nie as 1:10 000 wat aantoon :
 - (i) die posisie van die voorgestelde begraafplaas of bestaande begraafplaas in verhouding tot die grense van die grond waarop dit beoog word om dit te stig of waarop dit geleë is;
 - (ii) die geregistreerde beskrywing van die perseel;
 - (iii) alle strate, openbare plekke en grond in privaat besit binne van 100 meter van die perseel;
- (b) 'n "blokplan" op 'n skaal van nie minder as 1:500 nie wat die posisie aandui van buitegrense, interne paaie en paadjies, onderverdelings, grafpersele, dreinerings en enige bestaande geboue of geboue wat beoog word om opgerig te word;
- (c) 'n plan met afdelings op 'n skaal van nie minder as 1:100 nie van enige bestaande geboue of geboue wat beoog word om opgerig te word, en wat in hierdie geval moet voldoen aan die Nasionale Bouregulasies en die munisipaliteit se Waterdienste en Sanitasie Verordeninge;
- (d) 'n lys van registers of rekords gehou of beoog om gehou te word met verwysing na –
 - (i) identifikasie van grafte;
 - (ii) verkoop of oordrag van grafpersele, oordrag van grafpersele; en
 - (iii) teraardebestellings;
- (e) die volle name en adres van die eienaar;
- (f) besonderhede met betrekking tot die aard van die titel waaronder die eienaar die grond waarop die begraafplaas gestig gaan word of wat gebruik word as 'n begraafplaas, sal hou of hou, en of sodanige grond onderhewig is aan enige verband of trust; en
- (g) 'n skedule van die voorgestelde begrafnisgelde wat gehef gaan word of wat werklik van krag is.

(3) By ontvangs van 'n aansoek moet die munisipaliteit 'n kennisgewing plaas in een of meer koerante wat in die gebied sirkuleer met vermelding van die aard van die aansoek en met spesifisering van 'n datum, wat nie minder as 14 dae na die datum van publikasie van die kennisgewing moet wees nie, waarop besware teen die goedkeuring van 'n aansoek by die munisipaliteit ingedien mag word.

(4) Die munisipaliteit mag, by ontvangs van betaling deur die aanseker van die voorgestelde gelde, en indien dit na oorweging van die aansoek en enige besware wat ingedien mag word, tevrede is dat die vestiging nie met enige openbare gerief inmeng nie, of geen oorlas skep of gevaar vir die openbare gesondheid moontlik sal plaasvind of ontstaan nie, skriftelike toestemming verleen vir die vestiging van die private begraafplaas of voortgesette gebruik van die private begraafplaas.

(5) Geen afwyking van die goedgekeurde planne word sonder die voorafverkreë skriftelike goedkeuring van die munisipaliteit toegelaat nie.

(6) 'n Persoon wat 'n bepaling van subartikels (1) of (5) oortree begaan 'n misdryf.

52. Pligte van eienaars

(1) Die eienaar van 'n private begraafplaas waarvoor die toestemming van die munisipaliteit verkry is, moet -

- (a) voldoen aan:
 - (i) enige spesiale voorwaardes wat deur die munisipaliteit voorgeskryf is; en
 - (ii) die bepalings van hierdie verordening en enige ander wet wat daarop van toepassing is.
 - (b) 'n rekord hou wat die volgende aantoon:
 - (i) die nommer en eienaar van elke grafperseel; en
 - (ii) die getal teraardebestellings in elke grafperseel en die naam, ouderdom, geslag, laaste bekende adres, datum en oorsaak van dood van die oorledene;
 - (c) die gronde, heinings, paaie, paadjies en afvoerslote in 'n goeie toestand hou en gras en oorgroeiende skoonmaak;
 - (d) voorsiening maak vir die identifisering van grafpersele deur die begraafplaas in blokke te verdeel, en:
 - (i) elke blok moet afgebaken wees by wyse van tekens wat die nommer en ligging in elke blok aantoon;
 - (ii) die grafte of grafpersele in elke blok moet afsonderlik genummer wees by wyse van duursame nommerplate; en
 - (iii) alle tekens en nommerplate moet in 'n netjiese en leesbare toestand onderhou word.
 - (e) 'n beampte toelaat om die begraafplaas binne te gaan of die begraafplaas en alle rekords in verband daarmee gehou te inspekteer;
 - (f) op of voor die 7de dag van elke maand 'n maandelikse opgawe aan die munisipale bestuurder lewer wat die volgende inligting bevat:
 - (i) naam, laaste bekende adres, ouderdom, geslag, datum en oorsaak van dood van elke oorlede persoon wat in die begraafplaas begrawe is;
 - (ii) naam van die mediese praktisyn wat die doodsertifikaat uitgereik het;
 - (iii) wie die begrawingsbevel gemagtig het;
 - (iv) blok en grafperseel nommer;
 - (v) datum van begrawing; en
 - (vi) besonderhede van verandering in die identifikasie van die opsigter of van 'n nuut-aangestelde persoon.
 - (g) op of voor die 31ste dag van Junie van elke jaar, 'n opgawe aan die munisipale bestuurder voorsien wat 'n gedetailleerde lys bevat van die name en adresse van alle trustees, kommiteede of persone wat die begraafplaas of krematorium beheer;
 - (h) 'n opsigter aanstel om die begraafplaas te bestuur en alle rekords te hou.
- (2) Die eienaar van 'n private begraafplaas of -eiendom mag toestemming weier om 'n lyk in so 'n begraafplaas te begrawe of te laat veras.
- (3) 'n Persoon wat die bepalings van subartikel (1) oortree begaan 'n misdryf.

HOOFSTUK 11: BEGRAAFPLASE IN ONBRUIK

53. Gebruik van begraafplase wat in onbruik is

(1) Nieteenstaande enige bepaling in hierdie verordening en onderhewig aan die bepalings van subartikel (4), mag die munisipaliteit enige begraafplaas of deel daarvan, wat vir 'n tydperk van ten minste 20 jaar gesluit of nie gebruik is nie, en waarvoor die munisipaliteit die begrafnisgesag is, vir enige doel gebruik sonder om die grond, grafte of gedenksteenwerke te skend of te ontheilig.

(2) Die munisipaliteit mag, onderhewig aan die bepalings van subartikel (4) en mits die munisipaliteit die begrafnisgesag is, die menslike oorblyfsels, gedenksteenwerke en ander stukture in 'n begraafplaas wat vir 'n tydperk van nie minder nie as 20 jaar gesluit is of nie gebruik is nie, en waarvan gebruik daarvan vir ander 'n doeleinde goedgekeur is, verskuif na 'n ander begraafplaas.

(3) Alle regte wat deur enige persoon besit of geniet word ten opsigte van 'n begraafplaas soos bedoel in subartikel (2), word beëindig indien daar ingevolge subartikel (2) gehandel word.

(4) Alvorens die munisipaliteit ingevolge subartikels (1) en (2) mag optree, moet daar kennis van die voorneme gegee word ingevolge die munisipaliteit se openbare deelnamebeleid.

HOOFTUK 12: ALGEMEEN

54. Waarmeding en diening van bevel, kennisgewings en ander dokumente

(1) 'n Bevel, kennisgewing of ander dokument wat waarmeding vereis moet behoorlik deur die Munisipaliteit onderteken wees.

(2) Enige kennisgewing of ander dokument wat op 'n persoon beteken word ingevolge hierdie verordening, word geag beteken te wees indien dit beteken is ooreenkomstig artikel 115(1) van die Wet op Plaaslike Regering Munisipale Stelsels 2000 (Wet 32 van 2000).

(3) Betekening van 'n afskrif sal geag wees betekening van die oorspronklike.

(4) Enige regsproses is effektief en voldoende op die Munisipaliteit beteken wanneer dit afgelewer word by die munisipale bestuurder of 'n persoon aanwesig in die munisipale bestuurder se kantoor.

55. Klagte

'n Persoon wat 'n klagte wil indien moet dit skriftelik by die munisipaliteit indien.

56. Kennisgewing van voldoening en vertoë

(1) 'n Kennisgewing van voldoening moet die volgende bevat:

(a) die naam en woon- en posadres, indien enige of beide daarvan bekend is, van die persoon;

(b) die aard van die toestand van verval;

(c) die stappe wat vereis word om die gedenksteenwerk reg te stel in sodanige besonderhede dat aan die kennisgewing voldoen kan word;

(d) dat die persoon binne 'n gespesifiseerde tydperk die werk moet verrig om aan die kennisgewing te voldoen, getrou met die stappe moet voortgaan, en die werk moet voltooi voor 'n spesifieke datum;

(e) dat versuim om aan die vereistes van die kennisgewing te voldoen binne die periode bedoel in subartikel (d) is misdryf is;

(f) dat skriftelike vertoë soos bedoel in subartikel (3) binne die tydperk soos bepaal in subartikel (d), aan die munisipaliteit gerig mag word by 'n plek wat gespesifiseer word.

(2) Die munisipaliteit moet die volgende in ag neem wanneer enige maatreël of tydperk bedoel in subartikels (1)(d) en (e) oorweeg word:

(a) die beginsels en oogmerke van hierdie verordening;

(b) die toestand van verval;

(c) enige maatreëls voorgestel deur die persoon op wie dit beoog word om maatreëls in te stel; en

(d) enige ander relevante faktore.

(3) 'n Persoon mag binne die tydperk bedoel in subartikel (1)(f) vertoë in die vorm van 'n beëdigde verklaring of bevestiging aan die munisipaliteit rig by die plek gespesifiseer in die kennisgewing.

(4) Vertoë wat nie binne die voorgeskrewe tydperk gerig word nie sal nie oorweeg word nie, tensy die persoon goeie goeie redes vir die laat indiening van vertoë kan aanvoer en die munisipaliteit die laat vertoë kondoneer.

(5) Die munisipaliteit moet alle vertoë van 'n gemagtigde beampte of enige ander persoon en enige kommentaar daarop, indien daar kommentaar sou wees, oorweeg.

(6) Indien nodig mag die munisipaliteit op eie beweging enige verdere ondersoek doen om die feite te bevestig en die resultaat van die ondersoek moet aan die persoon beskikbaar gestel word, wie geleentheid gegun moet word om verdere kommentaar te lewer, en die munisipaliteit moet die verdere kommentaar ook oorweeg.

- (7) Die Munisipaliteit moet, na oorweging van die verhoë en enige kommentaar ontvang, 'n skriftelike bevel maak en 'n afskrif daarvan op die persoon beteken.
- (8) Die bevel moet :
- (a) die bevindinge van die munisipaliteit uiteensit;
 - (b) die kennisgewing van voldoening in die geheel bevestig, wysig of ter syde stel; en
 - (c) 'n tydperk spesifiseer waarin die persoon aan die bevel wat deur die munisipaliteit gemaak is moet voldoen.
- (9) Indien die kennisgewing van voldoening in geheel of gedeeltelik bevestig word, of gewysig maar nie ter syde gestel word nie, moet die munisipaliteit die persoon in kennis stel dat hy of sy:
- (a) die verpligtinge wat in die kennisgewing vervat is moet nakom; of
 - (b) mag verkies om die saak in die hof te beveg.
- (10) Indien die persoon verkies om die saak in die hof te beveg, moet hy of sy die munisipaliteit binne sewe kalenderdae van sy of haar bedoeling om die saak aldus te beveg, in kennis stel.
- (11) Indien die persoon nie verkies om die saak in die hof te beveg nie, moet hy of sy binne die voorgeskrewe wyse en tyd sy of haar verpligtinge ingevolge die kennisgewing nakom.

57. Koste

Indien 'n persoon versuim om die maatreëls te volg wat ingevolge 'n kennisgewing van hom of haar vereis word, mag die munisipaliteit alle koste van die persoon verhaal wat aangegaan is as gevolg van die munisipaliteit se optrede ingevolge artikel 56.

58. Appèl

'n Persoon wie se regte geraak word deur 'n besluit wat deur die munisipaliteit gedelegeer is mag teen die besluit appelleer deur skriftelike kennisgewing van die appèl en die redes daarvoor ingevolge artikel 62 van die Wet op Plaaslike Regering: Munisipale Stelsels 2000, (Wet 32 van 2000) aan die munisipale bestuurder te gee binne 21 dae vanaf die datum van kennisgewing van die besluit.

59. Gelde

Indien 'n persoon versuim om die voorgeskrewe gelde te betaal, mag die munisipaliteit optree ooreenkomstig die bepalings van sy Kredietbeheer en Skuldinvorderingsverordening.

60. Boetes

'n Persoon wat 'n misdryf begaan het ingevolge hierdie verordening, en onderhewig aan boetes voorgeskryf deur ander wetgewing, is by skuldigbevinding strafbaar met 'n boete, of by gebrek aan betaling, tot gevangenisstraf, of tot sodanige gevangenisstraf sonder die keuse van 'n boete, of beide sodanige boete en sodanige gevangenisstraf en in die geval van 'n opeenvolgende of voortdurende oortreding, tot 'n boete vir elke dag wat die misdryf voortduur, of op versuim van betaling daarvan, tot sodanige gevangenisstraf.

61. Vrystellings

- (1) Enige persoon mag by wyse van 'n skriftelike aansoek waarin die redes volledig uiteengesit word, by die Munisipaliteit aansoek doen om vrystelling van enige bepaling van hierdie verordening.
- (2) Die Munisipaliteit mag:
- (a) 'n aansoek om vrystelling skriftelik goedkeur en voorwaardes stel, en waar voorwaardes gestel word, die terme daarvan en die tydsduur waarvoor die vrystelling geldig bly;
 - (b) enige vrystelling verander of kanselleer of 'n voorwaarde opskort; of
 - (c) weier om vrystelling goed te keur.
- (3) 'n Vrystelling tree nie in werking voordat die aansoeker skriftelik onderneem het om aan alle voorwaardes opgelê ingevolge subartikel (2) te voldoen nie, en indien die aktiwiteit 'n aanvang neem voordat sodanige onderneming aan die munisipaliteit voorgelê is, verval die vrystelling.
- (4) Indien enige voorwaarde van 'n vrystelling nie nagekom word nie, verval die vrystelling.

62. Skakelforums in gemeenskap

- (1) Die munisipaliteit mag een of meer skakelforums in 'n gemeenskap instel om begraafplase en krematoria te ontwikkel en te onderhou en om die bevordering van 'n gesonde omgewing te bevorder.
- (2) 'n Skakelforum mag bestaan uit:
- (a) 'n lid of lede van 'n belangegroep, of 'n geaffekteerde persoon;
 - (b) 'n lid of lede van 'n gemeenskap in wie se onmiddellike omgewing 'n begraafplaas of krematorium voorkom;
 - (c) 'n afgevaardigde amptenaar of amptenare van die munisipaliteit; en
 - (d) die raadslid verantwoordelik vir begraafplase en krematoria.
- (3) (a) Die munisipaliteit mag wanneer 'n aansoek om toestemming, permit of vrystelling sertifikaat oorweeg word ingevolge hierdie verordening, waar van toepassing, die insette van 'n skakelforum versoek.
- (b) 'n Skakelforum of enige persoon of persone gedoel in subartikel (2) mag op eie inisiatief, 'n inset aan die Munisipaliteit vir oorweging stuur.

63. Herroeping van verordeninge

Die bepalings van enige verordeninge voorheen deur die munisipaliteit afgekondig of deur enige van die afgeskafde munisipaliteite wat nou by die munisipaliteit ingelyf is, word hiermee herroep insover dit betrekking het op aangeleenthede waarvoor in hierdie verordening voorsiening gemaak word en in soverre dit op die munisipaliteit van toepassing gemaak is deur die magtiging vir die uitvoering van magte en bevoegdhede ingevolge artikel 84(3) van die Plaaslike Regering: Munisipale Strukturewet, Wet 117 van 1998.

64. Kort titel en inwerkingtreding

Hierdie verordening staan bekend as die Begraafplase en Krematoria Verordening en tree in werking op die datum van publikasie in die Provinsiale Koerant.

HESSEQUA MUNICIPALITY COMMONAGE BY-LAW

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996, the Hessequa Municipality enacts as follows:-

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1. Definitions

“**Act**” means the Animal Identification Act, 2002 (Act 6 of 2002);

“**brand**” means any registered mark registered in terms of section 5 (2) of the Act and placed on any animal for any purpose, and includes any representation of a mark intended to be placed on any animals, as the circumstances may require, but does not include any-

- (a) mark made or placed on the horn or hoof;
- (b) mark made with paint on any animal;
- (c) clasp, rivet or tag attached to the ear, or any mark made on such clasp, rivet or tag; or
- (d) notch or hole;

“**commonage**” means that part of property owned by, or under control of, the municipality, which the municipality may set aside for grazing or for such other purposes and use as it may deem necessary;

“**depasture**” means to allow an animal to graze on the commonage;

'large stock' means cattle and equine, and includes any other species of animals which the Minister may by notice in the Gazette declare to be large stock for the purposes of the Act;

"municipality" means the Municipality of Hessequa, 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 or any employee 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;

“**prescribed**” means prescribed by the municipality;

'small stock' means sheep and goats, and includes any other species of animals which the Minister may by notice in the Gazette declare to be small stock for the purposes of this Act;

2. Purpose of by-law and objectives

The purpose of this by-law is to provide for use and management of the commonage as well as the control of animals on such commonage established by the municipality.

3. Establishment of camps for grazing

- (1) The municipality may reserve and fence off a portion of the commonage and establish camps for the grazing of the stock of the residents.
- (2) The municipality may set apart portions of the commonage for the grazing of small stock and large stock.
- (3) The municipality may erect paddocks or enclosures for animals of residents.

4. Closing of camps

- (1) The municipality may, whenever it deems it necessary for a purpose such as, but not limited to, maintenance or allowing a meadow to regenerate grass growth, close and prohibit the grazing of a camp or section thereof on the commonage, during certain periods of the year.
- (2) No person may allow his or her animal to graze in a camp which has been closed by the municipality for whatever purpose or reason.
- (3) The municipality may impound an animal found in a camp which has been closed in terms of subsection (1).
- (4) A person who contravenes subsection (2) commits an offence.

5. Approval to graze animals

- (1) No person may keep or depasture any animal in a camp on a commonage without first having obtained written approval from the municipality.
- (2) A person who wishes to obtain approval must submit the prescribed form to the municipality which may, after considering the following factors, grant approval:
 - (a) for the total number of animals already accommodated in the camps;
 - (b) for the number of animals, and the kind of animal, which he or she wishes to have accommodated in a camp;
- (3) The approval contemplated in subsection (1) may be granted subject to the condition of the meadows (pastures), or the provisions of an approved grazing- or commonage management plan, and any other factor which the municipality deems necessary.
- (4) The right of depasturing is personal only, and no person is entitled to transfer or cede his or her right to another.
- (5) A person who contravenes subsection (1) or fails to comply with any condition imposed in terms of subsection (3), commits an offence.

6. Confinement of stock to camps

- (1) A person depasturing on commonage must confine his or her stock to the camp set apart by the municipality.
- (2) A person who contravenes subsection (1) commits an offence.

7. Numbers and condition of animals

- (1) The municipality may determine the numbers and kinds of animals that may be accommodated on the commonage by a person.
- (2) A person keeping an animal on the commonage must ensure that the animal is in a healthy condition.
- (3) The municipality may require from a person keeping or applying to keep an animal on the commonage to file with the municipality a sworn declaration as to the ownership and condition of the animal.
- (4) A person who –
 - (a) keeps more than the determined number of animals as contemplated in subsection (1) on a commonage;
 - (b) who fails to keep an animal in a healthy condition as contemplated in subsection (2);
 - (c) fails to file a declaration as contemplated in subsection (3); or
 - (d) provides false information to the municipality, commits an offence.

8. Branding of stock

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

- (2) No person may keep or depasture any animal on the municipal commonage without it being branded.
- (3) Stock found on the commonage without such branding, may be impounded by the municipality.

9. Grazing fees

- (1) The municipality may determine grazing fees that must be paid to the municipality.
- (2) Should a person fail to pay a grazing fee, the municipality may take such measures as provided for in its Customer Care and Revenue Management By-law.

10. Infected or contagious animals

- (1) No person may graze, bring or leave any stock suffering from, or suspected of being infected with, any contagious or infectious disease, on the commonage.
- (2) Any stock found on the commonage suspected of being infected with any contagious or infectious disease must, at the cost of the owner, be inspected by a veterinary surgeon, and if he or she finds that the disease is contagious or infectious, he or she may cause such stock to be isolated or destroyed.
- (3) A person who contravenes subsection (1) commits an offence.

11. Carcasses of animals

- (1) The owner of an animal which has died on the commonage must immediately cause the carcass to be buried, and should he or she fail to do so, the municipality will bury the carcass and claim the expenses from the owner.
- (2) A person who fails to dispose of a carcass as contemplated in subsection (1) commits an offence.

12. Prohibited conduct

- (1) No person may without the prior written consent of the municipality –
 - (a) erect any hut, shelter, kraal, habitation or structure of any kind nor occupy, camp or squat on any portion of the commonage;
 - (b) accumulate, dump or deposit or cause to be accumulated, dumped or deposited on any portion of the commonage any derelict motor cars or other vehicles or machinery or any derelict parts thereof;
 - (c) dig on or remove soil, clay, sand, gravel or boulders from the commonage;
 - (d) make bricks, or erect brick-, lime- or charcoal kilns on the commonage;
 - (e) cut, damage, burn, destroy, gather or remove any plants, shrubs, trees, timber, firewood, brushwood, manure or any grass growing or being upon any portion of the commonage;
 - (f) interfere with or cause damage to any fence, gate, drinking trough, water tap or other appliance or thing, or set fire to the pasture or any bush, tree, shrub on the commonage;
 - (g) make use of any road over the commonage other than roads allowed to be used by the municipality from time to time, and roads that the public have a legal right to use;
 - (h) deposit, or in any way leave, any poison for whatever purpose on the commonage;
 - (i) kill, catch, capture, or hunt, or attempt to kill, any game or birds of whatsoever description on the commonage;
 - (j) set traps of whatsoever description on the commonage;
 - (k) destroy the nests, or remove the eggs or young therefrom, of any birds or water-fowl on the commonage; or
 - (l) fish in any dam, river or any other water on the commonage.
- (2) The municipality may take, or cause to be taken, any steps necessary to rectify any contravention of subsection (1) and may claim the costs incurred by the municipality from the person responsible for the contravention.
- (3) A person who contravenes subsection (1) commits an offence.

13. Exemptions

- (1) Any person may by means of a written application, in which the reasons are given in full, apply to the municipality for exemption from any provision of this by-law.
- (2) The municipality may –
 - (a) grant an exemption in writing and the conditions in terms of which, if any, and the period for which such exemption is granted, must be stipulated therein;

- (b) alter or cancel any exemption or condition in 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 conditions imposed by the municipality under subsection (2). However, if an activity is commenced before such undertaking has been submitted to the municipality, the exemption lapses.
- (4) If any condition of an exemption is not complied with, the exemption lapses immediately.

14. Liaison forums in the 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 achievement of a properly controlled and administered commonage.
- (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 commonage has been established;
 - (c) a designated official or officials of the municipality; and
 - (d) a councillor.
- (3)
 - (a) The municipality may, when considering an application for an approval, or exemption certificate 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 their own initiative give input to the municipality for consideration.

15. Agreements and commonage management plans

The municipality may, in consultation with the community, enter into a written agreement with any party regarding the use of the commonage or any part thereof or develop a commonage management plan in terms of which the commonage may be managed and developed.

16. 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 an official of the municipality has signed it.
- (2) Any notice or other document that is served on a person in terms of this by-law is regarded as having been 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 with a person apparently over the age of 16 years;
 - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic, and an acknowledgment of the posting thereof from the postal service is obtained;
 - (d) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided by paragraphs (a), (b) or (c);
 - (e) if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the 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 the body corporate; or
 - (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.

17. Appeal

A person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local

Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision.

18. Penalties

A person who has committed an offence in terms of this by-law is, on conviction, and subject to penalties prescribed in any other law, 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.

19. Revocation 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, and insofar as it has been made applicable to the municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Local Government: Municipal Structures Act, Act 117 of 1998.

20. Short title and commencement

This by-law shall be known as the Commonage By-law and shall come into operation on the date of publication thereof in the Provincial Gazette.

HESSEQUA MUNISIPALITEIT: VERORDENING OP MEENTGROND

Kragtens die bepalings van artikel 156 van die Grondwet van die Republiek van Suid-Afrika, 1996, verorden die Hessequa Munisipaliteit as volg:-

Inhoudsopgawe:

1. Definisies
2. Doel en oogmerke
3. Oprigting van weikampe
4. Sluiting van weikampe
5. Goedkeuring om diere te laat wei
6. Beperking van diere tot kampe
7. Getal en toestand van diere
8. Merk van diere
9. Weigelde
10. Besmette diere
11. Karkasse van diere
12. Verbode gedrag
13. Vrystellings
14. Skakelforums binne gemeenskappe
15. Ooreenkomste
16. Waarmerk en dien van kennisgewings en ander dokumente
17. Appél
18. Boetes
19. Herroeping van verordening
20. Kort titel en inwerkingtreding

1. Definisies

“**groot vee**” beteken beeste en perde en sluit enige ander spesie in wat die Minister in die Provinsiale Koerant as groot vee vir doeleindes van die Wet verklaar;

“**klein vee**” beteken skape en bokke en sluit enige ander spesies in wat die Minister by kennisgewing in die Provinsiale Koerant as kleinvee, vir die doeleindes van die Wet, verklaar;

“**meent**” beteken die gedeelte van eiendom wat besit word deur, of onder beheer is van die munisipaliteit en wat deur die munisipaliteit opsy gesit is vir weiding of sodanige ander doeleindes en gebruik soos die munisipaliteit nodig ag;

“**merk**” beteken enige, geregistreer ingevolge artikel 5(2) van die Wet en aangebring op enige dier vir enige doel, insluitend enige voorstelling van ‘n merk wat beoog word om op diere geplaas te word, soos omstandighede vereis, maar sluit die volgende uit –

- (a) ‘n merk gemaak of geplaas op die horing of hoef;
- (b) ‘n merk van verf op enige dier;
- (c) ‘n klamp, klinknael, etiket aan die oor geheg, of enige merk gemaak op sodange klamp, klinknael of etiket; of
- (d) keep of gat;

“**munisipaliteit**” beteken die Hessequa Munisipaliteit, gevestig kragtens artikel 12 van die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet 117 van 1998) en sluit enige politieke strukture, politieke ampsdraers, raadslede, behoorlik gemagtigde agent of enige werknemer in wat ingevolge hierdie verordening optree, by wyse van ‘n magtiging wat vestig in die munisipaliteit en gedelegeer of gesubdeleger is aan sodanige politieke struktuur, -ampsdraer, raadslid, agent of werknemer;

“**voorgeskrif**” beteken voorgeskryf deur die munisipaliteit;

“**wei**” beteken om ‘n dier toe te laat om op die meent te wei; en

“**Wet**” beteken die Wet op Identifisering van Diere, 2002 (Wet 6 van 2002);

2. Doel en oogmerke van die verordening

Die doel van hierdie verordening is om voorsiening te maak vir die gebruik en bestuur van meentgrond wat deur die munisipaliteit beskikbaar gestel word asook die beheer van diere op sodanige meent.

3. Vestiging van weikampe vir die diere

- (1) Die munisipaliteit mag ‘n gedeelte van ‘n meent reserveer en omhein en wiekampe daarop vestig vir die vee van inwoners.
- (2) Die munisipaliteit mag gedeeltes van ‘n meent afbaken vir weiding van klein- en grootvee.
- (3) Die munisipaliteit mag kampe en omheinde areas oprig vir die vee van inwoners.

4. Sluiting van kampe

- (1) Die munisipaliteit mag, wanneer ook al hy dit nodig ag, vir die doeleindes van, maar nie beperk tot onderhoud of om weiding te laat hervestig nie, 'n kamp sluit of die beweiding daarvan of gedeelte daarvan op 'n meent, vir bepaalde tydperke van 'n jaar, verbied.
- (2) Geen persone mag toelaat dat sy of haar diere in 'n kamp wei wat deur die munisipaliteit gesluit is, ongeag die doel of rede daarvoor.
- (3) Die munisipaliteit mag beslag lê op 'n dier wat in 'n kamp wat ingevolge sub- artikel (1) gesluit is, gevind word.
- (4) Enige persoon wat sub-artikel (2) oortree, is skuldig aan 'n misdryf.

5. Goedkeuring om diere te laat wei

- (1) Geen persoon mag enige dier hou of laat wei in 'n kamp op 'n meent alvorens skriftelike toestemming nie eers van die munisipaliteit verkry is nie.
- (2) 'n Persoon wat toestemming wil verkry moet die voorgeskrewe vorm indien by die munisipaliteit wat toestemming mag verleen, na oorweging van die volgende faktore:
 - (a) die totale getal diere wat alreeds in die kamp toegelaat is; en
 - (b) die getal en soort diere wat 'n aansoeker in die kamp toegelaat wil hê;
- (3) Die goedkeuring wat onder sub-artikel (1) beoog word, mag toegestaan word onderhewig aan die voorwaardes van die weiplek, of die bepalinge van 'n goedgekeurde weidings- of meentbestuursplan en enige ander bepaling wat die munisipaliteit nodig ag.
- (4) Die reg om te laat wei is persoonlik en geen persoon is geregtig om dit op enige wyse oor te dra of te sedeer nie.
- (5) 'n Persoon wat sub-artikel (1) oortree of nalaat om te voldoen aan die voorwaardes wat ingevolge sub-artikel (3) bepaal is, is skuldig aan 'n misdryf.

6. Beperking van diere tot kampe

- (1) 'n Persoon wat diere op 'n meent laat wei, moet sy of haar vee beperk tot die kamp wat deur die munisipaliteit aangewys is.
- (2) 'n Persoon wat sub-artikel (1) oortree is skuldig aan 'n misdryf.

7. Getal en toestand van diere

- (1) Die munisipaliteit mag die getal en soort diere wat deur 'n persoon op die meent gehou word, vasstel.
- (2) 'n Persoon wat 'n dier op die meent hou, moet self toesien dat die dier in 'n gesonde toestand is.
- (3) Die munisipaliteit mag van 'n persoon wat aansoek doen, of reeds 'n dier op die meent aanhou, vereis om 'n geswore verklaring oor die eienaarskap en toestand van die dier, aan die munisipaliteit voor te lê.
- (4) Enige persoon wat –
 - (a) meer as die vasgestelde aantal diere, ingevolge sub-artikel (1) bepaal, op die meent aanhou; of
 - (b) versuim om 'n dier in 'n gesonde toestand ingevolge sub-artikel (2) te hou; of
 - (c) versuim om 'n verklaring te liasseer soos in sub-artikel (3) bepaal; of
 - (d) vals inligting aan die munisipaliteit verskaf, is skuldig aan 'n misdryf.

8. Merk van diere

- (1) 'n Persoon wat enige vee op die meent laat wei moet self toesien dat al sy of haar diere gemerk is ingevolge artikel 7 van die Wet.
- (2) Geen persoon mag enige dier op die meent hou of laat wei alvorens dit gemerk is nie.
- (3) Vee wat op die meent gevind word sonder enige merke, mag deur die munisipaliteit geskut word.

9. Weigelde

- (1) Die munisipaliteit mag weigelde vasstel wat aan hom betaal moet word.
- (2) Indien 'n persoon versuim om weigelde te betaal, mag die munisipaliteit stappe doen kragtens die bepalinge vervat in die Verordening op Kliëntesorg en Inkomstebestuur.

10. Besmette diere

- (1) Geen persoon mag enige vee wat besmet is met enige oordraagbare- of aansteeklike siekte, of vermoedelik besmet is met sodanige siektes, op 'n meent bring, laat of laat wei nie.
- (2) Enige vee wat op 'n meent gevind word en wat vermoedelik besmet is met enige aansteeklike- of oordraagbare siekte, moet op koste van die eienaar daarvan,

ondersoek word deur 'n veearts en indien hy of sy bevind dat sodanige besmetting aansteeklik of oordraagbaar is, mag hy of sy reël dat sodanige vee onder kwarantyn geplaas of vernietig word.

(3) Enige persoon wat subartikel (1) oortree pleeg 'n misdryf.

11. Karkasse van diere

(1) Sou 'n dier vrek op die meent moet die eienaar binne 24 uur vanaf die ontdekking van die karkas, reël dat die karkas elders begrawe word, met die verstanding dat indien die eienaar sy of haar plig versuim, die munisipaliteit die karkas sal begrawe en die koste van die eienaar verhaal.

(2) 'n Persoon wat versuim om 'n karkas soos bedoel in sub-artikel (1), te verwyder en te begrawe, is skuldig aan 'n misdryf.

12. Verbode gedrag

(1) Geen persoon mag sonder die vooraf verkreeë toestemming van die munisipaliteit –

- (a) enige hut, skuiling, kraal, woning of struktuur van enige soort oprig nie, nog woon, kamp of plak op enige deel van 'n meent;
- (b) op enige deel van 'n meent enige motorwrake, ander voertuie, masjiene of enige skroot daarvan, versamel, stort of deponeer nie, of toelaat dat sodanige materiaal daar versamel, gestort of deponeer word nie;
- (c) op die meent spit of grond, klei, sand, gruis of klip daarvan verwyder nie;
- (d) op die meent bakstene vervaardig of baksteen-, lym- of houtskool oonde op 'n meent oprig nie;
- (e) enige plant, bas, bome, hout, brandhout, ruigte, mis of enige gras wat op die meent groei, of is, sny, beskadig, brand, vernietig, versamel of daarvan verwyder nie;
- (f) met enige heining, hek, waterbak, kraan toerusting of ding inmeng of skade daaraan veroorsaak nie, of enige weiding, bos, boom of struik op 'n meent brandsteek nie;
- (g) enige pad oor 'n meent gebruik, buiten paaie waarvan die munisipaliteit van tyd tot tyd die gebruik magtig nie, asook paaie wat regtens deur die publiek gebruik mag word nie;
- (h) enige gif vir watter doel ook al op 'n meent deponeer of op enige wyse daar laat nie;
- (i) enige wild of voëls van watter beskrywing ook al en wat op die meent voorkom, doodmaak, vang, aanhou, jag of poog om sodanige wild of voëls van watter beskrywing ook al, dood te maak nie;
- (j) strikke van enige beskrywing op 'n meent stel nie;
- (k) enige voël of waterhoender se nes vernietig of se eiers of kleintjies daaruit verwyder waar sodanige neste op 'n meent voorkom nie; of
- (l) in enige dam, rivier of enige water wat op 'n meent voorkom visvang nie.

(2) Die munisipaliteit mag enige stappe doen of reël dat dit gedoen word, wat nodig is om enige oortreding van sub-artikel (1) te herstel en die munisipaliteit mag enige sodanige koste deur deur hom aangegaan, van die persoon verantwoordelik vir die oortreding, verhaal.

(3) 'n Persoon wat sub-artikel (1) oortree is skuldig aan 'n misdryf.

13. Vrystellings

(1) Enige persoon mag by wyse van skriftelike verzoek met vermelding van volle redes, aansoek doen by die munisipaliteit om vrystelling van enige bepaling van hierdie verordening.

(2) Die munisipaliteit mag-

- (a) skriftelike vrystelling verleen waarin die voorwaardes, indien enige, uiteengesit word asook die tydperk vaarvoor sodanige vrystelling geldig sal wees;
- (b) enige vrystelling of voorwaarde in 'n vrystelling, wysig of kanselleer;
- (c) die toestaan van 'n vrystelling weier;

(3) Die vrystelling tree slegs in werking nadat 'n aansoeker 'n skriftelike onderneming om aan al die voorwaardes van die munisipaliteit in sub-artikel (2) te voldoen, onderteken het. Indien enige aktiwiteit 'n aanvang neem alvorens sodanige onderneming geliasseer is by die munisipaliteit, verval die vrystelling.

(4) Die vrystelling verval onmiddellik indien enige voorwaarde van die vrystelling nie nagekom word nie.

14. Skakelforums binne die gemeenskap

(1) Die munisipaliteit mag een of meer skakelforums binne 'n gemeenskap vestig ten einde –

- (a) 'n platform te skep vir die plaaslike gemeenskap om aan die munisipaliteit se sake deel te neem;
- (b) 'n plaaslike gemeenskap aan te moedig om aan die sake van 'n munisipaliteit deel te neem; en
- (c) die bereiking van 'n behoorlik beheerde en administreerde meent, te bevorder.

- (2) Die skakelforum mag die volgende insluit –
- (a) ‘n lid of lede van ‘n belangegroep, of ‘n persoon wat deur die gebruik van die meent geraak word;
 - (b) ‘n lid of lede van ‘n gemeenskap in wie se onmiddellike gebied ‘n meent geskep is;
 - (c) ‘n aangewysde beampte of beamptes van die munisipaliteit; en
 - (d) ‘n raadslid.
- (3) (a) Die munisipaliteit mag, wanneer ook al dit ‘n aansoek vir goedkeuring of vir ‘n vrystelling sertifikaat ingevolge hierdie verordening oorweeg, die insette van ‘n skakelforum aanvra.
- (b) Die skakelforum of enige persoon of persone in sub-artikel (2) genoem, mag op eie inisiatief insette, vir oorweging deur die munisipaliteit, lewer.

15. Ooreenkomste en meent bestuursplanne

Die munisipaliteit mag, in oorleg met die gemeenskap, ‘n skriftelike ooreenkoms met enige party sluit rakende die gebruik van die meent of enige gedeelte daarvan of ‘n meentbestuursplan ontwikkel, ingevolge waarvan die meent bestuur en ontwikkel mag word.

16. Waarmerk en diening van kennisgewings en ander dokumente

- (1) ‘n Kennisgewing wat kragtens hierdie verordening deur die munisipaliteit bedien is, word geag na behore bedien te wees indien dit deur ‘n beampte van die munisipaliteit geteken is.
- (2) Enige kennisgewing of ander dokument wat kragtens hierdie verordening op ‘n persoon bedien word, word as behoorlik bedien geag –
- (a) indien dit aan die betrokke persoon persoonlik oorhandig is;
 - (b) indien dit by die betrokke persoon se woon- of besigheids adres binne die Republiek gelaat word, by ‘n persoon wat na raming 16 jaar of ouer is;
 - (c) indien dit met geregistreerde of gesertifiseerde pos na die laaste bekende woon- of besigheidsadres in die Republiek, van die betrokke persoon gestuur is en ‘n bewys daarvan van die posdiens verkry is;
 - (d) indien die persoon se adres in die Republiek onbekend is, dan wanneer dit op sy agent of verteenwoordiger in die Republiek, op die wyse voorsien onder paragrafe (a), (b) of (c), bedien is;
 - (e) indien die betrokke persoon se adres en agent of verteenwoordiger in die Republiek onbekend is, dan wanneer dit op ‘n opsigtelike plek op die betrokke gronde of sakeperseel, bedien is;
 - (f) in geval van ‘n beslote korporasie, dan wanneer dit by die geregistreerde kantoor van die sakeperseel van die beslote korporasie bedien is;
 - (g) indien, op versoek van die betrokke persoon, dit aan sy of haar e-pos adres gestuur is.
- (3) Bediening van ‘n afskrif word geag die bediening van ‘n oorspronklike te wees.
- (4) Wanneer ook al ‘n kennisgewing of ander dokument op die eenaar, huurder/inwoner of houer van enige eiendom of reg in enige eiendom bestel word, is dit voldoende indien sodanige persoon as eenaar, huurder/inwoner of houer van enige eiendom of reg in sodanige eiendom beskryf word en is dit nie nodig om die persoon by name te noem nie.

17. Appél

Enige persoon wie se regte deur ‘n besluit van die munisipaliteit geraak word, mag teen die besluit appelleer met insluiting van die redes vir sodanige appél, ingevolge artikel 62 van die Wet op Plaaslike Regering: Munisipale Stelsels, Wet 32 van 2000, gerig aan die Munisipale Bestuurder binne 21 dae vanaf datum van kennisgewing van die besluit.

18. Boetes

‘n Persoon wat kragtens die bepalings van hierdie verordening ‘n misdryf pleeg, sal by skuldigbevinding en, onderhewig aan boetes wat in ander wetgewing voorgeskryf word, hom/haarself blootstel aan ‘n boete of, as hy/sy versuim om te betaal, aan tronkstraf, of aan tronkstraf sonder die opsie van ‘n boete, of aan beide sodanige boete en tronkstraf, en in die geval van opeenvolgende of voortgesette oortredings, aan ‘n boete vir elke dag wat sodanige oortreding voortduur, of indien die persoon versuim om te betaal, aan tronkstraf.

19. Herroeping van verordeninge

Die bepalings van enige verordeninge wat voorheen deur die munisipaliteit of deur enige van die munisipaliteite wat nou by hierdie munisipaliteit ingelyf is, afgekondig is, word hierby herroep by soverre dit verband hou met sake wat in hierdie verordening voorsien word, en insoverre dit van toepassing gemaak is tot hierdie munisipaliteit deur die volmag vir die uitvoering van magte en funksies kragtens artikel 84(3) van die Wet op Plaaslike Regering: Munisipale Strukture, (Wet 117 van 1998).

20. Kort titel en inwerkingtreding

Hierdie verordening word die Verordening op Meentgrond genoem en sal in werking tree op die datum wanneer dit in die Provinsiale Koerant verskyn.

**HESSEQUA MUNICIPALITY
FENCES AND FENCING BY-LAW**

In terms of and under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996, the Hessequa Municipality, enacts as follows:-

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1. Interpretation
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 13. Exemptions
 14. Liaison forums in community
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- Schedule

1. Interpretation

In this by-law, unless the context otherwise indicates –

“**alter**” includes to cause, allow or permit to be altered;

“**boundary**” means the real or notional line marking the limits of premises;

“**agent**”, in relation to the owner of a property, means a person appointed by the owner of the property-

(a) to receive rental or other payments in respect of the property on behalf of the owner; or

(b) to make payments in respect of the property on behalf of the owner;

“**erect**” includes to cause, allow or permit to be erected;

“**fence**” means any fence, together with any gate or any contrivance forming part or serving the purpose of such a gate, erected as a boundary between any erven, lots or stands within the municipal area, and includes a fence which is not erected on a boundary, such as a garden fence or a free-standing wall on an erf, lot or stand;

“**ground level**” means the natural level of the ground, except where such level has been disturbed, in which case the street level is to be regarded as the ground level;

“**municipality**” means the Municipality of Hessequa 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 or any employee 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;

“**public land**” means land the ownership of which is vested in an organ of state;

“**repair**” has the meaning assigned to it in the Fencing Act, 1963 (Act 31 of 1963).

2. Principles and objectives

The Municipality, aware of its duty to provide a safe and healthy environment, in this by-law regulate fencing with the aim of safeguarding its residents and visitors to the area.

3. Application

Subject to the provisions of the Fencing Act, 1963 (Act 31 of 1963), the provisions in this by-law relating to an electrical fence, barbed wire and razor wire do not apply to land zoned for agricultural purposes, except where such electrical fence, barbed wire or razor wire is erected on the boundary between the land and public land.

4. Fences

(1) No person may, without the consent of the municipality, on a boundary of premises –

- (a) erect a fence which is more than 1,8 metres in height from ground level;

- (b) alter or make an addition to an existing fence which is more than 1,8 metres in height from ground level;
 - (c) erect or may have on a boundary, an electrified fence, electrified railing or other electrified barrier, unless it–
 - (i) is erected on top of a wall which may not be less than 1,8 metres high and built of brick, cement, concrete or similar material; and
 - (ii) it complies with the Electrical Machinery Regulations, as published in Government Notice R1593, dated 12 August, 1988; and
 - (d) erect a barbed-wire fence, railing, or other barrier with spikes or other sharp or pointed protrusions unless it is erected on top of a wall of not less than 1,8 metres in height.
- (2) A person who wishes to obtain the consent of the municipality must submit an application form similar to the form contained in the Schedule A to the municipality, and the municipality may refuse or grant consent.
- (3) Should the municipality refuse permission, it must, on request, supply the applicant in writing with the reasons for the refusal.
- (4) Should the municipality grant consent, it may impose conditions, requirements or specifications according to each individual case, and subject to the provisions of SANS Code No. 1372 relating to Prefabricated Concrete Components for Fences, and the consent must be entered in Item C of the form referred to in subsection (2), and a person who has obtained consent, must at the request of an authorised official, immediately produce the form.
- (5) A person who has obtained consent in terms of subsection (4) must ensure that the fence is maintained in a good condition.
- (6) No person may –
- (a) without the prior written consent of the municipality demolish, interfere with or damage a fence for which consent has been granted in terms of subsection (4);
 - (b) having opened a gate in a fence, leave such gate open or unfastened;
 - (c) climb over or crawl through a fence without the permission of the owner or occupier of the land;
 - (d) erect a fence covered with –
 - (i) canvas, reeds, grass or any combustible material, except poles or split poles, or approved wood, within 4,5 metres of any street; or
 - (ii) sheet iron, corrugated galvanised iron or any other sheeting along or within 4,5 metres of any street;
 - (e) allow a fence to fall into disrepair; and
 - (f) affix to or allow to be affixed to a fence any posters, placards or similar notices, or draw or apply anything on a fence unless it is done so in terms of the Outdoor Advertising By-law .
- (7) The municipality may, whenever it appears that, in the interests of safety –
- (a) a fence needs to be erected or repaired, instruct the owner or occupier on whose premises such fence needs to be erected or repaired, to undertake such steps as stipulated in the instruction; or
 - (b) the height of a wall, hedge or fence at a street corner needs to be reduced, by order in writing instruct the owner or occupier property to reduce the height of such wall, hedge or fence to a height specified in such order.
- (8) A person commits an offence if he or she contravenes a provision of subsections (1) and (6) or fails to produce a form at the request of an authorised official as contemplated in subsection (4).
- (9) Should a person fail to comply with a provision of subsection (1), with a condition, requirement or specification contemplated in subsection (4), or subsection (5) or an instruction issued in terms of subsection (7), the municipality may serve a notice of compliance or a demolition order on the person.

5. 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.

6. Notice of compliance and representations

- (1) The notice of compliance must state –

- (a) the name and residential or postal address of the affected person;
 - (b) the requirement which has not been complied with;
 - (c) detailed measures required to remedy the situation;
 - (d) that the person must within a specified period take the measures to comply with the notice and to complete the measures before a specified date; and
 - (e) the right to appeal as contained in section 10.
- (2) Where a person does appeal and fails to take the measures before the date contemplated in subsection (1)(d), he or she commits an offence, and the municipality may, irrespective of any penalty which may be imposed under section 5, act in terms of subsection (3).
- (3) The municipality may take such measures as it deems necessary to remedy the situation, including the demolition of the fence, and the cost thereof must be paid to the municipality in accordance with section 7.

7. Costs

- (1) Should a person fail to take the measures required of him or her by a notice of compliance, the municipality may, subject to subsection (3) recover, as a debt, all costs incurred as a result of it remedying the situation from that person and any or all of the following persons:
- (a) the owner of the land, building or premises; or
 - (b) the person or occupier in control of the land, building or premises or any person who has or had a right to use the land at the time when the situation came about.
- (2) The costs recovered must be reasonable and may include, without being limited to, costs relating to labour, water, equipment, administrative and overhead costs incurred by the municipality under section 6(3).
- (3) If more than one person is liable for costs incurred, the liability must be apportioned as agreed among the persons concerned according to the degree to which each was responsible for the emergency resulting from their respective failures to take the required measures.

8. Demolition order

- (1) A person on whom a demolition order has been served must demolish the fence and remove the materials.
- (2) Should the municipality demolish a fence, it may dispose of the whole or any part of the materials from any fence by public auction or public tender.
- (3) The municipality may deduct from the proceeds of any materials disposed of the costs of any pulling down, removal or demolition and the costs incurred of disposal and will thereafter pay any balance to the owner of the fence removed or demolished.

9. 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 in terms of this by-law is regarded as having been 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 with a person apparently over the age of 16 years;
 - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic, and an acknowledgment of the posting thereof from the postal service is obtained;
 - (d) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided by paragraphs (a), (b) or (c);
 - (e) if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the 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; or
 - (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.

10. Appeal

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

11. Implementation and enforcement

- (1) The municipality may appoint an official to administer the implementation and enforcement of this by-law.
- (2) A person commits an offence if he or she –
 - (a) hinders or interferes with an official in the execution of his or her official duties;
 - (b) falsely professes to be an official;
 - (c) furnishes false or misleading information when complying with a request of an official; or
 - (d) fails to comply with a request of an official.

12. Saving and transitional provision

An owner or occupier whose premises, at the date of commencement of this by-law, do not comply with the provisions of this by-law must, within a period of 6 months, ensure that his or her premises comply with the provisions of this by-law.

13. 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 and set and determine the period for which such exemption is granted;
 - (b) alter or cancel any exemption or condition in 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 the conditions imposed by the municipality, however, if an activity is commenced before such undertaking has been submitted to the municipality, the exemption lapses.
- (4) If any condition of an exemption is not complied with, the exemption lapses immediately.

14. Liaison forums in community

- (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 an affected person;
 - (b) a designated official or officials of the municipality; and
 - (c) a councillor.
- (3)
 - (a) The municipality may, when considering an application for consent, permit or exemption in terms of this By-law, request the input of a liaison forum.
 - (b) A liaison forum or any person contemplated in sub section (2) may on own initiative submit an input to the municipality for consideration.

15. Revocation 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, and insofar as it has been made applicable to the municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Local Government: Municipal Structures Act, Act 117 of 1998.

16. Short title and commencement

This by-law shall be known the Fences and Fencing By-law, and commences on the date of publication thereof in the Provincial Gazette.

**SCHEDULE A
(Section 4(2))**

APPLICATION TO ERECT FENCE

A. OWNER OR OCCUPIER

Surname and first names of person

.....

I.D. Number

Address: Postal address:

.....

.....

.....

Residential address:

.....

.....

.....

.....

Telephone number: Business

Residential

B. PARTICULARS OF PREMISES AND FENCE

Erf Number

Address where the premises can be inspected

.....

.....

NATURE OF FENCE TO BE ERECTED/ALTERED

.....

.....

.....

C. ISSUING LOCAL AUTHORITY

Consent is hereby granted in terms of section 4(4) of the Hessequa Fences and Fencing By-laws that the above-mentioned fence may be erected on above-mentioned premises

Conditions, requirements or specifications in terms of section 4(4):

.....
.....
.....
.....
.....

SIGNATURE OF INSPECTOR

DATE

.....

Name of inspector:

.....

Official designation:

.....

**HESSEQUA MUNISIPALITEIT:
VERORDENING INSAKE HEININGS EN OMHEININGS**

Kragtens die bepalings van artikel 156 van die Grondwet van die Republiek van Suid-Afrika, 1996, verorden die Hessequa Munisipaliteit as volg:-

INHOUDSOPGAWE

1. Woordomskrywing
 2. Beginsels en doelstellings
 3. Toepassing
 4. Heinings
 5. Boetes
 6. Kennisgewing van nakoming en vertoë
 7. Koste
 8. Slopingsbevel
 9. Waarmerking en betekening van kennisgewings en ander dokumente
 10. Appèl
 11. Implementering en afdwinging
 12. Oorgangsbepaling
 13. Vrystellings
 14. Skakelforums in gemeenskap
 15. Herroeping van verordeninge
 16. Kort titel en inwerkingtreding
- Skedule

1. Woordomskrywing

In hierdie verordening, tensy dit uit die samehang anders blyk, het die volgende woorde die volgende betekenis –

“**agent**”, ten opsigte van die eienaar van ‘n eiendom, beteken ‘n persoon wat deur die eienaar van die eiendom aangestel is –

- (a) om huurgeld of ander betalings ten opsigte van die eiendom namens die eienaar te ontvang; of
- (b) om namens die eienaar betalings ten opsigte van die eiendom te doen;

“**grens**” beteken die werklike of denkbeeldige lyn wat die uiteindes van persele aandui;

“**grondvlak**” beteken die natuurlike vlak van die grond, behalwe waar sodanige vlak versteur is, in welke geval die straatvlak as die grondvlak beskou moet word;

“**heining**” beteken enige heining, asook enige hek of enige struktuur wat deel uitmaak of die doel van sodanige hek dien, wat opgerig word as ‘n grens tussen enige erwe, persele of stukke grond binne die munisipale gebied en sluit in ‘n heining wat nie op ‘n grens opgerig word nie, soos ‘n tuinheining of ‘n losstaande muur op ‘n erf, stuk grond of perseel;

“**herstel**” dra die betekenis wat ingevolge die Wet op Heinings, 1963 (Wet 31 van 1963) daarin toegeskryf word.

“**munisipaliteit**” beteken die Hessequa Munisipaliteit wat ingevolge Artikel 12 van die Wet op Munisipale Strukture, 117 van 1998, Provinsiale Kennisgewing 484 gedateer 22 September 2000, daargestel is en sluit alle politieke strukture, politieke ampsdraers, raadslede, behoorlik gemagtigde agente of alle werknemers in wat ingevolge hierdie verordening optree uit hoofde van ‘n bevoegdheid wat by die munisipaliteit berus en aan sodanige politieke struktuur, politieke ampsdraer, raadslid, agent of werknemer gedelegeer of gesubdelegeer is;

“**openbare grond**” beteken grond waarvan die eienaarskap by ‘n regeringsinstansie berus;

“**oprig**” sluit in om te veroorsaak, toe te laat of toe te stem dat iets opgerig word;

“**wysig**” beteken om te veroorsaak, toe te laat of toe te stem dat iets gewysig word;

2. Beginsels en doelstellings

Die munisipaliteit is bewus van sy plig om ‘n veilige en gesonde omgewing te voorsien en reguleer gevolglik in hierdie verordening omheining met die doel om inwoners en besoekers aan die gebied te beveilig.

3. Toepassing

- (1) Onderworpe aan die bepalings van die Wet op Heinings, 1963 (Wet 31 van 1963) is die bepalings van hierdie verordening ten aansien van elektriese heinings, doringdraad en skeermeslemdraad nie van toepassing op grond wat vir landboudoeleindes gesoneer is nie, behalwe indien sodanige elektriese heining, doringdraad- of skeermeslemdraad op die grens tussen die landbougrond en openbare grond opgerig is.
- (2) Die bepalings van hierdie verordening is van toepassing net insoverre dit nie in stryd is met die bestaande Soneringskema-regulasies van die Hessequa Munisipaliteit of enigeen van sy regsvoorgangers nie.

4. Heinings

- (1) Niemand mag sonder die toestemming van die munisipaliteit op die grens van 'n perseel –
- (a) 'n heining oprig wat hoër is as 1,8 meter bo die grondvlak is nie;
 - (b) 'n bestaande heining wat hoër as 1,8 meter vanaf die grondvlak op 'n grens of perseel is, wysig of daaraan aanbou nie;
 - (c) 'n heining, geëlektrifiseerde heining, geëlektrifiseerde reling of ander geëlektrifiseerde versperring oprig of op 'n grens hê nie, tensy –
 - (i) dit opgerig is bo-op 'n muur wat nie minder as 1,8 m hoog is en van baksteen, sement, beton of soortgelyke materiaal gebou is nie; en
 - (ii) dit voldoen aan die Regulasies insake Elektriese Masjinerie, soos gepubliseer in Goewermentskennisgewing R1593, gedateer 12 Augustus 1988; en
 - (d) 'n doringdraadheining, reling, paalheining, muur of ander versperring met lang spykers of ander sterk of gepunte uitsteekstels op die grens van 'n perseel oprig nie.
- (2) Enigiemand wat die toestemming van die munisipaliteit wil verkry, moet 'n aansoekvorm aan die munisipaliteit voorlê soortgelyk aan 'n aansoekvorm vervat in Bylae A, en die munisipaliteit kan toestemming verleen of weier.
- (3) Indien die munisipaliteit toestemming weier, moet dit die aansoeker skriftelik voorsien van die redes vir die weiering.
- (4) Indien die munisipaliteit toestemming verleen, mag die munisipaliteit voorwaardes, vereistes of spesifikasies na gelang van elke afsonderlike geval voorskryf, en onderworpe aan die bepalings van SANS Kode Nr. 1372 insake Voorafvervaardigde Betonkomponente vir Heinings, en die toestemming moet aangeteken word op Item C van die vorm gemeld in ssubartikel (2), en 'n persoon wat toestemming verkry het, moet op versoek van 'n gemagtigde beampte onmiddellik die vorm toon.
- (5) 'n Persoon wat toestemming ingevolge ssubartikel (4) verkry het, moet verseker dat die heining in 'n goeie toestand onderhou word.
- (6) Niemand mag –
- (a) sonder die voorafverkreë skriftelike toestemming van die munisipaliteit 'n heining waarvoor toestemming ingevolge ssubartikel (4) verleen is, afbreek, dit verander of beskadig nie;
 - (b) 'n hek wat in 'n heining oopgemaak is, ooplaat of nie vasmaak nie;
 - (c) sonder die toestemming van die eienaar of okkupeerder van die grond oor 'n heining klim of daardeur kruip nie;
 - (d) 'n heining oprig bedek met –
 - (i) seil, riet, gras of ander vlambare materiaal, afgesien van pale of splitpale of goedgekeurde hout, wat nie binne 4,5 meter van enige straat opgerig mag word; of
 - (ii) ysterplaat, geroeste gegalvaniseerde yster of enige ander metaalplaat langs of binne 4,5 meter van enige straat nie;
 - (d) toelaat dat enige heining in 'n swak toestand verval nie; en
 - (e) enige plakkaat of soortgelyke kennisgewings op 'n heining oprig of toelaat dat dit daarop opgerig word of enigets op 'n heining teken of aanwend behalwe indien dit ingevolge die Verordening insake Buitereklame en Advertensietekens gedoen is nie.

- (7) Die munisipaliteit mag, waar dit blyk dat, in die belang van veiligheid –
- (a) 'n heining opgerig of herstel moet word, die eienaar of okkupeerder op wie se perseel sodanige heining opgerig of herstel moet word, opdrag gee om sodanige stappe te doen soos voorgeskryf in die opdrag; of
 - (b) die hoogte van 'n muur, heining of laning op 'n straathoek verminder moet word, die eienaar of okkupeerder van die eiendom skriftelik gelas om die hoogte van sodanige muur, laning of heining te verminder tot 'n hoogte wat in sodanige bevel gespesifiseer word.
- (8) Iemand pleeg 'n misdryf indien hy of sy 'n bepaling van subartikel (6) oortree of versuim om 'n vorm op die versoek van 'n gemagtigde beampte, soos beoog in subartikel (4), te toon.
- (9) Indien iemand versuim om te voldoen aan 'n bepaling van subartikel (1) met 'n voorwaarde, vereiste of spesifikasie beoog in subartikel (4) of subartikel (5) of 'n instruksie wat ingevolge subartikel (7) uitgereik is, mag die munisipaliteit 'n kennisgewing van nakoming of 'n slopingsbevel aan die persoon beteken.

5. Boetes

Iemand wat 'n misdryf ingevolge hierdie verordening pleeg is by skuldigebevinding aanspreeklik vir die betaling van 'n boete of, indien hy of sy versuim om dit te betaal, gevangenisstraf of gevangenisstraf sonder die keuse van 'n boete of beide sodanige boete en sodanige gevangenisstraf en in die geval van 'n voortdurende misdryf, is hy of sy aanspreeklik vir 'n boete vir elke dag waarop die misdryf voortduur, en ingeval hy of sy versuim om die boete te betaal, gevangenisstraf.

6. Kennisgewing van nakoming en vertoë

- (1) Die kennisgewing van nakoming moet die volgende verstrek –
- (a) die naam en woon- of posadres van die betrokke persoon;
 - (b) die vereiste waaraan nie voldoen is nie;
 - (c) uitvoerige maatreëls wat vereis word om die situasie reg te stel;
 - (d) dat die persoon die maatreëls binne 'n voorgeskrewe tydperk moet tref ten einde die kennisgewing na te kom en die maatreëls voor 'n gespesifiseerde datum voltooi; en
 - (e) die reg om appèl aan te teken, soos vervat in Artikel 10.
- (2) Waar 'n persoon wel appèl aanteken en versuim om die maatreëls te tref voor die datum beoog in subartikel (1)(d), pleeg hy of sy 'n misdryf en mag die munisipaliteit dienooreenkomstig optree ingevolge subartikel (3), ongeag enige boete wat ingevolge artikel 5 opgelê word.
- (3) Die munisipaliteit mag sodanige maatreëls tref as wat hy nodig ag om die situasie reg te stel, met inbegrip van die sloping van die heining, en die koste verbonde daaraan moet ooreenkomstig artikel 7 aan die munisipaliteit betaal word.

7. Koste

- (1) Indien 'n persoon versuim om die maatreëls te tref wat deur middel van 'n kennisgewing van nakoming van hom of haar vereis word, mag die munisipaliteit, onderhewig aan subartikel (3), alle koste wat aangegaan is vir die regstel van die situasie as skuld verhaal van die betrokke persoon en enigeen of al die volgende persone:
- (a) die eienaar van die grond, gebou of perseel; of
 - (b) die persoon of okkupeerder in beheer van die grond, gebou of perseel of enige persoon wat die reg het om die grond te gebruik of die reg daartoe gehad het op die tydstip toe die situasie ontstaan het.
- (2) Die koste wat verhaal word, moet redelik wees en kan die volgende insluit, maar is nie daartoe beperk nie: koste verbonde aan arbeid, water, toerusting, administratiewe en oorhoofse koste wat die munisipaliteit ingevolge artikel 6(3) aangegaan het.
- (3) Indien meer as een persoon aanspreeklik is vir die koste wat aangegaan is, moet die aanspreeklikheid onder die betrokke persone verdeel word, soos ooreengekom na gelang van die mate waarin elkeen vir die noodgeval verantwoordelik was uit hoofde van hul onderskeie versuim om die vereiste maatreëls te tref.

8. Slopingsbevel

- (1) 'n Persoon aan wie 'n slopingsbevel beteken is, moet die heining sloop en die materiaal verwyder.
- (2) Indien die munisipaliteit 'n heining sloop, mag dit die materiaal verwyder en met al die materiaal of 'n deel daarvan wegdoen by wyse van openbare veiling of openbare tender.
- (3) Die munisipaliteit mag die koste van enige afbreek, verwydering of sloping en die koste verbonde aan wegdoening aftrek van die opbrengs verkry uit enige wegdoening met materiaal en sal daarna die oorblywende bedrag betaal aan die eienaar van die heining wat verwyder of gesloop is.

9. Waarmeding en betekening van kennisgewings en ander dokumente

- (1) 'n Bevel, kennisgewing of ander dokument wat waarmeding deur die munisipaliteit vereis, moet behoorlik onderteken wees.
- (2) Enige kennisgewing of ander dokument wat ingevolge hierdie verordening aan 'n persoon beteken word, word beskou as beteken te wees wanneer dit ooreenkomstig Artikel 115(1) van die Wet op Plaaslike Regering : Munisipale Stelsels, Wet 32 van 2000, beteken is.
- (3) Die betekening van 'n afskrif word geag die betekening van die oorspronklike te wees.
- (4) Enige geregtelike proses is doeltreffend en toereikend aan die munisipaliteit beteken wanneer dit aan die Munisipale Bestuurder of 'n persoon by die Munisipale Bestuurder se kantoor afgelewer word.

10. Appèl

Iemand wie se regte geraak word deur 'n besluit wat deur die munisipaliteit gedelegeer is, mag ingevolge Artikel 62 van die Wet op Plaaslike Regering : Munisipale Stelsels, Wet 32 van 2000 teen die besluit appèl aanteken by wyse van skriftelike kennisgewing van die appèl en die redes daarvoor aan die Munisipale Bestuurder binne 21 dae van die datum van kennisgewing van die besluit.

11. Implementering en afdwinging

- (1) Die munisipaliteit kan 'n beampte aanstel om beheer te neem van die implementering en afdwinging van hierdie verordening.
- (2) 'n Persoon pleeg 'n misdryf indien hy of sy –
 - (a) 'n beampte verhinder om sy of haar amptelike pligte uit te voer, of daarmee imeng;
 - (b) valslik beweert dat hy of sy 'n beampte is;
 - (c) valse of misleidende inligting verstrek wanneer hy of sy aan 'n versoek van 'n beampte voldoen; of
 - (d) versuim om aan 'n versoek van 'n beampte te voldoen.

12. Oorgangsbepaling

'n Eienaar of okkupeerder wie se perseel by die inwerktrading van hierdie verordening nie aan die bepalings van die verordening voldoen nie, moet binne 6 maande verseker dat sy of haar perseel aan die bepalings van die verordening voldoen.

13. Vrystellings

- (1) Enigiemand mag skriftelik by die munisipaliteit aansoek doen om vrystelling van enige bepaling van hierdie verordening.
- (2) Die munisipaliteit mag –
 - (a) skriftelik vrystelling verleen en die tydperk waarvoor sodanige vrystelling verleen word, bepaal en vasstel;
 - (b) enige vrystelling of voorwaarde in 'n vrystelling wysig of kanselleer; of
 - (c) weier om vrystelling toe te staan.
- (3) 'n Vrystelling tree nie in werking voordat die aansoeker skriftelik onderneem het om te voldoen aan die voorwaardes wat deur die munisipaliteit opgelê word nie; Met dien verstande verder dat indien die aansoeker met die betrokke aktiwiteit begin voordat sodanige onderneming aan die munisipaliteit voorgelê is die vrystelling verval.
- (4) Indien daar nie aan 'n voorwaarde van 'n vrystelling voldoen is nie, verval die vrystelling onmiddellik.

14. Skakelforums in gemeenskap

- (1) Die munisipaliteit mag een of meer skakelforums in 'n gemeenskap stig vir die doel om gemeenskapsdeelname te verkry in die aangeleenthede wat in hierdie verordening behandel word.
- (2) 'n Skakelforum kan uit die volgende bestaan –
 - (a) 'n lid of lede van 'n belangegroep, of 'n persoon wat geraak word;
 - (b) 'n aangewese beampte of beamptes van 'n munisipaliteit; en
 - (c) 'n raadslid.
- (3)
 - (a) Die munisipaliteit mag, wanneer 'n aansoek om toestemming, 'n permit of vrystelling ingevolge hierdie verordening oorweeg word, om die inset van 'n skakelforum vra.
 - (b) 'n Skakelforum of enige persoon mag op sy ofhaar eie inisiatief 'n inset aan die munisipaliteit lewer vir laasgenoemde se oorweging.

15. Herroeping van verordeninge

Die bepalings van enige verordeninge wat voorheen deur die munisipaliteit of by enigeen van die ontbinde munisipaliteite wat nou in die munisipaliteit geïnkorporeer is, afgekondig is, word hiermee herroep insoverre hulle betrekking het op sake waarvoor daar in hierdie verordening voorsiening gemaak word en insoverre dit op die munisipaliteit van toepassing gemaak is deur die magtiging vir die uitvoering van magte en funksies ingevolge Artikel 84(3) van die Wet op Plaaslike Regering : Munisipale Strukture, Wet 117 van 1998.

16. Kort titel en inwerkingtreding

Hierdie verordening word die Verordening insake Heinings en Omheinings genoem en tree in werking op die datum van die publikasie daarvan in die Provinsiale Koerant.

**BYLAE A
(Artikel 4(2))**

AANSOEK OM 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 geïnspekteer kan word

.....

.....

AARD VAN HEINING WAT OPPERIG/GEWYSIG SAL WORD

.....
.....
.....

C. UITREIKENDE PLAASLIKE OWERHEID

Toestemming word hiermee ingevolge Artikel 4(4) van die Hessequa-verordeninge insake Heining en Omheinings gegee dat bogemelde heining op bogemelde perseel opperig mag word.

Voorwaardes, vereistes of spesifikasies ingevolge Artikel 4(4):

.....
.....
.....
.....
.....

HANDTEKENING VAN INSPEKTEUR

DATUM

.....

Naam van inspekteur:

.....

Ampstittel:

.....

**HESSEQUA MUNICIPALITY
BY-LAW RELATING TO IMPOUNDMENT OF ANIMALS**

Under the powers conferred by section 156 of Constitution, 1996, read with section 11(3)(m) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), the Hessequa Municipality enacts as follows:

ARRANGEMENT OF SECTIONS

1. Definitions
2. Application
3. Establishment of pound
4. Appointment of pound keeper
5. Trespassing or straying animals may be impounded
6. Animals too vicious, intractable or wild to be impounded
7. Release of animals before removal to pound
8. Care of trespassing animals
9. Pound to which animals must be taken
10. Information to be supplied to pound keeper
11. Acceptance at pound of animals to be impounded
12. Pound register
13. Notice to owners of animals
14. Care of impounded animals
15. Isolation of infected animals
16. Impounded animals not to be worked
17. Death of or injury to impounded animals
18. Copies of by-laws
19. Fees and costs payable
20. Release of impounded animals
21. Sale of impounded animals
22. Pound keeper may not purchase impounded animals
23. Animals unsuccessfully offered for sale
24. Proceeds
25. Action for recovery of damages
26. Procedure to be followed in application to Court
27. Indemnity
28. Offences and penalties
29. Schedules 1 and 2 form part of this by-law
30. Repeal of by-laws
31. Short title and commencement

Definitions

1. In these bylaws, unless inconsistent with the context –

“**animal**” includes a horse, bovine, donkey, sheep, goat, pig, ostrich, dog, cat or the hybrid of any such animal, and “**animals**” will have a corresponding meaning;

“**Court**” means a Magistrate’s Court as referred to in section 166(d) of the Constitution, 1996, having jurisdiction in the area in which the pound is situated;

“**Gazette**” means the official Provincial Gazette of the Province of the Western Cape;

“**municipality**” means the Hessequa Municipality established in terms of section 155(6) of the Constitution, 1996, and established by and under sections 11 and 12 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

“**owner**” includes an owner who is known, or whose identity, with the exercise of reasonable diligence, can be ascertained, and in relation to any –

- (a) animal, includes the agent of the owner or other person having the lawful custody or possession of such animal; or
- (b) land, includes the owner, lessee or lawful occupier of such land or his or her agent;

“**pound**” means a pound established as contemplated in section 3;

"**pound keeper**" means the person appointed from time to time as contemplated in section 4 and includes any person acting for or on behalf of the appointed pound keeper;

"**public place**" means any place to which the public has access including, without limiting the generality of the foregoing any –

- (a) square;
- (b) park;
- (c) recreation ground;
- (d) sports ground;
- (e) open space;
- (f) beach;
- (g) shopping centre on municipal land;
- (h) unused or vacant municipal land; or
- (i) cemetery;

"**public road**" means a public road as contemplated in section 1 of the Road Traffic Act, 1996 (Act No. 93 of 1996); and

"**service delivery agreement**" means a service delivery agreement as defined in section 1 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000).

2. Application

This by-law apply to the area of jurisdiction of the Municipality, provided that nothing prevents any animal detained in terms of this by-law from being impounded in a pound or any similar facility established by any other municipality, or other lawful authority.

3. Establishment of pound

(a) The Municipality may establish a pound at any convenient place within its area of jurisdiction, provided that the Municipality may enter into a service delivery agreement with an institution or person mentioned in section 76(b) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), to provide for the establishment and operation of a pound to service its area of jurisdiction.

(b) The Municipality must give notice of the establishment of a pound by publishing a notice in at least two newspapers circulating in the area of jurisdiction of the Municipality.

4. Appointment of pound keeper

The Municipality must, in terms of its human resource policy, appoint a suitably skilled and experienced person as a pound keeper, unless the pound is established and operated in terms of a service level agreement contemplated in section 3(a).

5. Trespassing or straying animals may be impounded

(1) The owner of land upon which any animal is found trespassing may seize such animal, provided that such animal may not be removed to a pound before notice is given to the owner in writing no less than 48 hours prior to the removal to the pound.

(2) Any animal found straying unattended upon any public road or public place may be seized for impounding by –

- (a) a member of the South African Police Services;
- (b) a member of the South African National Defence Force;
- (c) a member of the Provincial Road Traffic Inspectorate;
- (d) an authorised municipal official; or
- (e) the owner of any land through or alongside which such road passes or which abuts on such public place.

(3) A person may not keep an animal, seized for purposes of impounding in terms of in subsections (1) and (2), for a period longer than six hours without supplying such animal with adequate food and water.

(4) Any person who has seized an animal for purposes of impounding must comply with the provisions of the Code of Good Practice on the Handling and Transportation of Impounded Animals contained in Schedule 1.

6. Animals too vicious, injured, intractable or wild to be impounded

If a Veterinarian or official contemplated in section 5(2)(a) to (d) is satisfied that an animal found trespassing on any land, or straying untended upon any public road or public place, is too dangerously vicious, injured, intractable or wild to be impounded, he or she may authorise the humane destruction or other disposal of the animal, after giving written reasons and written notice thereof to the owner of the animal.

7. Release of animals before removal to pound

(1) The owner of an animal, seized in terms of section 5(1) may apply to the owner of land contemplated in section 5(2) for the release of such animal prior to its removal to the pound.

(2) The owner of land referred to in section 5(1) –

(a) may release such animal forthwith; or

(b) may refuse the release of the animal, whereupon he or she may apply to Court for authority to impound the animal or to claim any damages he or she may have suffered, in which event the Court may make any order, including an order as to costs that the Court deems just and equitable.

(3) The owner of an animal seized in terms of section 5(2) may apply for the release of such animal prior to its removal to the pound, in which event the person who seized the animal must release such animal forthwith.

8. Care of trespassing animals

A person may not work, use or ill-treat an animal found trespassing on any land or whilst it is in the process of being removed to a pound.

9. Pound to which animals must be taken

An animal seized for the purposes of impounding as contemplated in section 5, must be removed to the nearest accessible pound, by the shortest practical route, and within the shortest practical time: Provided that animals of different species must be separated at all times according to their species.

10. Information to be supplied to pound keeper

A person sending animals to the pound must advise the pound keeper in writing of –

(a) the number and descriptions of the animals;

(b) the land upon which they were found trespassing; and

(c) the distance in kilometers, by the shortest practical route, between the place on such land where they were seized and the pound.

11. Acceptance at pound of animals to be impounded

The pound keeper may not refuse to accept an animal for impounding.

12. Pound register

(1) The pound keeper must –

(a) maintain a pound register containing the information contemplated in Schedule 2, which must be available for public inspection at all reasonable times; and

(b) complete the pound register immediately upon the acceptance into the pound of any animal.

(2) If the pound keeper –

(a) neglects or refuses to comply with any of the provisions of subsection (1);

(b) knowingly makes a false entry in the pound register;

(c) fraudulently destroys or erases any previous entry in the pound register; or

(d) wilfully delivers a false copy or extract from the pound register to any person,

he or she commits an offence.

13. Notice to owners of animals

The owner of an animal contemplated in sections 5(1), 6, 14(2)(b), 15(1)(c), 17(b), 21(1)(b), and 23(a), must be notified by –

(a) addressing a written notice to him or her; or

(b) placing a copy of the notice to the owner on the Municipal Notice Board; and

(c) publishing a copy of the notice on at least two consecutive days in a newspaper of general circulation in the Municipality.

14. Care of impounded animals

- (1) The pound keeper –
- (a) is responsible for the proper care of all impounded animals;
 - (b) must ensure that fresh water and sufficient food is available to impounded animals at all times; and
 - (c) is liable to the owner of an impounded animal for any damage caused by his or her wilful or negligent acts or omissions.
- (2)(a) If the pound keeper is of the opinion that an impounded animal is dangerously vicious, permanently disabled or terminally ill, he or she, in consultation with a veterinarian or other suitably qualified person, may authorise the destruction or other disposal of the impounded animal.
- (b) The pound keeper must immediately notify the owner in writing of the authorisation and the destruction or disposal of the animal.

15. Isolation of infected animals

- (1) If the pound keeper suspects, or is aware, that an impounded animal, or an animal to be impounded, is infected with any disease contemplated in the Animal Diseases Act, 1984 (Act No. 35 of 1984), he or she must –
- (a) provide separate accommodation for such animal;
 - (b) immediately isolate the animal, and report the disease to the nearest State Veterinarian; and
 - (c) immediately notify the owner of the animal of such disease in writing.
- (2) If there is no State Veterinarian available, the pound keeper may request a report from a private veterinarian and if such a veterinarian is not available, he or she may apply to the court, which may authorise the destruction or other disposal of the impounded animal.
- (3) The pound keeper must immediately notify the owner in writing of the order of Court and the destruction or disposal of the animal.

16. Treatment of impounded animals

- The pound keeper –
- (a) may not work or in any way make use of an impounded animal or permit any such animal to be worked or made use of by any other person; and
 - (b) must ensure that all impounded male animals are at all times kept apart from female animals.

17. Death of or injury to impounded animals

- If an impounded animal is injured or dies, the pound keeper must –
- (a) record the injury or cause of death in the pound register referred to in section 12; and
 - (b) notify the owner of the animal in writing of the injury or death.

18. Copies of by-law

The pound keeper must ensure that copies of this by-laws in are available at the pound for inspection.

19. Fees and costs payable

- The pound keeper must –
- (a) charge the owner of an impounded animal the fees as set by the Municipality from time to time as contemplated in section 75A of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000); and
 - (b) recover the cost of any dipping, medical treatment, inoculation or other treatment that may be necessary or required in terms of this by-law or in accordance with any other law.

20. Release of impounded animals

- (1) The pound keeper must immediately release an impounded animal, and give the owner a receipt, upon the owner –
- (a) providing proof of ownership of such animal; and
 - (b) paying the fees and costs contemplated in section 19.
- (2) If the owner of an impounded animal is unable to pay the fees or costs contemplated in section 19, the pound keeper may retain such animal in order to recover such fees or costs as may be due and payable.

21. Sale of impounded animals

- (1) The pound keeper must –
- (a) whenever any impounded animal has not been released within seven days from the date of its impoundment, apply to the Court for authority to sell the animal; and
 - (b) in the application contemplated in paragraph (a), provide the Court with proof that he or she lodged a statement as contemplated in sub-section (2) with the owner.
- (2) The statement contemplated in subsection (1)(b) must include –
- (a) the fees and costs due in terms of this by-law; and
 - (b) the amount of any damages that the owner of the land on which the impounded animal trespassed, may have suffered.
- (3) The Court, whether the amounts set forth in the statement contemplated in subsection (1)(b) are disputed or not, must –
- (a) summarily enquire into the matter;
 - (b) enquire whether notice was given to the owner of the animal by the pound keeper; and
 - (c) make such order as it considers just and equitable, including an order –
 - (i) as to costs; and
 - (ii) on the process to be followed by the pound keeper in the sale of the animal.

22. Pound keeper may not purchase impounded animals

The pound keeper, or a family member, or a close associate of the pound keeper, or any municipal employee, may not purchase an animal offered for sale at a pound sale, either personally or through any other person, directly or indirectly.

23. Animals unsuccessfully offered for sale

In the event that any animal is not sold as contemplated in section 21 –

- (a) the pound keeper must immediately advise the Court and the owner of its estimated value and the fees and costs incurred; and
- (b) the Court may make such order as it may deem just and equitable.

24. Proceeds

All proceeds from the collection of fees and costs contemplated in section 19 must be paid into the municipal revenue fund, provided that in the event that any impounded animal is sold at a price in excess of –

- (a) the fees and costs incurred; and
- (b) any damages awarded in terms of section 21(3)(c),

such excess must be paid to the owner within 30 days of the sale, unless the identity of the owner has not been established, in which event the excess must be paid into the municipal revenue fund.

25. Action for recovery of damages

Nothing in this by-law prevents the owner of land or any other person from instituting action against the owner of a trespassing animal, in any court with jurisdiction, for the recovery of damages suffered by reason of such trespassing animal.

26. Procedure to be followed in application to Court

An application to Court for –

- (a) the impoundment of an animal in terms of this by-law, must comply with the procedure contemplated in Rule 55 of the Rules of Court; and
- (b) the sale of an impounded animal in terms of this by-law, must comply with the procedure contemplated in section 66 of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944), and Rule 41 of the Rules of Court,

made by the Rules Board for Courts of Law in terms of section 6 of the Rules Board for Courts of Law Act, 1985 (Act No. 107 of 1985), and published under Government Notice No. R.1108 in Regulation Gazette No. 980 of 21 June 1968, as amended from time to time, read with the necessary changes.

27. Indemnity

The Municipality, pound keeper and any officer, employee, or agent of the Municipality will not be liable for the death of or injury to any animal arising as a result of its detention, impounding or release, or arising during its impoundment.

28. Offences and penalties

A person who –

- (a) releases an animal that was lawfully seized for the purpose of being impounded or which has been lawfully impounded;
- (b) unlawfully seizes an animal for the purpose of impounding it;
- (c) unlawfully impounds an animal; or
- (d) contravenes any provision of this by-law,

is guilty of an offence and is liable on conviction to –

- (i) a fine or imprisonment, or either such fine or imprisonment, or to both such fine and such imprisonment; and
- (ii) in the case of a continuing offence, to 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) 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 or failure.

29. Schedules 1 and 2 form part of this by-law

Schedules 1 and 2 to this by-law form part of this by-law for all purposes.

30. Repeal of existing 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.

31. Short title and commencement

This by-law will be called the By-law relating to Impoundment of Animals and it will come into effect upon publication in the Provincial Gazette.

SCHEDULE 1
Code of Good Practice on the Handling and Transportation of Impounded Animals
(Section 5(4))

PART I: Paddock requirements

1. Different species of animals must be kept in separate paddocks.
2. Animals may not be penned in overcrowded paddocks, and penning space provided for in each paddock must be sufficient to permit all animals to lie down at the same time and must not be less than 1,5 square metres of floor area for each animal.
3. Fractious animals may not be kept with other animals.
4. Young, weaned juvenile animals, may not be penned with adult animals, except in the case of mother and offspring.
5. Provision must be made in paddocks for –
 - (a) facilities such as racks, mangers or other suitable feed containers that are easy to clean, which will allow the feeding of an animal off the floor, and which can be serviced without disturbing the animals;
 - (b) water troughs with an adequate supply of suitable fresh water at all times;
 - (c) sufficient facilities for the adequate cleaning of paddocks; and
 - (d) facilities for the safe handling of animals.
- 6.(a) The paddocks must at all times be maintained in a good state of repair.
(b) Sharp points such as wire ends, broken boards, jagged ends or protruding hinges or bolts, which could cause injury to animals, must be removed or otherwise suitably covered.
7. The floor of the entire paddock, including the off-loading banks, races, and passages, must be so constructed as to provide adequate non-slip surfaces that can be efficiently and suitably cleaned and kept dry and in a condition fit for the holding of animals.

PART II: Handling of animals

8. Animals must at all times be handled humanely and with patience and tolerance.
9. The following must be kept in mind when handling animals –
 - (a) animals respond more readily to being driven when the driver stands behind the animal but within its field of vision; and
 - (b) herd animals respond more readily to being driven when in a group rather than singly.
10. Animals may not be dragged by their legs, or carried by their head, ears or tail.
11. Young calves must be carried if they cannot walk with ease, by lifting the calf around the chest and hindquarters, alternatively they must be guided with one hand on the hindquarters and the other near shoulder or neck, and walked in the required direction at an appropriate and comfortable pace.
12. Only sticks with canvas or belting flaps may be used when driving animals and it is preferable to strike the ground behind the animal rather than to hit the animal.
13. Electric prodders, sticks or goads may not be used on young calves.
14. Electric prodders may not be used excessively or indiscriminately or applied to the face, anal or genital areas of animals.

PART III: Movement of animals

15. Animals driven on the hoof must at all times be under proper and competent supervision.
16. Animals on the hoof must be driven in a calm manner at a gait that is relaxed and comfortable, natural to that animal, and not faster than the pace of the slowest animal.
17. Animals may not be driven for periods in excess of 10 hours without being given rest of at least one hour and provided with sufficient suitable fresh water that is available to all the animals.
18. No animal on the hoof may be moved in excess of the following distances –
- (a) during a journey of not more than one day's duration –
 - (i) 20 kilometres for sheep and goats; and
 - (ii) 30 kilometres for cattle; and
 - (b) during a journey of more than one day's duration –
 - (i) 20 kilometres during the first day and 15 kilometres during each subsequent day for sheep and goats; and
 - (ii) 25 kilometres during the first day and 20 kilometres during each subsequent day for cattle.
19. Animals must be watered and fed immediately on reaching their night camp or final destination, with sufficient food of a quality and of a type compatible with the species.
20. Animals may not be moved in the dark.
21. No sick, injured or disabled animal may be moved on the hoof.

PART IV: Vehicles used in transporting animals

22. Vehicles and all trailers used in the transport of hoofed animals must be suitable for the transport of such animals and in a roadworthy condition.
23. All vehicles and trailers referred to in item 22 must have –
- (a) a suitable non-slip floor which may not impede the cleaning of the floor of the vehicle, with hinged or removable battens or steel grids being permissible;
 - (b) adequate ventilation and light whilst in motion as well as when stationary, with no vehicle being totally enclosed;
 - (c) adequate protection from exhaust gasses, as exposure to exhaust fumes could interfere with the animals' respiration or cause distress;
 - (d) sidewalls high enough to prevent animals from escaping or falling out of the vehicle: Provided that –
 - (i) the sides and partitions, when used in a vehicle to separate animals carried therein, must be of a height not lower than the shoulder joint of the largest animal being transported;
 - (ii) in the case of cattle other than calves, the minimum height must be 1 800 millimetres; and
 - (iii) the minimum height must be 750 millimetres in the case of any smaller animals;
 - (e) in multi-tier vehicles, heights between decks must be adequate, and in case of sheep and pigs not less than 1 000 millimetres, to enable the largest animals to stand naturally, freely and fully erect and to allow adequate space for the free flow of air above the animals;
 - (f) floors that are solid and impervious;
 - (g) loading and offloading openings at the rear of the vehicle that are the full width of the vehicle or, if at the sides, a width not less than 2 400 millimetres; and
 - (h) gates, with or without partitions –
 - (i) of a design and construction strong enough and suitable for the conveyance of the intended consignment; and
 - (ii) that open and close freely and are able to be well-secured.
24. The density of animals packed into any given space must be such as to ensure the safety and comfort of the animals during transport, and the recommended floor space per animal is –
- (a) 1,4 square metres per large animal; and
 - (b) 0,5 square metre per small animal.

PART V: Watering and feeding of live animals prior to loading

25. Animals must be provided with sufficient and suitable food and fresh water until the commencement of the journey.

PART VI: Loading and off-loading procedure

26. Loading and off-loading into or out of a vehicle must be accomplished as quietly and calmly as possible, with patience and tolerance and without undue harassment, terrifying of the animals, bruising, injury, suffering or undue stress.

27. No animal may be loaded or off-loaded by lifting by the head, fleece, skin, ears, tails, horns or legs.

28. No animals may be loaded or off-loaded otherwise than –
(a) by means of a ramp with a non-slip surface, sturdy enough to support the weight of the species of animals being handled, with side panels or bars adequate to prevent animals escaping or falling off the ramp and of an incline not steeper than 25 degrees; or
(b) at a loading bank equal to the height of the floor of the vehicle or, at off-loading, not more than 310 millimetres below the level of the off-loading vehicle and with an incline not exceeding 25 degrees.

29. Where a truck is equipped with an onboard removable loading ramp it must have a non-slip surface and be of a sufficient length when lowered, that the inclination is no steeper than the inclines referred to in item 28, with the distance from the ground to the heel of the ramp not exceeding 120 millimetres.

30. Ramps must be correctly adjusted to the exact height of the vehicle's floor.

31. Journeys must commence as soon as possible after the live animals have been loaded and the animals must be promptly off-loaded upon arrival at the destination.

32. Unless adequate provision has been made for effective separation, different species of animals may not be loaded and transported in the same vehicle.

33. Animals of different ages, sizes and sexes may not be loaded and transported in the same vehicle unless adequate provision has been made for the effective separation of such animals.

34. Adult horned cattle may not be transported with polled cattle and they must also be penned separately.

35. When there is reason to believe that an animal is likely to give birth in the course of a proposed journey, the animal may not be loaded onto a vehicle.

36. In the case of an animal giving birth during transport, the necessary measures must be taken to ensure the protection of the mother and offspring from being trampled or otherwise injured or harassed by other animals.

37. In the event of –
(a) a breakdown of the transport vehicle;
(b) an accident or collision in which the transport vehicle is involved; or
(c) injury to, or death of, any animal in transit,
the carrier must immediately report the details to, and request assistance from –
(i) in the case of paragraph (a), a breakdown service;
(ii) in the case of paragraph (b), the South African Police and the traffic authorities; or
(iii) in the case of paragraph (c), a veterinarian.

PART VII: Restraining of animals during transportation

38. Where the transport of any animal may cause injury to itself or any other animal, it must be restrained in such a manner as to prevent such injury.

39. No animals may be kept in restraint for more than 4 hours in any 24-hour period.

40. No wire or bailing twine may be used for tying the animal's legs or feet.

41. To avoid strangulation or neck-break, a slipknot may not be used where animals are secured to the vehicle by horns or neck, and the rope must be attached to the vehicle at the level of the animal's knees so that in the event of the animal falling, the possibility of serious injury or death is reduced, with the rope being long enough to allow the animal to lie comfortably in a natural position with its head upright.

SCHEDULE 2
Pound register information
(Section 12)

A pound register must, at least, contain the following information –

1. Name of pound
2. Date of receipt of animal
3. Number and description of animals
4. Brands or markings on animal
5. Ear tag number assigned by the pound keeper
6. Name and address of person who seized the animal
7. Name and address of person who delivered the animal to the pound
8. Name and address of owner of land where animal was seized
9. Name and address of owner of animal
10. Name and address or description of place where animal was found
11. Distance between place where animal was seized and pound
12. Particulars of damage caused by the animal
13. Transport fees payable
14. Details of destruction or disposal of animal
15. Cause of death or injury of impounded animal
16. Description and amount of pound fees
17. Damages awarded by Court
18. Date of release of animal
19. Date of sale of animal
20. Proceeds of sale of animal
21. Name and address of purchaser
22. Excess amount (if any) paid to owner or municipality
23. Receipt number
24. Details of Order of Court with regard to animal not sold in execution

**HESSEQUA MUNISIPALITEIT
VERORDENING INSAKE DIE SKUT VAN DIERE**

Kragtens die bepalings van artikel 156 van die Grondwet, 1996, saamgelees met artikel 11(3)(m) van die Wet op Plaaslike Regering: Munisipale Stelselwet, 2000 (Wet 32 van 2000), bepaal die Hessequa Munisipaliteit as volg:

INHOUDSOPGAWE

1. Woordomsrywings
2. Toepassing
3. Vestiging van skut
4. Aanstelling van skutmeester
5. Skut van diere wat rondloop of oortree
6. Diere wat te wild, onhanteerbaar, siek of boosaardig is om te skut
7. Vrylating van diere voordat dit geskut word
8. Versorging van diere wat oortree
9. Skut waarheen diere geneem moet word
10. Inligting verskaf te word aan skutmeester
11. Aanvaarding van diere by skut
12. Skutregister
13. Kennisgewing aan eienaars van diere
14. Versorging van geskutte diere
15. Afsondering van besmette diere
16. Geskutte diere nie geskik vir werk
17. Vrektes onder of besering van geskutte diere
18. Afskrifte van verordeninge
19. Gelde en kostes betaalbaar
20. Vrylating van geskutte diere
21. Verkoop van geskutte diere
22. Skutmeester verbied om geskutte diere te koop
23. Diere wat nie verkoop kan word nie
24. Opbrengs
25. Optrede vir verhaling van skadevergoeding
26. Prosedure tydens hofaansoeke
27. Vrywaring
28. Oortredings en boetes
29. Bylae 1 en 2 vorm deel van hierdie verordening
30. Herroeping van verordening
31. Kort titel

1. Woordomsrywings

Tensy teenstrydig met die sinsverband van hierdie verordening, beteken-

“**dier**” 'n perd, bees, donkie, skaap, bok, vark, volstruis, hond, kat of die baster van enige sodanige dier en het “**diere**” 'n ooreenstemmende betekenis;

“**Hof**” 'n Landdroshof soos na verwys in artikel 166(d) van die Grondwet, 1996, met jurisdiksie in die gebied waarbinne die skut geleë is;

“**Koerant**” die amptelike Provinsiale Koerant van die Provinsie: Wes-Kaap.

“**munisipaliteit**” die Hessequa Munisipaliteit wat ingevolge artikel 155(6) van die Grondwet en artikel 11 en 12 van die Plaaslike Regering: Munisipale Strukturewet, 1998 (Wet 117 van 1998) gestig is;

“**eienaar**” 'n eienaar wat bekend is, of wie se identiteit redelik vinnig vasgestel kan word, en in verhouding tot enige -

- (a) dier, sluit dit die agent van die eienaar in of enige ander persoon wat wetlike toesig of besit het van sodanige dier; of
- (b) grond, sluit dit die eienaar, huurder of wettige bewoner van sodanige grond of sy of haar agent in;

“**skut**” 'n skut opgerig soos beoog onder artikel 3;

“**skutmeester**” die persoon wat van tyd tot tyd aangestel word soos beoog onder artikel 4 en sluit dit enige persoon in wat namens die aangestelde skutmeester waarneem;

“**openbare plek**” enige plek waartoe die publiek toegang het, insluitend en sonder beperking van die voorafgaande, enige -

- (a) plein;
- (b) park;
- (c) ontspanningsgebied;
- (d) sportgronde;

- (e) oopruimte;
- (f) strand;
- (g) inkopiesentrum op munisipale grond;
- (h) ongebruikte of onbeboude munisipale grond; of
- (i) begraafplaas;

“**openbare pad**” soos beoog onder artikel 1 van die Padverkeerswet, 1996 (Wet 93 van 1996); en
 “**diensleweringsooreenkoms**” 'n diensleweringsooreenkoms soos omskryf in artikel 1 van die Plaaslike Regering: Munisipale Stelselwet, 2000 (Wet 32 van 2000).

2. Toepassing

Hierdie verordening is van toepassing binne die hele regsgebied van die Munisipaliteit met dien verstande dat niks sal verhoed dat enige dier wat ingevolge hierdie verordening in aanhouding is, geskut word in 'n skut of soortgelyke plek, wat deur 'n ander munisipaliteit of ander wettige owerheid opgerig is.

3. Vestiging van skut

(a) Die Munisipaliteit mag 'n skut op enige gerieflike plek binne sy regsgebied vestig, met dien verstande dat dit 'n diensleweringsooreenkoms met enige instelling of persoon in artikel 76(b) van die Plaaslike Regering: Munisipale Stelselwet, 2000 (Wet 32 van 2000) genoem, mag sluit, ten einde vir die vestiging en bestuur van 'n skut, wat sy hele regsgebied bedien, voorsiening te maak.

(b) Die Munisipaliteit moet in ten minste twee geregistreerde koerante wat binne sy regsgebied sirkuleer, kennis gee van sy voorneme om 'n skut te vestig.

4. Aanstelling van skutmeester

Die Munisipaliteit moet kragtens sy menslike hulpbronne beleid, 'n geskikte gekwalifiseerde persoon as skutmeester aanstel, tensy die skut gevestig en bestuur word ingevolge 'n diensleweringsooreenkoms, beoog onder artikel (3)(a).

5. Diere wat rondloop of oortree mag geskut word

(1) Die eienaar van grond waarop 'n dier oortree mag op die dier beslag lê met dien verstande dat sodanige dier nie na 'n skut afgevoer mag word, alvorens skriftelike kennis van minstens 48 uur voor afvoering na die skut, aan sodanige eienaar daarvan gegee is nie.

(2) Enige dier wat sonder toesig op 'n openbare pad of openbare ruimte rondloop, mag gevang word met die oog daarop om dit te skut, deur -

- (a) 'n lid van die Suid-Afrikaanse Polisie Diens;
- (b) 'n lid van die Suid-Afrikaanse Weermag;
- (c) 'n lid van die Provinsiale Padverkeersinspektoraat;
- (d) 'n gemagtigde munisipale beampte; of
- (e) die eienaar van enige grond waardeur of waarlangs sodanige pad loop of wat aan sodanige openbare ruimte grens.

(3) 'n Persoon wat 'n dier vang met die doel om dit te skut ingevolge sub-artikel (1) en (2), mag nie die dier langer as ses uur aanhou, sonder om dit van genoegsame voedsel en water te voorsien nie.

(4) Enige persoon wat 'n dier vang met die doel om dit te skut, moet voldoen aan die bepalings van die Kode van Goeie Praktyk insake die Hantering en Vervoer van Geskutte Diere, soos vervat in Bylae 1.

6. Diere wat te wild, onbeheerbaar, beseer of boosaardig is om te skut

Indien 'n Veearts of beampte beoog in Artikel 5(2)(a) tot (d), tevrede is dat 'n dier wat oortree op enige grond, of sonder toesig op enige openbare pad of oopruimte rondloop, te gevaarlik, wild, onbeheerbaar, beseer of boosaardig is om te skut, mag hy of sy toestemming gee dat dit op menslike wyse vankant gemaak of mee weggedoen word, nadat skriftelike kennisgewing met verstrekking van redes op die eienaar van die dier bestel is.

7. Vrylating van diere voor afvoering na skut

(1) Die eienaar van 'n dier wat ingevolge artikel 5(1) gevang is, mag verhoë rig tot die eienaar van grond, beoog in artikel 5(2) vir die vrylating van die dier, alvorens die dier na 'n skut afgevoer word.

(2) Die eienaar van grond soos in artikel 5(1) na verwys -

- (a) mag sodanige dier onmiddellik vrylaat; of
- (b) mag die vrylating van die dier weier en daarop by die hof aansoek doen vir magtiging om die dier te skut, of skadevergoeding eis wat hy of sy gelyk het, in welke geval 'n Hof 'n bevel mag maak, insluitende 'n kostebevel wat die Hof as billik en regverdig beskou.

(3) Die eienaar van 'n dier wat gevang is ingevolge artikel 5(e) mag aansoek doen vir vrylating van sodanige dier voordat dit na 'n skut afgevoer word, in welke geval die persoon wat die dier gevang het, die dier onmiddellik moet vrylaat.

8. Versorging van diere wat oortree

'n Persoon mag nie 'n dier wat gevang is nadat dit op enige grond oortree het of 'n dier wat in die proses is van afvoering na 'n skut, laat werk of mishandel nie.

9. Skut waarheen diere afgevoer moet word

'n Dier wat gevang is met die doel om dit te skut soos beoog in artikel 5, moet na die naaste toeganklike skut, langs die kortste mees praktiese roete en in die kortste tyd prakties moontlik, afgevoer word: Met dien verstande dat diere van verskillende spesies te alle tye afsonderlik gehou moet word.

10. Inligting wat aan skutmeester voorsien moet word

'n Persoon wat diere na 'n skut stuur, moet die skutmeester skriftelik van die volgende inligting voorsien -

- (a) die getal en beskrywing van die diere;
- (b) die grond waarop die dier gevang is toe dit oortree het; en
- (c) die afstand in kilometer, langs die kortste mees praktiese roete, tussen die plek waar die dier gevang is en die skut.

11. Aanvaarding van diere wat geskut word

Die skutmeester mag nie 'n dier wat na die skut gebring word vir daardie doel, weier nie.

12. Skutregister

- (1) Die skutmeester moet -
 - (a) 'n register op datum hou wat die inligting in Bylae 2 beoog, bevat en wat te alle redelik tye vir publieke insae beskikbaar moet wees; en
 - (b) die register onmiddellik voltooi sodra 'n dier in die skut opgeneem word.
- (2) Indien die skutmeester -
 - (a) nalaat of weier om aan die bepalings van sub-artikel 1 te voldoen;
 - (b) wetend 'n vals inskrywing in die skutregister maak;
 - (c) op bedrieglike wyse enige bestaande inskrywing in die register verwoes of uitvee; of
 - (d) opsetlik 'n vals afskrif of uittreksel uit die register aan enige persoon verskaf, maak hy of sy hom of haar skuldig aan 'n misdryf.

13. Kennisgewing aan eienaars van diere

Die eienaar van 'n dier beoog in artikel 5(1), 6, 14(2)(b), 15(1)(c), 17(b), 21(1)(b) en 23(a), moet in kennis gestel word deur -

- (a) 'n geskrewe kennisgewing op hom of haar te bestel;
- (b) 'n afskrif van die kennisgewing aan die eienaar op die Munisipale Kennisgewingbord te plaas; en
- (c) 'n kopie van die kennisgewing op twee opeenvolgende dae in 'n nuusblad te plaas wat in die algemeen in die Munisipale regsgebied sirkuleer.

14. Versorging van geskutte diere

- (1) Die skutmeester -
 - (a) is verantwoordelik vir die behoorlike versorging van alle geskutte diere;
 - (b) moet verseker dat water en voldoende voedsel te alle tye vir geskutte diere beskikbaar is; en
 - (c) is aanspreeklik aan die eienaars van geskutte diere vir enige skade aan diere berokken as gevolg van sy of haar opsetlike of nalatige optrede of versuim.
- (2) (a) Indien die skutmeester van mening is dat 'n geskutte dier gevaarlik, boosaardig, permanent gebreklik of dodelik siek is kan hy of sy in samewerking met 'n veearts of ander paslik gekwalifiseerde persoon die vernietiging of wegdoening van die geskutte dier magtig.
- (b) Die skutmeester moet onmiddellik die eienaar skriftelik van die hofbevel en die vernietiging of wegdoening van die dier in kennis stel.

15. Afsondering van besmette diere

- (1) Indien die skutmeester vermoed of bewus raak daarvan dat 'n geskutte dier of diere wat geskut staan te word, besmet is met enige siekte vermeld in die Wet op Dieresiektes, 1984 (Wet 35 van 1984), moet hy of sy -
 - (a) afsonderlike verblyf vir sodanige dier voorsien;
 - (b) die dier onmiddellik afsonder en die siekte aan die naaste staatsveearts rapporteer; en
 - (c) onmiddellik die eienaar van die dier skriftelik in kennis stel.
- (2) Indien geen staatsveearts beskikbaar is nie, mag die skutmeester 'n verslag van 'n privaat veearts aanvra. Indien 'n privaat veearts nie beskikbaar is nie, mag hy of sy, hom of haar tot die hof wend, wat dan die vernietiging of wegdoening van die dier mag goedkeur.

(3) Die skutmeester moet onmiddellik die eienaar van die dier skriftelik van die Hofbevel en vernietiging of wegdoening in kennis stel.

16. Geskutte diere nie geskik vir werk

Die skutmeester -

- (a) mag nie 'n geskutte dier vir werk of enige ander doeleinde gebruik of toelaat dat dit vir werk of enige ander doeleinde gebruik word nie; en
- (b) moet te alle tye toesien dat manlike diere afsonderlik van vroulike diere gehou word.

17. Vrektes onder of besering van geskutte diere

Indien 'n geskutte dier vrek of beseer word, moet die skutmeester -

- (a) die oorsaak van die vrekke of besering in die skutregister aanteken; en
- (b) die eienaar van die vrekke of besering van die dier in kennis stel.

18. Afskrifte van verordeninge

Die skutmeester moet sorg dra dat afskrifte van hierdie verordening by die skut ter insae lê.

19. Gelde en koste betaalbaar

Die skutmeester moet -

- (a) die gelde wat van tyd tot tyd deur die Munisipaliteit vasgestel word kragtens artikel 75A van die Plaaslike Regering, Munisipale Stelselswet, 2000 (Wet 32 van 2000) van die eienaar van 'n geskutte dier verhaal; en
- (b) die koste vir dip, mediese behandeling, inspuittings of ander behandeling wat nodig geag word ingevolge hierdie verordening of enige ander wetgewing, van die eienaar van die dier verhaal.

20. Vrylating van geskutte diere

(1) Die skutmeester moet onmiddellik 'n geskutte dier vrylaat en aan die eienaar 'n kwitansie voorsien, indien die eienaar -

- (a) bewys van eienaarskap van sodanige dier lewer; en
- (b) die gelde en kostes beoog in artikel 19, betaal.

(2) Indien die eienaar van 'n geskutte dier nie die gelde en kostes in artikel 19 beoog, kan betaal nie, mag die skutmeester sodanige dier terughou totdat die gelde en kostes betaal is.

21. Verkoop van geskutte diere

(1) Die skutmeester moet -

- (a) wanneer ookal enige geskutte dier nie binne sewe dae gelos word nie, by die hof aansoek doen om sodanige dier te verkoop; en
- (b) in die aansoek beoog in paragraaf (a), bewys lewer aan die Hof dat hy of sy 'n faktuur soos beoog in sub-artikel (2), aan die eienaar bestel het.

(2) Die faktuur beoog in sub-artikel (1)(b), moet -

- (a) die gelde en kostes betaalbaar ingevolge hierdie verordening; en
- (b) die bedrag van enige skade wat die eienaar van grond waarop die dier oortree het, gely het, aandui.

(3) Die Hof moet, ongeag of die bedrae in die faktuur in artikel (1)(b) genoem, betwis word al dan nie -

- (a) summier die saak ondersoek;
- (b) ondersoek instel of die skutmeester wel 'n kennisgewing op die eienaar van die dier bestel het; en
- (c) 'n bevel maak wat as billik en regverdig beskou word, insluitend 'n bevel,
 - (i) rakende koste; en
 - (ii) rakende die proses wat deur die skutmeester gevolg moet word met die verkoop van die dier.

22. 'n Skutmeester mag nie geskutte diere koop nie

Die skutmeester of 'n familielid, deelgenoot of enige medewerkers, mag nie persoonlik of deur enige persoon aan die koop van diere by 'n skutverkoop, deelneem nie.

23. Diere wat nie verkoop word nie

In die geval dat enige dier nie verkoop soos beoog in artikel 21 nie -

- (a) moet die skutmeester onmiddellik die Hof en die eienaar van die geskatte waarde asook die koste en gelde betaalbaar, in kennis stel; en
- (b) mag die Hof enige bevel maak wat dit as billik en regverdig beskou.

24. Opbrengs

Die volle opbrengs van die gelde en kostes beoog by artikel 19 moet in die munisipale inkomstefonds gestort word, met dien verstande dat ingeval 'n dier teen 'n hoër prys verkoop word as -

- (a) die gelde en kostes aangegaan; en
- (b) enige skadevergoeding toegeken ingevolge artikel 21(3)(e), moet sodanige oorskot binne 30 dae na die verkoping aan die eienaar betaal word, behalwe as die identiteit van die eienaar nie vasgestel kan word nie, in welke geval die oorskot in die inkomstefonds gestort moet word.

25. Optrede vir verhaling van skadevergoeding

Niks in hierdie verordening verhoed die eienaar van grond of enige ander persoon om 'n regsaksie in te stel in enige hof teen die eienaar van 'n dier wat oortree nie, vir die verhaling van skade gelyk as gevolg van 'n dier wat oortree het.

26. Prosedure vir Hofaansoeke

'n Aansoek aan die Hof om -

- (a) 'n dier kragtens hierdie verordening te skut, moet voldoen aan die prosedure beoog in Reël 55 van die Reëls van die Hof; en
- (b) 'n dier kragtens hierdie verordening te verkoop, moet voldoen aan die prosedure beoog in artikel 66 van die Wet op Magistraatshowe, 1944(Wet 32 van 44) en Reël 41 van die Reëls van die Hof, gemaak deur die Reëlsraad vir Howe kragtens artikel 6 van die Wet op die Reëlsraad vir Howe, 1985 (Wet 107 van 1985), en afgekondig onder Goewermentskennisgewing Nr. R1108 in Regulasie Koerant no. 980 van 21 Junie 1968, soos van tyd tot tyd aangepas, saamgelees met die nodige wysigings.

27. Vrywaring

Die Munisipaliteit, skutmeester en enige beampte, werknemer of agent van die Munisipaliteit sal nie aanspreeklik wees vir die dood van of besering aan enige dier as gevolg van sy of haar aanhouding skut of vrylating of as gevolg van die skut proses nie.

28. Oortredings en boetes

'n Persoon wat -

- (a) 'n dier wat wettiglik gevang is met die doel om dit te skut of wat wettiglik geskut is, vrylaat;
- (b) onwettig 'n dier vang met die doel om dit te skut;
- (c) onwettig 'n dier skut; of
- (d) enige bepalings van hierdie verordening oortree, is skuldig aan 'n misdryf en mag by skuldigbevinding -
 - (i) 'n boete of tronkstraf of enige van sodanige boete of sodanige tronkstraf of beide sodanige boete en sodanige tronkstraf opgelê word; en
 - (ii) in geval van 'n voortdurende oortreding tot 'n bykomende boete of bykomende termyn tronkstraf of tot sodanige bykomende tronkstraf sonder die keuse van 'n boete, of tot beide sodanige boete en tronkstraf vir elke dag wat sodanige oortreding voortduur opgelê word; en
 - (iii) 'n verdere bedrag gelyk aan enige koste en uitgawe wat die hof bevind deur die munisipaliteit aangaan is as gevolg van sodanige oortreding of nalatigheid, opgelê word.

29. Bylae 1 en 2 vorm deel van hierdie verordening

Bylae 1 en 2 tot hierdie verordening vorm deel van hierdie verordening vir alle doeleindes.

30. Herroeping van bestaande verordeninge

Die bepalings van enige verordeninge wat voorheen deur die munisipaliteit afgekondig is of wat deur ontbinde munisipaliteite wat nou by hierdie munisipaliteit ingelyf is, afgekondig is, word hiermee herroep vir sover dit verband hou met sake wat onder hierdie verordening behandel is.

31. Kort titel

Hierdie verordening staan bekend as die Verordening insake die Skut van Diere en tree in werking op die datum waarop dit in die Provinsiale Koerant afgekondig word.

BYLAE 1
Kode van Goeie Praktyk insake die Hantering en Vervoer van Geskutte Diere
(Artikel 5(4))

DEEL I: Kraalvereistes

1. Verskillende spesies diere moet in afsonderlike krale gehou word.
2. Diere mag nie in oorvol krale opeengehoop word nie en die ruimte moet voldoende wees sodat alle diere gelyktydig kan lê en mag nie minder as 1,5 vierkante meter grondruimte per dier wees nie.
3. Opstandige diere mag nie saam met ander diere gehou word nie.
4. Jong gespeende of jeugdige diere mag nie saam met volwasse diere gehou word nie, met uitsondering van 'n ma en haar kleintjies.
5. Voorsiening moet in krale gemaak word vir -
 - (a) geriewe soos rakke, voerbakke of ander geskikte houers wat maklik skoonmaak, wat die voer van diere van die grond af moontlik maak en wat gediens kan word sonder om diere te steur;
 - (b) watertroë wat 'n voldoende, geskikte voorraad vars water te alle tye voorsien;
 - (c) voldoende geriewe vir die behoorlike skoonmaak van hokke; en
 - (d) geriewe vir die veilige hantering van diere.
6.
 - (a) Die kampe moet te alle tye in 'n goeie werkende toestand gehou word.
 - (b) Skerp punte, soos punte van drade, gebreekte planke, happerige punte, skarniere of boutte wat uitsteek, wat beserings aan diere kan veroorsaak, moet verwyder of na behore bedek word.
7. Die vloer van die hele kamp, insluitend 'n op-en-aflaai vragwal, toevoerbane en gange moet voorsien word met 'n oppervlakte wat voldoende gelyk is, sodat dit geskik sal wees vir die aanhou van diere.

DEEL II: Hantering van diere

8. Diere moet te alle tye menslike, met geduld en verdraagsaamheid behandel word.
9. Die volgende moet in gedagte gehou word tydens die hantering van diere -
 - (a) diere reageer beter wanneer hul aanjaer agter hulle staan, maar binne hul gesigsveld.
 - (b) tropdiere reageer beter wanneer hulle in 'n trop aangejaag word, in plaas van een een.
10. Diere mag nie aan hul bene gesleep, of aan hul koppe, ore of sterte gedra word nie.
11. Jong kalfies moet opgelig word by die bors en agterkwart en gedra word indien hulle nie self met gemak kan loop nie, in die alternatief moet hulle gerig word deur een hand op 'n agterkwart en die ander hand naby die skof of nek, deur saam te stap in die vereiste rigting teen 'n geskikte en gemaklike pas.
12. Slegs stokke met seildoek oorgetrek of dryfbande mag gebruik word tydens die aanjaag van diere en dit is verkieslik om op die grond agter die dier te slaan as op die dier self.
13. Elektriese aanporders, stokke of sambokke mag nie op jong kalwers gebruik word nie.
14. Elektriese aanporders mag nie oormatig of voor die voet gebruik word nie en mag ook nie op die gesig of anale- of geslagsdele van diere gebruik word nie.

DEEL III: Verskuiwing van diere

15. Diere wat aangejaag word moet te alle tye onder behoorlike en bekwame toesig wees. Diere wat aangejaag word moet op 'n kalm manier teen 'n pas wat ontspanne, gemaklik, natuurlik vir daardie dier is en nie vinniger as die pas van die stadigste dier daar, aangejaag word nie.
16. Diere mag nie vir langer as tien uur aaneen aangejaag word sonder 'n rustyd van minstens een uur nie, asook die voorsiening van genoegsame, geskikte vars water wat aan al die diere beskikbaar moet wees nie.

17. Geen dier mag vir afstande langer as die volgende aangejaag word nie -
- (a) gedurende 'n reis wat nie langer as een dag duur nie -
- (i) 20 km vir skape en bokke; en
- (ii) 30 km vir beeste; en
- (b) gedurende 'n reis wat meer as een dag duur -
- (i) 20 km gedurende die eerste dag en 15 km vir elke daaropvolgende dag, vir skape en bokke; en
- (ii) 25 km gedurende die eerste dag en 20 km vir elke daaropvolgende dag vir beeste;
18. Sodra diere hul oornag kamp bereik moet hulle onmiddellik voer en water kry, welke voer voldoende en geskik moet wees vir elke spesie.
19. Diere mag nie na donker aangejaag word nie.
20. Geen dier wat siek, beseer of vermink is, mag aangejaag word nie.

DEEL IV: Voertuie gebruik tydens vervoer van diere

22. Voertuie en alle sleepwaens wat vir die vervoer van gehoeftede diere gebruik word, moet geskik wees vir sodanige diere en in 'n padwaardige toestand wees.
23. Alle voertuie en sleepwaens in item 22 genoem moet -
- (a) 'n geskikte glipvrye vloer hê wat nie die skoonmaak van die voertuie se vloer belemmer nie, hoewel heglatte of staal traliewerk toelaatbaar is;
- (b) voldoende lug en lig deurlaat terwyl dit in beweging of stilstaande is, terwyl geen voertuig geheel en al toegemaak mag wees nie.
- (c) voldoende beskerming van uitlaatgasse hê, aangesien blootstelling aan uitlaatgasse diere se asemhaling kan belemmer en angs veroorsaak;
- (d) sywande hê wat hoog genoeg is om te voorkom dat diere ontsnap of uit die voertuig val: met dien verstande dat -
- (i) die sywande en afskortings wanneer in gebruik op 'n voertuig om diere van mekaar te skei van 'n hoogte moet wees, nie laer as die skouer van die grootste dier wat vervoer word nie;
- (ii) in die geval van beeste uitgesonderd kalwers, moet die minimum hoogte 1800 millimeter wees; en
- (iii) in die geval van kleiner diere moet die minimum hoogte 750 millimeter wees.
- (e) in die geval van 'n multiverdieping voertuig moet die hoogtes tussen dekke voldoende wees en in die geval van skape en varke nie minder as 1000 millimeter wees nie, ten einde die grootste diere in staat te stel om natuurlik vry en ten volle regop te staan en om voldoende ruimte toe te laat bokant die diere vir lug om vrylik te vloei.
- (f) soliede ondeurdringbare vloere hê;
- (g) op en aflaaioeninge aan die agterkant van die voertuig hê gelyk aan die volle wydte van die voertuig of indien aan die kante, 'n wydte hê van nie minder as 2400 millimeter.
- (h) hekke hê met of sonder afskortings -
- (i) van 'n ontwerp en konstruksie, sterk genoeg en geskik vir die vervoer van die beoogde besending.
- (ii) wat vrylik kan oop en toemaak en in staat is om goed beveilig te word.
24. Die digtheid van diere wat saam geplaas is in enige ruimte moet sodanig wees dat die veiligheid en gerief van die diere gedurende vervoer verseker word en die voorgestelde vloerruimte per dier sal -
- (a) 1,4 vierkante meter per groot dier; en
- (b) 0,5 vierkante meter per klein dier wees.

DEEL V: Voer en water gee van lewendige hawe voor oplaai

25. Diere moet voorsien word van voldoende en geskikte voeding en vars water totdat die reis 'n aanvang neem.

DEEL VI: Op-en-aflaai prosedure

26. Op-en-aflaai van diere op en vanaf voertuie moet so stil en kalm moontlik geskied met geduld en verdraagsaamheid sonder onnodige teistering, verskrikking, verkneusing, besering, lyding of spanning.

27. Geen dier mag aan sy kop, wol, vel, ore, stert, horings of bene op- of afgelaai word nie.
28. Geen dier mag op enige ander wyse as die volgende op- of afgelaai word nie -
- (a) by wyse van 'n laaibrug met 'n glipvry oppervlakte, sterk genoeg om die gewig van die spesie dier wat hanteer word te ondersteun, met voldoende sypanele of traliewerk wat die ontsnapping of afval van diere van die loopplank sal voorkom en wat teen 'n helling van nie meer as 25 grade lê nie; of
 - (b) by wyse van 'n laaiwal wat gelyk is aan die vloer van die voertuig of, wanneer afgelaai word, nie meer as 310 mm onder die vloer van die aflaai voertuig nie en met 'n helling van nie meer as 25 grade nie.
29. Indien 'n voertuig toegerus is met sy eie verwyderbare laaibrug moet dit 'n glipvrye oppervlakte hê en van voldoende lengte wees om, wanneer dit laat sak is, die helling nie meer sal wees as die na verwys in item 28 nie, en met die afstand tussen die grond en die haak van die laaibrug nie meer as 120 mm nie.
30. 'n Laaibrug se hoogte moet elke keer aangepas word om presies met die voertuig se vloerhoogte ooreen te stem.
31. Die reis moet so gou moontlik begin nadat lewende hawe opgelaai is en moet onmiddellik afgelaai word, wanneer hulle hul bestemming bereik.
32. Tensy voldoende voorsiening gemaak is vir die effektiewe skeiding van verskillende spesies diere, mag dit nie in dieselfde voertuig gelaai en vervoer word nie.
33. Diere van verskillende ouderdom, grootte en geslag mag nie gelaai en vervoer word nie, tensy voldoende voorsiening gemaak is vir die effektiewe skeiding van sodanige diere.
34. Volwasse beeste met horings mag nie saam met poenskopbeeste vervoer word nie en hulle moet afsonderlik gehok word.
35. Indien daar voldoende rede bestaan om te glo dat 'n dier tydens 'n voorgenome reis geboorte mag skenk, mag sodanige dier nie gelaai word nie.
36. Ingeval 'n dier wel tydens 'n reis geboorte skenk moet die nodige voorsorg getref word om die ma en kroos te beskerm teen vertrapping of besering of teistering deur ander diere.
37. Ingeval die -
- (a) transport voertuig onklaar raak;
 - (b) transport voertuig in 'n ongeluk of botsing betrokke raak; of
 - (c) dier of diere in transit beseer raak of vrek, moet die karweier onmiddellik die besonderhede rapporteer aan , of hulp vra van -
 - (i) in die geval van paragraaf (a) 'n insleepdiens;
 - (ii) in die geval van paragraaf (b) die Suid-Afrikaanse Polisie Diens en die verkeersowerheid; of
 - (iii) in die geval van paragraaf (c), 'n veearts.

DEEL VII: Beheer van diere tydens vervoer

38. Indien die vervoer van enige dier 'n besering aan die dier self of ander diere kan veroorsaak, moet dit onder bedwang gehou word, op so 'n manier dat sodanige besering voorkom word.
39. Geen dier mag vir meer as vier uur in enige vier en twintig uur tydperk onder bedwang gehou word nie.
40. Geen draad of baaltou mag gebruik word om diere se bene of voete mee vas te bind nie.
41. Ten einde verwurging of nekbreke te voorkom mag geen dier met 'n skuifknoop aan hul horings of nek aan 'n voertuig vasgemaak word nie en die tou moet op die dier se kniehoogte aan die voertuig vasgemaak word sodat ingeval die dier sou val die moontlikheid dat die dier beseer raak verminder word, met die tou synde lank genoeg ten einde die dier toe te laat om gemaklik in 'n natuurlike posisie te lê, met sy kop regop.

BYLAE 2**Skutregister Inligting**
(*Artikel 12*)

'n Skutregister moet ten minste die volgende inligting bevat -

1. Naam van die skut
2. Datum waarop 'n dier ontvang is
3. Getal en beskrywing van diere
4. Merke of brandmerke op diere
5. Oorettiket nommer deur skutmeester toegeken
6. Naam en adres van persoon wat die dier gevang het
7. Naam en adres van persoon wat die dier aan die skut gelewer het
8. Naam en adres van die eienaar van grond waarop die dier gevang is
9. Naam en adres van die eienaar van die dier
10. Naam en adres of beskrywing van plek waar die dier gevind is
11. Afstand tussen die plek waar die dier gevang is en die skut
12. Besonderhede van skade deur die dier aangerig
13. Vervoerkoste betaalbaar
14. Besonderhede van uitsit of wegdoening van die dier
15. Oorsaak van dood of besering van geskutte dier
16. Beskrywing en bedrag van skutgelde
17. Skadevergoeding toegeken deur die Hof
18. Datum van aflossing van die dier
19. Datum van verkoop van die dier
20. Opbrengs vir die verkoop van die dier
21. Naam en adres van koper van 'n dier
22. Oorskot bedrag (indien enige) aan die eienaar of munisipaliteit betaal
23. Kwitansie nommer
24. Besonderhede van hofbevel rakende diere wat nie tydens veiling verkoop is nie

**HESSEQUA MUNICIPALITY
PUBLIC AMENITIES BY-LAW**

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996, the Hessequa Municipality enacts as follows:-

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1. Definitions

In this by-law, unless the context otherwise indicates –

"**animal**" means any equine, bovine, sheep, goat, pig, fowl, camel, dog, cat, or other domestic animal or bird, or any wild animal or reptile which is in captivity or under the control of a person;

"**authorised officer**" means any person authorized by the municipality to perform the functions of an authorised officer under this By-law, or a member of the South African Police;

"**beach**" means the sea-shore situated within or adjoining the area in which the municipality has jurisdiction and the sea for a distance of 200 metres seaward from the low-water mark adjoining the sea-shore;

"**camp**" or "**camping**" means to occupy land by picnicking thereon or by standing thereon with a caravan or vehicle or erecting thereon a tent or temporary structure and using such caravan, vehicle, tent or temporary structure for the purpose of habitation or sleeping or as a shelter or protection against the weather;

"**camping area**" means land vesting in and set aside by the municipality as a public picnic, camping or caravan park site or a similar facility approved by the municipality on private land;

"**camping permit**" means a document printed and issued by the municipality for the purposes contemplated in this by-law or the municipality's officials receipt issued against payment of the prescribed camping charges;

"**camping site**" means any part of a camping area, demarcated or assigned for the purpose of camping thereon;

"**caravan**" means any vehicle permanently fitted out for use by persons for living and sleeping purposes, whether or not such a vehicle is a trailer;

“**control official**” a person appointed by the municipality to exercise control over admission to a public amenity;

“**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;

“**erect**” in relation to a notice board means construct, post, affix or place;

“**garden**” means any piece of land under the control of the municipality and maintained by it as a garden for the use of by the public;

“**mobile home**” means a factory assembled structure approved by the municipality with the necessary service connections made so as to be movable on site and designed to be used as a permanent dwelling;

“**municipality**” means the Municipality of Hessequa established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, duly authorised agent or any employee 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, agent or employee;

“**Municipal Manager**” means a person appointed in terms of section 82 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

“**nature reserve**” means a nature reserve established as a local nature reserve by the Hessequa Municipality in terms of section 7(1) of Ordinance 19 of 1974;

“**notice board**” includes a sign, poster or other device on which the municipality displays information;

“**Ordinance**” means the Nature Conservation Ordinance, 1974 (Ordinance 19 of 1974);

“**person**” includes an association or organisation;

“**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 of erven in such township;

“**vehicle**” means any device driven by mechanical, animal, natural or human power, and includes any craft or aircraft, but does not include a wheeled chair or a device drawn or propelled by hand and used solely for the conveyance of a child or invalid.

2. Principles and objectives

The municipality adopts this By-law with the aim of controlling access to and use of all public amenities owned by or under the control of the municipality.

CHAPTER I GENERAL PROVISIONS RELATING TO PUBLIC AMENITIES

3. Number of visitors

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.

4. Admission to and control over activities in a public amenity

- (1) The municipality may determine the times, dates and conditions under which a public amenity is open to the public and having due regard to section 6(1)(a).
- (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) kite flying, wind surfing, kite surfing and water sport activities or the use of boats or other jet propelled craft on any dam or beach under the control of the municipality;
- (3) The municipality may grant to any person or persons, during such hours and for such period as he or she may deem fit, the exclusive use of a public amenity for games, a public meeting, fete, 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 this by-law, 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.

5. Entrance fees

- (1) The municipality may 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 6(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 which has not been utilised may, with the approval of the municipality, be repaid upon application, and 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.

6. 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 be undertaken;
 - (b) the fees payable; and
 - (c) a notice of closure referred to in section 4(4).
- (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.

7. 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; or
 - (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; or
 - (f) engage in any form of trade.
- (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 6(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; or
 - (d) to signal distress in the instance where a proposed activity may require 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 consent form in his or her possession, and must produce the form on request of an official.
- (7) A person who contravenes a provision of subsection (1) or (2) commits an offence.

8 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.

9. Permit

- (1) Notwithstanding the provisions of section 4, 5(1), 5(3), and 6(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 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 which 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) excavate 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.

10. Prescribed fees

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

11. Animals

- (1) No person may in contravention of any prohibitions displayed on a notice board bring any animal into the public amenity.
- (2) A person who is permitted to bring an animal upon 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) 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 impounded by the municipality and removed to a pound where it may be dealt with in terms of the by-law relating to the impoundment of animals.
- (4) A person who contravenes a provision of subsection (1) or (2) commits an offence.

12. Prohibited behaviour

- (1) No person –
 - (a) who is drunk or under the influence of any drug may enter or remain in a public amenity, 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 9(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 symbol, emblem or the like 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 9;
 - (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, placards, notices or anything else;
 - (x) wash, polish or repair a vehicle, except emergency repairs;
 - (xi) 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) dispose of 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 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 over night other than in terms of section 14;

- (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 9(2);
- (xxvi) discharge a firearm, airgun or pistol, except if consent has been granted in terms of section 7(4);
- (xxvii) discharge a bow or use a slingshot or catapult;
- (xxiii) in any way whatsoever prejudice the safety, convenience or rights of other persons;
- (xxix) play or conduct a game in a manner that causes annoyance or endangers public safety;
- (xxx) expose his or her body or clothe indecently; or
- (xxxi) discard of a burning or smouldering object or throw it out of a vehicle;
- (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 5(1);
- (d) may release or introduce any wild animal, fish, bird or flora into a public amenity;
- (e) may, in inland waters –
 - (i) swim, catch fish or otherwise or angle if not authorised to do so in terms of a notice board erected in terms of section 6(1);
 - (ii) catch fish with a net;
 - (iii) feed any fish without approval of the municipality;
 - (iv) wash himself or herself or clean anything;
- (f) 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 6(1);
- (2) A person who contravenes a provision of subsection (1) commits an offence.

13. Vehicles

- (1) No person may bring into a public amenity any truck, bus, motor vehicle, motor cycle, quad bike, bicycle or any other vehicle except in accordance with the directions of the municipality.
- (2) 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.
- (3) 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 while acting in an emergency.
- (4) A person who contravenes a provision of subsections (1) and (2) commits an offence.

14. Camping

- (1) No person may camp 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 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 thereunder.
- (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.

15. Caravan parks

- (1) Notwithstanding the provisions of section 13(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 sub sections (2) and (3) commits an offence.

CHAPTER II: MISCELLANEOUS PROVISIONS**16. Powers of official and offences**

The official 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, and a person commits an offence if he or she -

- (a) 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; or
- (b) falsely holds himself or herself out to be an official;
- (c) furnishes false or misleading information when complying with a request of an official; or
- (d) fails to comply with a request of an official.

17. Appeal

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

18. 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.

19. Limitation of liability

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.

20. 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 with a person apparently over the age of 16 years;
 - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic, and an acknowledgment of the posting thereof from the postal service is obtained;
 - (d) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided by paragraphs (a), (b) or (c);
 - (e) if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the 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; or
 - (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.

21. 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.

22. Entering into agreements

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.

23. 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 of 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; and
 - (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.

24. 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, and insofar as it has been made applicable to the municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Local Government: Municipal Structures Act, Act 117 of 1998.

25. Short title and commencement

This By-law may be cited as the Public Amenities By-law, and commences on the date of publication thereof in the Provincial Gazette.

**HESSEQUA MUNISIPALITEIT:
VERORDENING INSAKE OPENBARE GERIEWE**

Kragtens die bepalings van Artikel 156 van die Grondwet van die Republiek van Suid-Afrika, 1996 verorden die Hessequa Munisipaliteit as volg :-

INHOUDSOPGAWE

1. Omskrywings
2. Doelwitte en oogmerke

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3. Getal besoekers
4. Toelating tot openbare gerief
5. Toegangsgeld
6. Kennisgewingborde
7. Toestemming vereis vir sekere bedrywighede
8. Gebruik van openbare geriewe
9. Permit
10. Voorgeskrewe gelde
11. Diere
12. Verbode gedrag
13. Voertuie
14. Kampering
15. Karavaanparke

HOOFSTUK 3: DIVERSE BEPALINGS

16. Bevoegdhede van beampte
17. Appèl
18. Strawwe
19. Beperking van aanspreeklikheid
20. Bekragtiging en dien van kennisgewings en ander dokumente
21. Vermoede
22. Aangaan van ooreenkomste
23. Skakelkomitees in gemeenskap
24. Herroeping van verordeninge
25. Kort titel en inwerktreding

1. Woordomskrywings

In hierdie Verordening, tensy die verband anders aandui, beteken –

“**bad**” ‘n swembad besit deur of onder die wettige bestuur of beheer van die Munisipaliteit en wat beskikbaar is vir gebruik deur die publiek en sluit in alle kleedkamers, hokkies en ander fasiliteite wat in verband daarmee gebruik word;

“**beampte**” ‘n persoon wat ingevolge Artikel 26 aangestel is of ‘n vredesbeampte wat deur die Munisipaliteit gemagtig is om die funksie van ‘n beampte te verrig, of ‘n Provinsiale Natuurbewaringsbeampte of Mariene- en Kusbestuursbeampte;

“**dier**” enige perd, bees, skaap, bok, vark, hoender, kameel, hond, kat, of ander huisdier of voël, of enige wilde dier, voël of reptiel, wat aangehou word of onder die beheer van ‘n persoon is;

“**dronk**” ‘n persoon wat weens die alkohol wat hy of sy ingeneem het beheer oor sy of haar geestes- of fisiese vermoëns, of beide, tot so ‘n mate verloor het dat hy of sy nie in staat is om hom- of haarself te gedra nie, of nie in staat is om enige handeling waarmee hy of sy besig is op so ‘n wyse te verrig dat dit nie ‘n gevaar vir hom- of haarself inhou nie of met daardie agting vir die regte van ander soos deur die reg vereis word nie;

“**gemagtigde agent**” beteken –

- (a) enige persoon wat deur die Munisipaliteit gemagtig is om ingevolge hierdie verordening enige daad, funksie of plig te verrig of enige bevoegdheid uit te oefen; of
- (b) enige persoon wat ingevolge ‘n skriftelike kontrak deur die Munisipaliteit aangestel is om, tot die mate waarin hy/sy in sodanige kontrak gemagtig is, ingevolge hierdie verordening enige daad, funksie, of plig te verrig of enige bevoegdheid uit te oefen;

“**kampeer**” beteken om ‘n tent of ander skuiling op te slaan of ‘n woonwa of motorwoning te parkeer;

"**kennisgewingbord**" sluit in 'n teken, plakkaat of ander apparaat waarop die Munisipaliteit inligting vertoon;

"**lebensredder**" beteken 'n persoon wat in sodanige kapasiteit deur die Munisipaliteit in diens geneem of aangestel is, of enige lid van die Strandlebensreddingsvereniging van Suid-Afrika, of van 'n geaffilieerde lewensreddingsklub of vereniging van lewensredders;

"**munisipale bestuurder**" beteken 'n persoon wat ingevolge Artikel 82 van die Wet op Plaaslike Regering : Munisipale Strukture, 1998 (Wet Nr. 117 van 1998) aangestel is;

"**munisipaliteit**" beteken die Hessequa Munisipaliteit wat ingevolge Artikel 12 van die Wet op Munisipale Strukture, 117 van 1998 gestig is en sluit enige politieke struktuur, politieke ampsdraer, en behoorlik gemagtigde verteenwoordiger daarvan in of enige werknemer daarvan wat ingevolge hierdie verordening optree uit hoofde van 'n bevoegdheid wat by die munisipaliteit berus en aan sodanige politieke struktuur, politieke ampsdraer, verteenwoordiger of werknemer gedelegeer of subgedelegeer is;

"**openbare byeenkoms of optog**" beteken 'n optog of byeenkoms van meer as tien mense;

"**openbare gerief**" beteken –

- (a) enige stuk grond, plein, kampeerplek, swembad, strand, baai-area, sportgrond, openbare oord, openbare oop ruimte, ontspanningsterrein, rivier, natuurreservaat, diere-, botaniese of ander tuin of park of voetslaanpad, met inbegrip van enige gedeelte daarvan en enige gerief of apparaat daarin of daarop, wat die Munisipaliteit se eiendom is of deur die Munisipaliteit besit, beheer of verhuur word waartoe die breë publiek toegang het, hetsy by betaling van toegangsgeld of nie, maar sluit 'n openbare pad of straat uit;
- (b) 'n gebou, struktuur, saal of kantoor, met inbegrip van enige gedeelte daarvan of enige fasiliteit of apparaat daarin, wat die Munisipaliteit se eiendom is of deur die Munisipaliteit besit, beheer of verhuur word en waartoe die breë publiek toegang het, hetsy by betaling van toegangsgelde of nie; en
- (c) 'n openbare gerief beoog in paragrawe (a) en (b) indien dit ingevolge 'n ooreenkoms tussen 'n persoon en die Munisipaliteit wettig beheer of bestuur word;

"**oprig**" ten opsigte van 'n kennisgewingbord beteken om dit op te rig, aan te bring, vas te maak of staan te maak;

"**park**" enige stuk grond onder die beheer van die Munisipaliteit wat vir die gebruik van die publiek deur die Munisipaliteit as 'n park in stand gehou word;

"**persoon**" sluit 'n vereniging of organisasie in;

"**tuin**" beteken enige stuk grond onder die beheer van die Munisipaliteit wat as 'n tuin vir die gebruik van die publiek deur die Munisipaliteit in stand gehou word;

"**verbruik**" ten opsigte van 'n alkoholiese drank beteken om van 'n oopgemaakte houër wat 'n alkoholiese drank bevat, te drink, dit te gebruik of dit te besit; en

"**voertuig**" beteken enige voertuig aangedryf deur meganiese, diere-, natuurlike of mensekrag en sluit in enige fiets, vaartuig of vliegtuig, maar sluit nie 'n rolstoel of 'n stootwaentjie in wat met die hand gedryf of aangedryf word en uitsluitlik vir die vervoer van 'n kind of invalide gebruik word nie.

2. Doelwitte en oogmerke

Die munisipaliteit aanvaar hierdie verordening met die doel om toegang tot en die gebruik van openbare geriewe wat aan die munisipaliteit behoort of onder die beheer van die munisipaliteit is te beheer.

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3. Getal besoekers

Die Munisipaliteit mag van tyd tot tyd die volgende bepaal –

- (a) die maksimum getal persone of die maksimum getal voertuie wat op 'n spesifieke tydstip in of by 'n openbare gerief teenwoordig mag wees; en
- (b) verskillende klasse voertuie wat op 'n spesifieke tydstip in of by 'n openbare gerief teenwoordig mag wees en dit mag tussen openbare geriewe onderskeid tref.

4. Toelating tot openbare gerief

- (1) 'n Openbare gerief is vir die publiek oop op die tye en datums en onderworpe aan sodanige voorwaardes soos wat per besluit deur die Munisipaliteit van tyd tot tyd ten opsigte van verskillende geriewe bepaal mag word met inagneming van artikel 6(1)(a).

- (2) Die munisipaliteit mag bepaal watter aktiwiteite in 'n openbare gerief onderneem of nie onderneem mag word nie en dit sluit die volgende in, maar is nie daartoe beperk nie –
- (a) die bestuur van 'n motorvoertuig of verskillende klasse voertuie in 'n openbare gerief;
 - (b) die vlieg van vlieërs, wind branderry, vlieër branderry en watersportaktiwiteite of die gebruik van bote of ander kragaangedrewe vaartuie op enige dam of strand onder die munisipaliteit se beheer.
- (3) Die Munisipaliteit mag van tyd tot tyd aan enige persoon of persone gedurende sodanige ure en vir sodanige tydperk as wat hy mag goeddink, die eksklusiewe reg van openbare geriewe toeken vir speletjies, 'n openbare vergadering, kermis, 'n vertoning of ander funksie of vermaak.
- (4) Die Munisipaliteit mag met die oog op instandhouding, ontwikkeling, sekuriteit, veiligheid of openbare gesondheid tydelik of permanent –
- (a) 'n openbare gerief of gedeelte daarvan sluit; of
 - (b) alle of enige bedrywighede daarop staak.
- (5) Waar 'n persoon in 'n openbare gerief ingevolge hierdie verordening 'n misdryf begaan het, mag 'n beampte sodanige persoon gelas om die openbare gerief te verlaat, en 'n persoon wat aldus gelas word om die gerief te verlaat moet die gerief onmiddellik verlaat volgens die kortste roete wat vir die publiek beskikbaar is.
- (6) Waar 'n beampte op redelike gronde vermoed dat 'n persoon wat 'n openbare gerief wil binnegaan, voornemens is om 'n misdryf ingevolge hierdie Verordening of enige ander wet in of op die openbare gerief te begaan, mag hy of sy die betrokke persoon toegang weier.

5. Toegangsgeld

- (1) Die Munisipaliteit mag ingevolge 'n besluit van tyd tot tyd verskillende toegangsgelde hef en toegangskartjies uitreik ten opsigte van persone van verskillende ouderdomme, groepe persone; of verskillende kategorieë voertuie en die munisipaliteit mag konsessies verleen ten opsigte van die toegangsgelde wat betaal moet word.
- (2) Toegangsgeld moet by die ingang van 'n openbare gerief betaal word, behalwe waar 'n ander plek aangegee word op 'n kennisgewingbord wat ingevolge Artikel 6(1) opgerig is.
- (3) 'n Toegangskartjie soos beoog in subartikel (1) is geldig vir die tydperk beoog in subartikel (4).
- (4) Toegangsgeld moet betaal word ten opsigte van elke dag of gedeelte van 'n dag waartydens 'n persoon, groep of voertuig in 'n openbare gerief is of bly, en is geldig vir die dag, met dien verstande dat indien 'n persoon 'n openbare gerief voor 10:00 verlaat op 'n dag wat nie die dag van sy/haar aankoms by die openbare gerief is nie, hoef hy of sy nie toegangsgeld te betaal vir die dag waarop hy of sy die gerief verlaat nie.
- (5) Geen fooi bedoel in subartikel (1) is terugbetaalbaar waar enige gedeelte van die tydperk ten opsigte waarvan so 'n bedrag wat betaal is nie gebruik is nie of nie gebruik kan word nie, met dien verstande dat die bedrag wat ten opsigte van elke volle dag betaal is en wat nie gebruik is nie, met die goedkeuring van die munisipaliteit, en indien die aansoeker skriftelik aansoek doen, terugbetaal kan word en vir die doeleindes van hierdie subartikel beteken "volle dag" 'n periode van 24 uur wat om 10:00 van enige dag 'n aanvang neem.
- (6) 'n Beampte het die reg om 'n persoon in 'n openbare gerief te vra om onmiddellik die toegangskartjie wat aan hom of haar uitgereik is, te toon, en 'n persoon wat nalaat om die toegangskartjie te toon, begaan 'n misdryf en enige persoon wat 'n openbare gerief binnegaan sonder om die toegangsgeld te betaal, pleeg 'n misdryf.

6. Kennisgewingborde

- (1) Die Munisipaliteit mag 'n kennisgewingbord by die ingang na of in die onmiddellike omgewing van 'n openbare gerief oprig, waarop enigeen of al die volgende besonderhede verstrekkend word:
- (a) die tye, datums en voorwaardes wat van toepassing is op toegang tot en gebruik van die openbare gerief;
 - (b) die gelde wat betaal moet word om die openbare gerief binne te gaan; en
 - (c) indien die openbare gerief of gedeelte van die openbare gerief gesluit is, of indien alle of enige aktiwiteite in die openbare gerief opgeskort is.
- (2) Geen persoon behalwe 'n beampte of ander persoon wat ingevolge hierdie Verordening gemagtig is om dit te doen, mag 'n kennisgewingbord wat die Munisipaliteit ingevolge hierdie Verordening opgerig het, verskuif, die inhoud daarvan verander, dit ontsier of andersins daarmee peuter nie.

- (3) 'n Kennisgewing wat deur die munisipaliteit ingevolge subartikel (1) aangebring of opgerig is mag 'n grafiese voorstelling bevat om 'n betekenis oor te dra.
- (4) Enige persoon wat 'n bepaling van hierdie artikel oortree pleeg 'n misdryf.

7. Toestemming vereis vir sekere aktiwiteite

- (1) Geen persoon mag sonder om eers die skriftelike toestemming van die Munisipaliteit te verkry op of in 'n openbare gerief –
- (a) enige van die volgende reël, hou, aanbied of bywoon nie:
 - (i) openbare vermaak;
 - (ii) 'n vergadering;
 - (iii) 'n openbare byeenkoms of optog, uitstalling of optrede; of
 - (iv) 'n veiling.
 - (b) geld of enige ander goedere vir liefdadigheids- of enige ander doel van die breë publiek invorder;
 - (c) 'n pamflet, plakkate, skildery, boek, 'n rekening of 'n gedrukte, geskrewe of geveerde werk vertoon of versprei; of
 - (d) enige ambag, beroep of besigheid bedryf.
- (2) Niemand mag by of in 'n openbare gerief enige aktiwiteit verrig of onderneem in stryd met die aanwysings op 'n kennisgewingbord soos bedoel in artikel 6(1) nie.
- (3) Geen persoon mag sonder die voorafverkreë skriftelike toestemming van die Munisipaliteit enige heining, struktuur, dam, skuiling of enigiets anders in 'n openbare gerief oprig of vestig nie en 'n persoon wat sodanige toestemming verkry het, mag sodanige heining, struktuur, dam, skuiling of enigiets anders net in 'n toegewese area wat uitsluitlik vir dié doel opgesig is, oprig.
- (4) Geen persoon mag sonder die voorafverkreë skriftelike toestemming van die Munisipaliteit 'n vuurwapen in 'n openbare gerief inbring of dit in sy of haar besit hê nie, en die Munisipaliteit mag net in die volgende omstandighede sodanige toestemming verleen:
- (a) vir die afvuur van loskruitpatrone gedurende georganiseerde kompetisies, soos vir lewensredders of gedurende sportvergaderings;
 - (b) in verband met die insameling van monsters van mariene lewe, of voëls of diere, of vir wetenskaplike doeleindes;
 - (c) vir die wettige uitdunning van diere; of
 - (d) as 'n teken dat 'n persoon in nood verkeer in die geval waar 'n beoogde aktiwiteit vereis dat 'n noodsein gegee moet word by wyse van die afvuur van 'n vuurwapen.
- (5) 'n Persoon wat die toestemming van die munisipaliteit, soos beoog in subartikel (1) wil verkry, moet die voorgeskrewe aansoekvorm invul en aan die munisipaliteit voorlê en die munisipaliteit mag moontlik sodanige toestemming verleen, welke toestemming op gemelde vorm aangedui sal word, onderworpe aan enige sodanige voorwaardes wat die munisipaliteit nodig ag en onderworpe aan 'n betaling van die voorgeskrewe gelde en 'n persoon wat voedsel wil verkoop moet, afgesien van die bepalings van hierdie verordening, ook voldoen aan die bepalings van enige toepaslike wetgewing wat op die verkoop van voedsel van toepassing is.
- (6) 'n Persoon wat toestemming ingevolge subartikel (5) verkry het, moet te alle tye wanneer hy of sy 'n aktiwiteit verrig waarvoor toestemming verleen is, sodanige magtiging vir toestemming in sy of haar besit bewaar en moet sodanige magtiging onmiddellik op versoek van 'n beampte toon.
- (7) Persone wat enige bepaling van hierdie artikel oortree, pleeg 'n misdryf.

8. Gebruik van openbare geriewe

Die munisipaliteit mag 'n ooreenkoms aangaan met enige persoon in terme waarvan 'n openbare gerief of enige gedeelte daarvan gebruik mag word vir die doeleindes van en onderworpe aan enige voorwaardes in dusdanige ooreenkoms uiteengesit.

9. Permit

- (1) Nieteenstaande die bepalings van Artikels 4, 5(1), 5(3) en 6(1), mag die munisipaliteit, wanneer 'n skriftelike aansoek aan die munisipaliteit voorgelê word en onderworpe aan enige sodanige voorwaardes wat die munisipaliteit goeddink om in te stel, 'n permit gratis uitreik –
- (a) aan 'n groep mense soos byvoorbeeld, maar nie beperk nie, tot 'n groep *bona fide* studente; of
 - (b) aan 'n persoon wat wetenskaplike, opvoedkundige of soortgelyke navorsing doen.
- (2) Die houër van 'n permit wat ingevolge subartikel (1) uitgereik is, mag, onderworpe aan enige ander voorwaardes wat in gemelde subartikel gestel word –

- (a) indien hy of sy die houer van 'n geldige jaglisensie is, fauna onder die toesig, beheer en volgens die instruksies van 'n beampste, in of op 'n openbare gerief jag, vang, doodmaak of verwyder;
 - (b) fauna in of van 'n openbare gerief optel, vewyder of afhaal, onderworpe aan die bepalings van paragraaf (f);
 - (c) enigiets van historiese of wetenskaplike belang in of van 'n openbare gerief neem of verwyder, onderworpe aan die bepalings van paragraaf (f);
 - (d) duiktoerusting, 'n wapen, plofstof, 'n strik, gif, hamer, saag, mes of tuinwerktuig, lewende of dood fauna, of flora in sy of haar besit hê;
 - (e) enige flora wat gepluk is of 'n karkas wat gejag is van 'n openbare gerief verwyder net indien die beampste –
 - (i) sodanige flora of karkas geïnspekteer het;
 - (ii) indien sodanige beheerbeampste dit nodig of wenslik ag, die afmetings of massa meet, of 'n monster van sodanige flora of karkas neem; en
 - (iii) die permithouer skriftelik magtig om sodanige flora of karkas te verwyder;
 - (f) grond, sand of klip uitgrawe of organiese of nie-organiese voorwerpe verwyder.
- (3) Die houer van 'n permit moet, by aankoms by die betrokke openbare gerief, sodanige permit aan die beheerbeampste toon, en 'n persoon wat nalaat om dit te doen, begaan 'n misdryf.
- (4) Die houer van 'n permit wat 'n aktiwiteit in stryd met 'n voorwaarde wat hom of haar opgelê is onderneem, pleeg 'n misdryf.

10. Voorgeskrewe gelde

Die Munisipaliteit mag gelde bepaal wat ingevolge hierdie verordening betaalbaar is.

11. Diere

- (1) Niemand mag enige dier by 'n openbare gerief inneem in stryd met 'n verbod wat op 'n kennisgewingbord aangebring is nie.
- (2) Indien 'n persoon toegelaat is om 'n dier in 'n openbare gerief in te bring, moet hy of sy regstreekse en fisieke beheer oor die dier uitoefen deur middel van 'n leiband of ander toestel en mag sodanige dier nie in enige dammetjie, fontein of ornamentele water bad of was of toelaat dat die dier die water binnegaan of daarin bly nie.
- (3) Indien 'n dier 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 en na 'n skut verwyder word waar daar in terme van die munisipaliteit se Skutverordeninge met die dier handel sal word.
- (4) 'n Persoon wat subartikels (1) of (2) oortree, begaan 'n misdryf.

12. Verbode gedrag

- (1) Niemand –
- (a) wat dronk of onder die invloed van enige verdowingsmiddel is mag 'n openbare gerief binnegaan of daar bly nie, en sodanige persoon mag nie tot 'n openbare gerief toegelaat word nie;
 - (b) mag in of by 'n openbare gerief –
 - (i) enigiets breek, beskadig, vernietig, daarmee peuter, wangebruik, ontsier of versuim om 'n opdrag van die munisipaliteit te gehoorsaam nie;
 - (ii) 'n klip, rots of voorwerp gooi of 'n rots, klip of voorwerp by 'n berg, koppie, skuinste of rotswand afrol nie;
 - (iii) enige flora wat in die gerief groei, uittrek, pluk, afsny of beskadig of sodanige flora in sy of haar besit hê nie, behalwe indien hy of sy ingevolge Artikel 9(2)(b) gemagtig is om dit te doen;
 - (iv) op 'n blombedding loop, staan, sit of lê nie;
 - (v) in stryd met 'n kennisgewingbord op enige gras loop, staan, sit of lê nie;
 - (vi) graffiti of 'n prent op 'n struktuur of pad skryf, verf, of teken nie;
 - (vii) grond, sand of klip uitgrawe of organiese of onorganiese voorwerpe verwyder nie;
 - (viii) inmeng met die vloei van water, die watervloei belemmer, 'n stroom aflei of 'n vleiand dreineer nie;
 - (ix) enigiets wat deur die munisipaliteit voorsien word, ontsier deur op enige wyse enige biljette, papiere, plekkaartjies, kennisgewings of enigiets anders op te plak of aan te bring nie;

- (x) 'n voertuig was, poleer of herstel nie, behalwe noodherstelwerk aan 'n voertuig;
 - (xi) vullis verbrand nie;
 - (xii) enige vullis, afval, rommel, klip, sand, grond, materiaal, bottels, hout, metaal, mis, afval, vis, vuilgoed of enige voorwerp of ding stort, weggooi, aflaaï, laat of plaas nie;
 - (xiii) enige breekgoed of wasgoed was of klere uithang nie, behalwe op plekke waar 'n kennisgewing aandui dat dit vir dié doel gebruik kan word;
 - (xiv) enigiets wat die munisipaliteit in sodanige gerief voorsien het, gebruik of probeer gebruik vir enige doel anders as die doel waarvoor dit bestem is of wat by wyse van die kennisgewing bepaal is nie;
 - (xv) 'n brandende of smeulende voorwerp weggooi of dit uit 'n voertuig gooi nie;
 - (xvi) hom of haar op 'n onbehoorlike, onbetaamlike of ontoepaslike wyse gedra nie;
 - (xvii) ontlas, urineer, of sy of haar klere uittrek nie, behalwe in 'n gebou of 'n perseel wat vir dié doel bestem is;
 - (xviii) op 'n bank of sitplek wat deur die munisipaliteit voorsien is, lê of dit op so 'n wyse gebruik dat ander gebruikers of potensiële gebruikers dit onmoontlik vind om dit te gebruik nie;
 - (xix) met speelterreintoerusting speel of daarop sit nie, behalwe indien die betrokke persoon 'n kind onder die ouderdom van dertien jaar is;
 - (xx) in 'n visdam, fontein, dam, kunsmatige voorwerp of dammetjie swem, loop of speel nie;
 - (xxi) mag enige bad wat deur die munisipaliteit voorsien is, binnegaan indien hy of sy 'n oop wond op sy of haar liggaam het nie;
 - (xxii) enige daad verrig wat die gesondheid van 'n ander persoon nadelig mag raak nie;
 - (xxiii) 'n toiletfasiliteit wat vir gebruik deur lede van die teenoorgestelde geslag bestem is of wat volgens 'n kennisgewing vir lede van die teenoorgestelde geslag bestem is, binnegaan of gebruik nie;
 - (xxiv) oornag bly of oorslaap, afgesien van ingevolge Artikel 14 nie;
 - (xxv) 'n dier jag, beseer, versteur, voer, doodmaak, seermaak, volg, sleg behandel of vang of 'n voël, nes of eier verskuif, versteur, vernietig of verwyder of 'n lewende dier afslag of die binnegoed verwyder nie, behalwe indien hy of sy ingevolge artikel 9(2)(a) daartoe gemagtig is;
 - (xxvi) 'n vuurwapen, windbuis of luggestool afvuur nie, behalwe indien die nodige toestemming soos beoog in artikel 7(4) verkry is, of 'n boog of vuurwerke afvuur of 'n kettie of voëlrek gebruik nie;
 - (xxvii) 'n boog aftrek of 'n slingervel of kettie gebruik nie;
 - (xxviii) op enige wyse hoegenaamd inbreuk maak op die veiligheid, gerief of regte van ander mense nie;
 - (xxix) 'n speletjie van enige aard hoegenaamd speel op 'n wyse wat ergernis veroorsaak of die openbare veiligheid bedreig nie;
 - (xxx) sy of haar liggaam ontbloot of onbetaamlik geklee wees nie; of
 - (xxxi) enige brandende of smeulende voorwerp weggooi of uit 'n voertuig gooi nie.
- (c) mag 'n openbare gerief binnegaan –
 - (i) of verlaat behalwe by wyse van die amptelike toegang en uitgang; en
 - (ii) indien die toegangsgelde soos beoog in artikel 5(1) nie betaal is nie.
 - (d) enige wilde dier, voël of flora in 'n openbare gerief inbring of vrylaat nie;
 - (e) mag, in binnelandse water –
 - (i) swem, visvang of andersinds hengel indien nie daartoe gemagtig by wyse van 'n kennisgewing soos bedoel in artikel 6(1);
 - (ii) vis met 'n net vang nie;
 - (iii) vis sonder die munisipaliteit se goedkeuring voer nie;
 - (iv) hom- of haarself was of enigiets skoonmaak nie.
- (2) 'n Persoon wat 'n bepaling van Subartikel (1) oortree, begaan 'n misdryf.

13. Voertuie

- (1) Niemand mag enige vragmotor, bus, motorvoertuig, motorfiets, vierwielfiets, fiets of enige ander voertuig in 'n opebare gerief bring nie, behalwe in ooreestemming met die instruksies van die munisipaliteit.
- (2) Waar 'n persoon toegelaat word om 'n voertuig in 'n openbare gerief of gedeelte van 'n openbare gerief te bestuur, mag hy of sy nie –
- (a) op 'n ander plek as op 'n pad wat deur die munisipaliteit gebou is, met die voertuig ry nie; of
 - (b) die voertuig bestuur teen 'n spoed wat die spoed oorskry wat op die kennisgewingbord verskyn wat die munisipaliteit opgerig het.
- (3) Die bepalings van subartikel (1) is nie van toepassing op 'n noodvoertuig indien dit wettiglik vir sodanige doel gebruik word nie, of 'n voertuig wat in 'n noodgeval gebruik word nie, of 'n voertuig wat deur 'n beampte in die uitvoering van sy of haar pligte gebruik word nie.
- (4) 'n Persoon wat 'n bepaling van subartikel (1) oortree, begaan 'n misdryf.

14. Kampering

- (1) Niemand mag op enige grond wat aan die munisipaliteit behoort of onder die munisipaliteit se beheer is kamp nie, behalwe op 'n kampeerperseel binne die grense van 'n kampeerruimte.
- (2) Niemand mag vir as drie maande, aaneenlopend of andersinds, binne 'n periode van twaalf maande in 'n kampeerruimte sonder die skriftelike goedkeuring van die munisipaliteit kamp nie.
- (3) Die munisipaliteit mag enige aansoek wat ontvang word goed- of afkeur en mag ook enige voorwaardes stel, maar die tydperk waarvoor die goedkeuring verleen word mag nie 'n verdere drie maande oorskry nie.
- (4) Die okkuperder van die kampeerperseel moet die persoon wees wie se naam op die permit verskyn en hy of sy mag nie die perseel onderverhuur, sedeer, verkoop of op enige ander wyse sy of haar reg vervreem nie.
- (5) Die reservering van kampeerpersele sal slegs by die ontvangs van 'n skriftelike aansoek oorweeg word.
- (6) Die munisipaliteit mag voorwaardes bykomstig tot dié wat in hierdie verordening vervat is stel vir alle kampeerreine wat onder die munisipaliteit se beheer is.
- (7) Die munisipaliteit mag voorwaardes stel vir die daarstelling van privaat kampeergeriewe.
- (8) Enige persoon wat die bepalings van subartikels (1), (2) en (4) of enige voorwaarde wat deur die munisipaliteit gestel is verbreek, pleeg 'n misdryf.

15. Karavaanparke

- (1) Desondanks die bepalings van artikel 14(1), mag die munisipaliteit tien persent (10%), of enige groter persentasie soos goedgekeur deur die munisipaliteit, toeken vir permanente okkupering deur karavane of mobiele wonings.
- (2) Die munisipaliteit mag voorwaardes stel vir die daarstelling van privaat karavaanparke.
- (3) Die munisipaliteit mag voorwaardes bykomstig tot dié wat in hierdie verordening vervat is stel vir alle kampeerreine wat onder die munisipaliteit se beheer is.
- (4) Enige persoon wat enige voorwaarde wat ingevolge subartikels (2) en (3) deur die munisipaliteit gestel is verbreek of versuim om daaraan te voldoen, pleeg 'n misdryf.

HOOFTUK II: DIVERSE BEPALINGS**16. Bevoegdhede van beampte en oortredings**

Die beampte wat deur die munisipaliteit aangestel is om hierdie verordening te monitor en af te dwing mag enige handeling of versuim ondersoek wat redelikerwys vermoed word 'n misdryf te wees en iemand begaan 'n misdryf indien hy of sy –

- (a) 'n beampte in die uitoefening van sy of haar bevoegdhede of in die uitvoering van sy of haar pligte bedreig, teëstaan, hinder of belemmer of lelike, onwelvoeglike of beledigende taal teenoor die beampte gebruik; of
- (b) hom- of haarself valslik as 'n beampte voordien;
- (c) vals of misleidende inligting verstrek wanneer hy of sy aan 'n versoek van 'n beampte voldoen; of
- (d) versuim om aan 'n versoek van 'n beampte te voldoen.

17. Appèl

Iemand wie se regte geraak word deur 'n besluit van die munisipaliteit of 'n beampte wat ingevolge hierdie verordening optree, kan teen dié besluit appelleer deur skriftelike kennisgewing van sy of haar voorneme om te appelleer en die redes daarvoor aan die Munisipale Bestuurder voorlê ingevolge artikel 62 van die Plaaslike Regering: Munisipale Stelselwet, Wet 32 van 2000.

18. Strawwe

Iemand wat 'n misdryf ingevolge hierdie verordening begaan het, is by skuldigbevinding aanspreeklik vir 'n boete of, indien die boete nie betaal word nie, gevangenisstraf of sodanige gevangenisstraf sonder die opsie van 'n boete, of sowel die boete as sodanige gevangenisstraf en, in die geval van 'n opeenvolgende of volgehoue misdryf, vir 'n boete vir elke dag waarop sodanige misdryf voortduur, of indien die boete nie betaal word nie, tot bykomende gevangenisstraf.

19. Beperking van aanspreeklikheid

Die Munisipaliteit is nie aanspreeklik nie vir enige skade of verlies wat veroorsaak is deur –

- (a) die uitoefening van enige bevoegdheid of die verrigting van enige plig te goeder trou ingevolge hierdie Verordening; of
- (b) die versuim om enige bevoegdheid uit te oefen of om enige funksie of plig te goeder trou ingevolge hierdie Verordening te verrig.

20. Bekragtiging en dien van kennisgewings en ander dokumente

(1) 'n Kennisgewing 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) Enige kennisgewing of ander dokument wat ingevolge hierdie Verordening op 'n persoon beteken word, word geag as behoorlik gedien –

- (a) wanneer dit persoonlik by daardie persoon afgelewer is;
 - (b) wanneer dit by daardie persoon se verblyfplek of sakeonderneming in die Republiek gelaat is by 'n persoon wat oënskynlik ouer as sestien jaar is;
 - (c) wanneer dit per geregistreerde of gesertifiseerde pos gestuur is aan daardie persoon se jongs-bekende residensiële of sake-adres in die Republiek, en bevestiging van die pos daarvan by die posdiens verkry is;
 - (d) indien daardie persoon se adres in die Republiek onbekend is, wanneer dit op daardie persoon se agent of verteenwoordiger in die Republiek beteken is op die wyse bepaal in paragrawe (a), (b) of (c);
 - (e) indien die betrokke persoon se adres en agent of verteenwoordiger in die Republiek onbekend is, wanneer dit op 'n prominente plek op die grond of sakeperseel waarop dit betrekking het, aangebring is;
 - (f) in die geval van 'n bestuursliggaam, wanneer dit by die geregistreerde kantoor van die sakeperseel van sodanige bestuursliggaam afgelewer is; of
 - (g) wanneer dit op versoek van die betrokke persoon by sy of haar e-posadres afgelewer is.
- (3) Die dien van 'n afskrif word geag die dien van die oorspronklike te wees.
- (4) Wanneer enige kennisgewing of ander dokument op die eienaar, okkupeerder of houer van enige eiendom, of reg op 'n eiendom, beteken word, is dit toereikend indien die betrokke persoon in die kennisgewing of ander dokument beskryf word as die eienaar, okkupeerder of houer van die eiendom of die betrokke reg, en is dit nie nodig om die naam van die persoon te verstrek nie.

21. Vermoede

By enige vervolging in terme van hierdie verordening sal dit, tensy die teendeel bewys word, vermoed word dat enige dier wat in 'n openbare gerief aangetref word, deur die eienaar of 'n persoon onder beheer van die eienaar in so 'n openbare gerief gebring is of dat die eienaar of ander persoon die dier toegelaat het om die openbare gerief binne te gaan.

22. Aangaan van ooreenkomste

Die munisipaliteit mag 'n skriftelike ooreenkoms aangaan met enige persoon, staatsorgaan, plaaslike gemeenskap of organisasie ten einde voorsiening te maak vir –

- (a) die gesamentlike ontwikkeling van enige openbare gerief; of
- (b) die gesamentlike bestuur van enige openbare gerief; en
- (c) die regulering van menslike aktiwiteite in 'n openbare gerief.

23. Skakelforums in gemeenskap

- (1) Die Munisipaliteit mag een of meer skakelforums in 'n gemeenskap instel vir die doel om –
- (a) geleentheid vir die gemeenskap te skep om deel te neem aan die aangeleentheid van die munisipaliteit;
 - (b) die gemeenskap aan te moedig om deel te neem aan die aangeleentheid van die munisipaliteit; en
 - (c) die effektiewe en veilige gebruik van openbare geriewe te bevorder.
- (2) 'n Skakelforum mag bestaan uit –
- (a) 'n lid of lede van 'n belangegroep, of geaffekteerde persoon;
 - (b) 'n lid of lede van 'n gemeenskap in wie se onmiddellike omgewing 'n openbare gerief bestaan;
 - (c) 'n aangewese beampte of beamptes van die Munisipaliteit; en
 - (d) die raadslid verantwoordelik vir openbare geriewe.
- (3) (a) Die Munisipaliteit mag wanneer 'n aansoek om toestemming, permit of vrystelling sertifikaat oorweeg word ingevolge hierdie verordening, waar van toepassing, die insette van 'n skakelforum versoek.
- (b) 'n Skakelforum of enige persoon of persone gedoel in subartikel (2) mag op eie inisiatief, 'n inset aan die Munisipaliteit vir oorweging stuur.

24. Herroeping van verordeninge

Die bepalings van enige verordeninge wat voorheen deur die munisipaliteit of deur enigen van die afgeskafte munisipaliteite wat nou in die munisipaliteit geïnkorporeer is, afgekondig is, word hiermee herroep insoverre hulle betrekking het op sake waarvoor daar in hierdie verordening voorsiening gemaak word en insoverre dit toepaslik gemaak is op die munisipaliteit deur die magtiging vir die uitvoering van magte en funksies ingevolge Artikel 84(3) van die Wet op Plaaslike Regering : Munisipale Strukture, Wet 117 van 1998.

25. Kort titel en inwerkingtreding

Hierdie verordening staan bekend as die Verordening op Openbare Geriewe en tree in werking op die datum van publikasie in die Provinsiale Koerant.

HESSEQUA MUNICIPALITY: RATES BY-LAW

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1. Interpretation
2. Principles and Objectives
3. Adoption and implementation of rates policy
4. Contents of rates policy
5. Enforcement of rates policy
6. Operative Date

1. Interpretation

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

“**municipality’s rates policy**” means a rates policy adopted by the municipality in terms of this By-Law;

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

“**Customer Care and Revenue Management By-Law**” means the municipality’s Customer Care and Revenue Management By-Law as required by sections 96(b), 97 and 98 of the Municipal Systems Act, 32 of 2000;

“**municipality**” means the Municipality of Hessequa, established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, councillor, duly authorized agent or any employee 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;

“**Property Rates Act**” means the Local Government: Municipal Property Rates Act, 6 of 2004;

“**rate**” or “**rates**” means a municipal rate on property as envisaged in section 229 of the Constitution.

2. Principles and Objectives

(1) Section 229(1) of the Constitution authorizes a municipality to impose rates on property and surcharges on fees for services provided by or on behalf of the municipality.

(2) In terms of section 3 of the Property Rates Act, a municipal council must adopt a policy consistent with the Property Rates Act on the levying of rates on rateable property in the municipality.

(3) In terms of section 6(1) of the Property Rates Act, a municipality must adopt by-laws to give effect to the implementation of its rates policy.

(4) In terms of section 6(2) of the Property Rates Act, by-laws adopted in terms of section 6(2) may differentiate between different categories of properties; and different categories of owners of properties liable for the payment of rates.

3. Adoption and implementation of rates policy

(1) The municipality shall adopt and implement a rates policy consistent with the Property Rates Act on the levying of rates on rateable property in the municipality.

(2) The municipality shall not be entitled to levy rates other than in terms of a valid rates policy.

4. Contents of rates policy

The municipality’s rates policy shall, *inter alia*:

(1) apply to all rates levied by the municipality pursuant to the adoption of the municipality’s annual budget;

(2) comply with the requirements for: -

(a) the adoption and contents of a rates policy specified in section 3 of the Property Rates Act;

(b) the process of community participation specified in section 4 of the Property Rates Act;

(c) the annual review of a rates policy specified in section 5 of the Property Rates Act;

(3) specify any further principles, criteria and implementation measures consistent with the Property Rates Act for the levying of rates which the municipality may wish to adopt;

(4) include such further enforcement mechanisms, if any, as the municipality may wish to impose in addition to those contained in the Customer Care and Revenue Management By-Law.

5. **Enforcement of rates policy**

The municipality's rates policy shall be enforced through the Customer Care and Revenue Management By-Law and any further enforcement mechanisms stipulated in the municipality's rates policy.

6. **Operative date**

This By-Law shall take effect upon publication in the Provincial Gazette.

MUNISIPALITEIT VAN HESSEQUA: VERORDENING OP BELASTING

Inhoud

1. Uitleg
2. Beginsels en Doelwitte
3. Aanvaarding en inwerkingstelling van die belastingbeleid
4. Inhoud van die belastingbeleid
5. Toepassing van die belastingbeleid
6. Inwerktrappingsdatum

1. Uitleg

In hierdie Verordening geld the Engelse teks en in die geval van enige teenstrydigheid met die Afrikaanse teks, en, tensy die konteks anders aandui, beteken:

“Belasting” of **“Belastings”** ‘n munisipale belasting op eiendom soos beoog in artikel 229 van die Grondwet; **“Grondwet”** die Grondwet van die Republiek van Suid-Afrika, 1996;

“munisipaliteit” beteken die Hessequa Munisipaliteit, ingestel kragtens artikel 12 van die Munisipale Strukturewet, 117 van 1998, en sluit in enige politieke struktuur, politieke ampsdraer, raadslid, behoorlik gemagtigde agent of enige amptenaar wat ingevolge hierdie verordening handel kragtens ‘n bevoegdheid van die munisipaliteit wat gedelegeer is of gesubdelegeer is aan sodanige politieke struktuur, politieke ampsdraer, raadslid, agent of amptenaar;

“munisipaliteit se belastingbeleid” ‘n belastingbeleid wat deur die munisipaliteit ingevolge hierdie Verordening aanvaar is;

“Verordening op Kliëntesorg en Inkomstebestuur” die munisipaliteit se Verordening op Kliëntesorg en Inkomstebestuur ingevolge artikels 96(b), 97 en 98 van die Wet op Munisipale Stelsels, 32 van 2000;

“Wet op Eiendomsbelasting” die Wet op Plaaslike Regering: Munisipale Eiendomsbelasting, 6 van 2004.

2. Beginsels en Doelwitte

(1) Artikel 229(1) van die Grondwet magtig ‘n munisipaliteit om eiendomsbelasting en bobelasting op gelde vir dienste deur of namens die munisipaliteit verskaf, op te lê.

(2) Ingevolge artikel 3 van die Wet op Eiendomsbelasting moet ‘n munisipale raad ‘n beleid in ooreenstemming met artikel 3 van die Wet op Eiendomsbelasting oor die heffing van belastings op belasbare eiendom in die munisipaliteit aanvaar.

(3) Ingevolge artikel 6(1) van die Wet op Eiendomsbelasting moet ‘n munisipaliteit verordeninge aanvaar om uitwerking te gee aan die inwerkingstelling van sy beleid oor belasting.

(4) Ingevolge artikel 6(2) van die Wet op Eiendomsbelasting mag verordeninge wat ingevolge artikel 6(2) aanvaar is, tussen verskillende kategorieë eiendomme, en verskillende kategorieë eienaars van eiendomme wat aanspreeklik is vir die betaling van belastings, differensieer.

3. Aanvaarding en inwerkingstelling van die belastingbeleid

(1) Die munisipaliteit moet ‘n belastingbeleid in ooreenstemming met die Wet op Eiendomsbelasting vir die heffing van belastings op belasbare eiendom in die munisipaliteit aanvaar en in werking stel.

(2) Die munisipaliteit is nie geregtig om belastings te hef behalwe ingevolge ‘n geldige belastingbeleid nie.

4. Inhoud van die belastingbeleid

Die munisipaliteit se belastingbeleid moet, onder meer:

(1) van toepassing wees op alle belastings wat deur die munisipaliteit gehef word nadat die munisipaliteit se jaarlikse begroting aanvaar is;

(2) voldoen aan die vereistes vir: -

(a) die aanvaarding en inhoud van ‘n belastingbeleid ingevolge artikel 3 van die Wet op Eiendomsbelasting;

(b) die proses van gemeenskapsdeelname ingevolge artikel 4 van die Wet op Eiendomsbelasting;

- (c) die jaarlikse hersiening van 'n belastingbeleid ingevolge artikel 5 van die Wet op Eiendomsbelasting;
- (3) die spesifisering van enige verdere beginsels, maatstawwe en maatreëls in ooreenstemming met die Wet op Eiendomsbelasting vir die heffing van belastings wat die munisipaliteit mag wens op te aanvaar;
- (4) die insluiting van sodanige verdere toepassingsmeganismes, indien enige, wat die munisipaliteit mag wens om op te lê bykomend tot daardie in die Verordening op Kliëntesorg en Inkomstebestuur vervat.

5. **Toepassing van die belastingbeleid**

Die munisipaliteit se belastingbeleid moet deur middel van die Verordening op Kliëntesorg en Inkomstebestuur en enige verdere toepassingsmeganismes ingevolge die munisipaliteit se belastingbeleid toegepas word.

6. **Inwerktredingsdatum**

Hierdie tree in werking op die datum van publikasie daarvan in die Provinsiale Koerant.

HESSEQUA MUNICIPALITY**BY-LAW RELATING TO ROADS AND STREETS**

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996, the Hessequa Municipality, enacts as follows:-

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CHAPTER 1: DEFINITIONS, PURPOSE AND OBJECTIVES

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 shall prevail in the event of an inconsistency between the different texts, and unless the context otherwise indicates:–

"animals" mean any horses, mules, donkeys, cattle, pigs, sheep, goats, ostriches, indigenous mammals and other wild animals;

"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;

"municipality" means the Municipality of Hessequa established in terms of Section 12 of the Local Government: Municipal Structures Act, 1998 (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;

"municipal area" means the area of jurisdiction of Hessequa Municipality as determined in terms of the Municipal Demarcation Act, 1998;

"municipal manager" means a person appointed in terms of section 82 of the Municipal Structures Act, 1998;

"motor vehicle" means any self-propelled vehicle and includes –

- (a) a trailer, and
- (b) a vehicle having pedals and an engine or an electric motor as an integral part thereof or attached thereto and which is designed or adapted to be propelled by means of such pedals, engine or motor, or both such pedals and engine or motor, but does not include –
 - (i) any vehicle propelled by electrical power derived from storage batteries and which is controlled by a pedestrian; or
 - (ii) any vehicle with a mass not exceeding 230 kilograms and specially designed and constructed, and not merely adapted, for the use of any person suffering from some physical defect or disability and used solely by such person;

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

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

"sidewalk" means that portion of a street between the outer boundary of the roadway of a road and the boundary lines of adjacent properties or buildings which is intended for the use of pedestrians;

"street" means any street, road, cycle path, thoroughfare or any other place, including –

- (a) the verge of any such road, street or thoroughfare
- (b) any footpath, sidewalk or similar pedestrian portion of a road reserve;
- (c) any bridge, ferry or drift traversed by any such road, street or thoroughfare;
- (d) any other object belonging to such road, street or thoroughfare, which has at any time been –
 - (i) dedicated to the public;
 - (ii) used without interruption by the public for a period of at least thirty years;
 - (iii) declared or rendered such by the municipality or other competent authority, or

- (iv) constructed by a local authority, and
- (v) any land, with or without buildings or structures thereon, which is shown as a street on –
 - (aa) any plan of subdivision or diagram approved by the municipality or other competent authority and acted upon, or
 - (bb) any general plan as defined in the Land Survey Act, 1927, registered or filed in a deeds registry or Surveyor General's office;

unless such land is on such plan or diagram described as a private street;

"**vehicle**" means a device designed or adapted mainly to travel on wheels, tyres or crawler tracks and includes such a device which is connected with a draw-bar to a breakdown vehicle and is used as part of the towing equipment of a breakdown vehicle to support any axle or all the axles of a motor vehicle which is being salvaged other than such a device which moves solely on rails;

"**work**" means work of any nature whatsoever undertaken on any land under the jurisdiction of Hessequa Municipality and, without in any way limiting the ordinary meaning of the word, includes the erection of new building or alterations or additions to any existing building, excavations, the building of bridges and crossings over sidewalks, the laying of cables and pipes, the dumping of building or other material anywhere in a street or delivery to or removal from any site of any soil or material of any nature whatsoever.

2. Purpose and objectives

The Hessequa Municipality, acting under the Constitution and relevant legislation, and being aware of its duty to control the use of roads, streets and sidewalks and to manage any work undertaken in such roads, streets and sidewalks so as to provide a safe environment for all people within the municipal area, adopts this by-law to provide mechanisms and guidelines for such control and management.

CHAPTER 2: GENERAL PROVISIONS RELATING TO ROADS AND STREETS

3. Streets and sidewalks

No person may –

- (a) make, construct, reconstruct, or alter a street or sidewalk –
 - (i) except with the written permission of the municipality, or
 - (ii) otherwise than in accordance with the requirements prescribed by the municipality, or
- (b) construct a veranda, stoep, steps or other projection or erect a post in a street except with the written permission of the municipality.

4. Advertisements in streets

- (1) No person may display any advertisement, placard, poster or bill in a street –
 - (a) except with the written permission of the municipality, and
 - (b) subject to such conditions as may be determined by the municipality.
- (2) This section shall not be applicable to signs which have been exempted under the provisions of the municipality's applicable by-law relating to Advertising Signs.

5. Animals or objects causing an obstruction

No person may –

- (a) deposit or leave any goods or articles in a street, or in an area designated therefore, other than for a reasonable period during the course of the loading, off-loading or removal thereof, or
- (b) in any way obstruct the pedestrian traffic on a sidewalk by bringing or allowing to be brought thereon any animal, object or vehicle (other than a pram or wheelchair which is being used for the conveyance of children or the disabled), or
- (c) cause or allow any blind, awning, cord or other object to project or to be stretched over or onto a street –
 - (i) except with the written permission of the municipality, and
 - (ii) subject to such conditions as may be determined by the municipality.

6. Trees in streets

- (1) The management and protection of trees in roads, streets or public places will be undertaken in terms of the municipality's tree policy and any person who wishes to plant, remove, prune or cut down any tree or shrub in a road, street or public place must obtain the permission of the municipality to do so.

- (2) A person who contravenes the provisions of section (1) commits an offence.

7. Trees or growth causing an interference or obstruction

(1) Whenever there is upon any property any tree or other growth which interferes with overhead wires or is a source of annoyance, damage, danger or inconvenience to persons using a street, the municipality may by notice in writing order the owner or occupier of such property to prune or remove such tree or growth to the extent and within the period specified in such notice.

(2) Any person failing to comply with a notice issued in terms of subsection (1) commits an offence.

(3) If any person fails to comply with a notice in terms of this section, the municipality may itself prune or remove the tree or growth at the expense of the person on whom the notice was served.

8. Refuse, motor vehicle wrecks, waste material, etc.

No person may –

- (a) dump, leave or accumulate any garden refuse, motor vehicle wrecks, spare parts of vehicles, building or waste materials, rubbish or any other waste products in any street, or
- (b) permit any such objects or substances to be dumped or placed in a street from premises owned or occupied by him,

except with the written permission of the municipality and subject to such conditions as may be determined by the municipality.

9. Parking of heavy vehicles and caravans

(1) No person may, for an uninterrupted period exceeding two hours, except on places reserved for parking of heavy vehicles, park on the same street or sidewalk-

- (a) a motor vehicle with a tare exceeding 3500 kg;
- (b) a trailer;
- (c) a semi-trailer;
- (d) a caravan; or
- (e) boat.

(2) Whenever a vehicle is parked in contravention of subsection (1), it is deemed that such vehicle has been parked by the owner thereof unless the contrary is proved.

10. Parking attendants

(1) No person may, in exchange for money or some other thing of value or in anticipation thereof:

- (a) direct the operator or occupant of a motor vehicle to a public parking space; or
- (b) provide any other parking or related services in a public place.

(2) Notwithstanding subsection (1), the municipality may, subject to such requirements and conditions as determined by it on application by a person or organisation, permit such person or organisation, upon payment of a fee, to direct the operator or occupant of a vehicle to a public parking space or to provide any other parking or related service.

11. Encroachments

(1) Subject to section 3 and to such further conditions as it deems necessary, the municipality may by agreement permit encroachment on municipal property or the erection or maintenance of a veranda, balcony, sign, projecting sign or similar structure which projects in or over any street or public place.

(2) When any immovable property owned by a municipality or under the control or management of the municipality is encroached upon without permission, the municipality may take the steps necessary to remove or regularise such encroachment.

(3) The municipality may reduce the extent of a public place or street which is encroached upon by the extent of the encroachment or by such greater extent as may be desirable.

(4) A permit issued under subsection (1) is, for the purposes of subsection (2), deemed to be a regularisation of the encroachment referred to in such permit.

(5) A person who wishes to obtain the permission of the municipality as contemplated in subsection (1) must complete and submit to the municipality the prescribed form, and the municipality may issue a permit subject to the prescribed fee having been paid.

(6) A person who contravenes a provision of subsection (5) commits an offence, and a person who fails to comply with any condition imposed under subsection (1) commits an offence and the municipality may, in addition to any other penalty which may be imposed –

- (a) demolish, remove or fill in the projection or projecting structure concerned; or

- (b) cause such projection or projecting structure to be demolished, removed or filled in, at the cost of the owner thereof or the person responsible for such encroachment..

CHAPTER 3: PROHIBITION OF CERTAIN ACTIVITIES IN ROADS AND STREETS

12. Vehicle repairs in streets

No person may, in a street –

- (a) effect any repairs or service to a vehicle, except where necessary for the purpose of removing such vehicle from the place where it was involved in an accident, or
- (b) clean or wash a vehicle.

13. Games and other acts in streets

No person may –

- (a) roll a hoop, fly a kite, shoot with a bow and arrow or catapult, discharge fireworks or throw a stone, stick or other projectile in, onto or across a street; or
- (b) do anything in a street which may endanger the life or safety of any person, animal or thing or may be a nuisance, obstruction or annoyance to the public unless such street is provided with clear signs and identifiable paving and furniture which distinguishes it as “residential erf” or “street park”.

14. Use of explosives

No person may in or upon a street use explosives or undertake blasting operations -

- (a) except with the written permission of the municipality, and
- (b) subject to such conditions as may be determined by the municipality.

15. Conveyance of animal carcasses or other waste products through streets

No person may carry or convey through a street the carcass of an animal or any garbage, night soil, refuse, litter, rubbish, manure, gravel or sand –

- (a) unless it is properly covered, and
- (b) unless it is conveyed in such type of container as will not allow any offensive liquids or parts of the load to be spilt in the street.

16. Fences on street boundaries

Subject to the By-law relating to Fences and Fencing, no person may erect a barbed-wire-, razor wire-, electrified fence or other dangerous fence on the boundary of a street except with the written permission of the municipality.

17. Building materials in streets

No person may bore or cut stone or bricks, slake or sift lime, or mix building materials, or store or place building materials or any other materials in a street except with the written permission of the municipality, and subject to the requirements prescribed by the municipality.

18. Balconies and verandas

No person may, except with the written permission of the municipality –

- (a) use a balcony or veranda erected beyond the boundary line of a street for purposes of trading or the storage of goods, or for the washing or drying of clothes thereon, or
- (b) enclose or partition a balcony or veranda erected beyond the boundary line of a street or portion thereof as a living or bedroom.

19. Drying of washing on fences on boundaries of streets

No person may dry or spread washing on a fence on the boundary of a street.

20. Damaging of notice-boards

No person may deface, damage or in any way interfere with any notice-board, road traffic sign, street-name board or other similar sign or any hoarding which has been erected in a street.

21. Street, door-to-door collections and distribution of handbills

(1) No person may –

- (a) collect or attempt to collect money in a street or organise or in any way assist in the organisation of such collection, except with the written permission of the

municipality and subject to such conditions as may be determined by the municipality;

- (b) collect from door-to-door, beg or solicit or accept alms, except with the written permission of the municipality;
 - (c) distribute a handbill or similar advertising material or cause it to be distributed in any street or cause it to be placed on or in any vehicle without prior permission of the municipality.
- (2) An application fee as determined by the municipality from time to time may be levied in respect of any application in terms of subsection (1)(c).

22. Poison in streets

No person other than an official of the municipality or an authorised person who administers legally approved weed-killers or poisons, may use, set or cast poison in any street.

23. Roller-skating and skating on skateboards

No person may, except with the prior written permission of the municipality, skate on roller-skates or a skateboard or a similar device in or on a street or in or upon an area where skating is prohibited by an applicable road traffic sign.

24. Persons to be decently clad

No person may appear in any street without wearing any clothes or not being clothed in such a manner as decency demands, provided that this provision does not apply to a child under the age of seven years.

25. Amusement shows and devices

- (1) No person may set up or use in any street or any circus, whirligig, roundabout or other side-show or device for the amusement or recreation of the public –
- (a) except with the written permission of the municipality and subject to such conditions as may be determined by the municipality;
 - (b) unless suitable sanitary conveniences for both sexes of the staff have been provided; and
 - (c) if it is in any way dangerous or unsafe for public use.
- (2) An authorised official of the municipality shall, for the purposes of inspection; at all reasonable times have free access to such circus, whirligig, roundabout or other side-show or device.

26. Animals in a street

No owner or person –

- (a) in charge of any wild or ferocious animal, monkey or horned cattle may allow such animals at any time to be insufficiently attended or at large in any street or may keep any such animal in such a manner as to be a danger or annoyance to the public; or
- (b) may allow, permit or cause any animal to graze or stray in or about any street.

27. Restriction of access to streets

No person may, without the approval of the municipality, close or barricade any street or restrict access thereto.

**CHAPTER 4: WORK IN STREETS, PUBLIC ROADS AND SIDEWALKS AND WATER
DISCHARGED ONTO ROADS AND STREETS**

28. Use of vehicles that may damage street surface

- (1) No person may –
- (a) use a vehicle or allow it to be used in any street if such vehicle is in such a defective condition that it will or may cause damage to any street; and
 - (b) drive, push, roll, pull or propel any object, machine or other material through or along a street in such a way, or while such object, machine or material is in such a condition, as may damage, break or destroy the surface of the street in any way.
- (2) If the municipality identifies a person who, as a result of the actions referred to in subsection (1), has damaged, broken or destroyed the surface of a street, the cost of repairs, as determined by the municipality, may be recovered from the offender.

29. Obstruction on public roads and streets

No person may deposit or cause to be deposited or leave or cause to be left sand, stone, earth, bricks, timber, lime, cement or other building or excavated material of whatever nature on a portion of a public road, sidewalk or footpath, unless it is deposited within an enclosure in respect of which the written consent of the Municipality has first been obtained.

30. Work in public roads or streets

(1) No person may undertake work in any public road or on property belonging to the municipality without prior permission being obtained in terms of the operational manual as contemplated in section 31.

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

31. Norms, standards and guidelines

(1) The municipality may determine and publish norms, standards and guidelines which describe appropriate measures for work in public roads, streets or other property belonging to the municipality, and such norms standards and guidelines must be kept in the form of an operational manual.

(2) The norms, standards and guidelines contemplated in subsection (1) may differentiate between communities, geographical areas and different kinds of premises.

32. Discharge of water on public road

(1) No person may, without prior written permission of the municipality –

- (a) lead or discharge water other than stormwater on, over or across a public road; or
- (b) by any means whatever, raise the level of water in a river, dam or watercourse so as to cause interference with or endanger a public road .

(2) A person who wishes to perform an action as contemplated in subsection (1), must submit to the municipality an application which contains full technical details of the proposed action, and the municipality may refuse or grant permission and -

- (a) should the municipality refuse permission, it must supply the person with the written reasons for the refusal; or
- (b) should the municipality grant the permission, it may do so subject to such conditions, requirements or specifications which it may determine in each individual case.

(3) The municipality may, subject to any law which may be applicable and after obtaining permission of the owner and the occupier of the land concerned, if any –

- (a) deviate a watercourse, stream or river if the deviation is necessary for –
 - (i) the protection of a public road or structure related to a public road; or
 - (ii) the construction of a structure connected with or belonging to a public road; and
- (b) divert storm water from or under a public road onto private property other than land containing buildings, other structures or improvements.

(4) The municipality must compensate the owner or occupier of the land for damage caused as a result of acting under subsection (3), with an amount agreed upon between the municipality and the owner or occupier.

(5) Application for permission must be made on a form provided for this purpose by the municipality.

(6) A person who contravenes subsection (1) or a condition, requirement or specification imposed or determined by the municipality in terms of subsection (2)(b) commits an offence.

33. Overflow of water into public roads and streets

(1) No person may cause or allow any water other than rainwater to flow into a public road or street.

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

CHAPTER 5: BEHAVIOUR IN STREETS**34. Prohibited conduct**

No person may, in a street–

- (a) cause a nuisance to other persons by loitering, standing, sitting, lying or begging;
- (b) sleep, overnight or erect any shelter;
- (c) wash or dry clothes, blankets or any other domestic articles;
- (d) use abusive, insulting, obscene, threatening or blasphemous language or signs;

- (e) fight or act in a riotous manner;
- (f) discharge a firearm, airgun or air-pistol;
- (g) annoy or inconvenience any other person by yelling, shouting or making any noise in any manner whatsoever;
- (h) defecate, urinate or wash himself;
- (i) solicit or importune any person for the purpose of prostitution or immorality;
- (j) engage in gambling;
- (k) be drunk or under the influence of drugs or use intoxicating liquor or drugs; or
- (l) spit.

CHAPTER 6: DISPLAY OF STREET NUMBERS

35. Street numbers

- (1) The municipality may prescribe by notice in writing to the owner of any premises that a number allocated to such premises in terms of section 39(c) must be displayed and the owner of such premises must, within 30 days of the date of such notice, display the allocated number on the premises.
- (2) A number displayed as contemplated by subsection (1) must–
 - (a) be displayed in a conspicuous position on the premises and must at all times be visible and legible from the adjacent street; and
 - (b) be replaced by the owner of the premises as often as it gets obliterated, defaced or illegible.

CHAPTER 7: GENERAL POWERS OF THE MUNICIPALITY

36. Municipality may act and recover costs

- (1) Notwithstanding any other provisions of this by-law, the municipality may –
 - (a) where 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) where 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 (1) shall be guilty of an offence, and the municipality may, without prejudice to its powers to take action against the offender, take the necessary steps to implement such notice at the expense of the owner of the premises or the offender, as the case may be.

37. Closure of or restriction of access to streets or roads

- (1) The municipality may permanently close or divert any street or part thereof or restrict access to any street.
- (2) When the municipality decides to act in terms of subsection (1), it must give notice of such intention in terms of its communication policy; in the absence of such policy the municipality must give notice of its intention in a local newspaper in at least two official languages.
- (3) Any objection against the intended action must be delivered in writing to the municipal manager within 30 days from the date of notification in terms of subsection (2) for submission to the municipality.

38. Temporary closure of streets or roads

- (1) The municipality may, without complying with the provisions of section 37 – temporarily close a street –
 - (a) for the purpose of or pending the construction, reconstruction, maintenance or repair of such street. ;
 - (b) for the purpose of or pending the construction, erection, laying, extension, maintenance, repair or demolition of any building, structure, works or service alongside, on, across, through, over or under such street- ;

- (i) if such street is, in the opinion of the municipality, dangerous to traffic;
 - (ii) by reason of any emergency or public event which, in the opinion of the municipality, requires special measures for the control of traffic or special provision for the accommodation of crowds, or
 - (iii) for any other reason which, in the opinion of the municipality, renders the temporary closing of such street necessary, and
- (2) Temporarily divert a street which has been closed in terms of subsection (1)(a).
- (3) The municipal manager may in his discretion, for general information, place a notice of temporary closure in a local newspaper.

39. Construction, maintenance and naming of streets

The municipality may in its area –

- (a) make, construct, reconstruct, alter and maintain streets ;
- (b) name and re-name streets; and
- (c) allocate and re-allocate numbers to properties abutting on streets.

40. Declaration of streets

(1) The municipality may –

- (a) declare any land or portion of land under its control to street ;
 - (b) declare any private street or portion thereof to be a public street.
- (2) When the municipality decides to act in terms of subsection (1), it must give notice of such intention in terms of its communication policy; in the absence of such policy, the municipality must give notice of its intention in a local newspaper in at least two official languages.
- (3) Any objection against the intended action must be delivered in writing to the municipal manager within 30 days from the date of notification in terms of subsection

CHAPTER 8: PROCESSIONS

41. Processions

- (1) Subject to the provisions of subsection (6), no person may hold, organise, initiate, control or actively participate in a procession or gathering in a street or dance or sing or play a musical instrument, or do anything which is likely to cause a gathering of persons or the disruption or obstruction of traffic in such street or use any loudspeaker or other device for the reproduction or amplification of sound without the written permission of the municipality in terms of subsections (2) and (3).
- (2) Any person who intends to perform or carry out any one or more of the actions described in subsection (1) must submit a written application for permission, which must reach the municipality at least seven days before the date upon which any such action is intended to be performed or carried out, provided that persons who intend to participate actively in a procession, or gathering need not apply to the municipality for permission and it is not illegal for such persons to participate actively in such procession or gathering if the organiser, promoter or controller has obtained the permission of the municipality. An application made in terms hereof must contain the following:
- (a) Full details of the name, address and occupation of the applicant;
 - (b) full details of the street or public place where or route along which any one or more of the actions prescribed in subsection (1) is or are intended to be performed or carried out, proposed starting and finishing times and, in the case of processions and gatherings, the number of persons expected to attend; and
 - (c) general details of the purpose of any one or more of the aforesaid actions intended to be performed or carried out.
- (3) Any application submitted in accordance with subsection (2) shall be considered by the municipality, and if any one or more of the actions to be performed or carried out as proposed in such application is or are not likely to be in conflict with the interests of public peace, good order or safety, the municipality may issue a certificate granting permission and imposing conditions.
- (4) The municipality may refuse to approve applications in terms of subsection (2) if an action will be in conflict with the interests of public peace, good order or safety.
- (5) The municipality may withdraw any permission granted in terms of subsection (3), if, as a result of further information, the action will be in conflict with the interests of public peace, good order or safety.
- (6) The provisions of this section do not apply to –
- (a) wedding or funeral processions; and

- (b) to a gathering or demonstration as contemplated by the Regulation of Gatherings Act, 1993 (Act 205 of 1993).

CHAPTER 9: GENERAL MATTERS

42. 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 therefore in terms of section 62 of the Local Government: Municipal Systems Act (Act 32 of 2000) to the municipal manager within 21 days of the date of the notification of the decision.

43. Exemption

- (1) Any person may by means of a written application, in which the reasons are given in full, apply to the municipality for exemption from any provision of this by-law.
- (2) The municipality may –
- (a) grant an exemption in writing and the conditions in terms of which, if any, and the period for which such exemption is granted must be stipulated therein;
 - (b) alter or cancel any exemption or condition in an exemption; or
 - (c) refuse to grant an exemption.
- (3) In order to consider an application in terms of subsection (1), the municipality may obtain the input or comments of the owners or occupants of surrounding premises.
- (4) An exemption does not take effect before the applicant has undertaken in writing to comply with all conditions imposed by the municipality under subsection (2), however, if an activity is commenced before such undertaking has been submitted to the municipality, the exemption lapses.
- (5) If any condition of an exemption is not complied with, the exemption lapses immediately.

44. Penalty

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

- (a) a fine or imprisonment, or either such fine or imprisonment or to both such fine and such imprisonment; and
- (b) in the case of a continuing offence, to 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
- (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 or failure.

45. 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, and insofar as it has been made applicable to the municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Local Government: Municipal Structures Act, Act 117 of 1998.

46. Short title and commencement

This by-law shall be known as the By-law relating to Roads and Streets and shall come into operation on the date of publication thereof in the Provincial Gazette.

**HESSEQUA MUNISIPALITEIT:
VERORDENING INSAKE STRATE**

Kragtens die bepalings van artikel 156 van die Grondwet van die Republiek van Suid-Afrika, 1996, verorden die Hessequa Munisipaliteit as volg:-

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HOOFSTUK 1: WOORDBEPALINGS, BEGINSELS EN DOELWITTE

1. Woordbepalings

In hierdie verordening, tensy uit die samehang anders blyk, beteken:

“**diere**” enige perde, muile, donkies, beeste, varke, skape, bokke, volstruise, inheemse soogdiere en enige ander wilde diere;

“**dronk**” ’n persoon wat weens die alkohol wat hy of sy ingeneem het beheer oor sy of haar geestes- of fisiese vermoëns, of beide, tot so ’n mate verloor het dat hy of sy nie in staat is om hom- of haarself te gedra nie, of nie in staat is om enige handeling waarmee hy of sy besig is op so ’n wyse te verrig dat dit nie ’n gevaar vir hom- of haarself inhou nie of met daardie agting vir die regte van ander soos deur die reg vereis word nie;

“**leunwa**” ’n sleepwa wat geen vooras het nie en aldus ontwerp is dat minstens 15% van sy tarra op die voertuig wat so ’n sleepwa trek, rus en daardeur gedra word;

“**motorvoertuig**” enige selfgedrewe voertuig en ook-

- (a) ’n sleepwa; en
- (b) ’n voertuig met pedale en met ’n enjin of ’n elektriese motor as ’n integreerende deel daarvan of daaraan geheg en wat ontwerp of aangepas is om deur middel van sodanige pedale, enjin of motor, of sodanige pedale sowel as sodanige enjin of motor aangedryf te word, maar nie ook-
 - (i) ’n voertuig wat aangedryf word deur elektriese krag verkry uit opgaarbatterye en wat deur ’n voetganger beheer word nie;
 - (ii) ’n voertuig met ’n massa van hoogstens 230 kilogram nie en wat spesiaal ontwerp en gebou, en nie net aangepas is nie, vir gebruik deur iemand wat aan die een of ander liggaamlike gestremdheid of ongeskiktheid ly en wat uitsluitlik deur sodanige persoon gebruik word;

“**munisipale gebied**” die regsgebied van Hessequa Munisipaliteit soos bepaal ingevolge die Munisipale Afbakeningswet, 1998;

“**munisipaliteit**” die Hessequa Munisipaliteit gestig in terme van Artikel 12 van die Munisipale Strukturewet, 117 van 1998, Provinsiale Kennisgewing 488 gedateer 22 September 2000 en sluit in enige politieke struktuur, politieke ampsbekleder, raadslid, behoorlik gevolmagtigde agent daarvan of enige werknemer daarvan handelende ingevolge hierdie verordening uit hoofde van ’n bevoegdheid van die munisipaliteit wat gedelegeer of gesubdelegeer is aan gemelde politieke struktuur, politieke ampsbekleder, raadslid, agent of werknemer;

“**munisipale bestuurder**” ’n persoon aangestel in terme van artikel 82 van die Munisipale Strukturewet, 1998;

“**openbare plek**” enige plein, park, ontspanningsterrein, sportterrein, sanitêre steeg of oop ruimte wat-

- (a) in verband met enige onderverdeling of aanleg van grond in erwe, voorsien, gereserveer of afgesonder is vir gebruik deur die publiek of die eienaars of okkupeerders van sodanige erwe, ongeag of dit op ’n algemene plan, onderverdelingsplan of diagram aangetoon word of nie;
- (b) te enige tyd aan die publiek opgedra is;
- (c) sonder onderbreking deur die publiek gebruik is vir ’n tydperk van dertig jaar; of
- (d) te enige tyd deur die munisipaliteit of ander bevoegde owerheid tot sodanig verklaar of gemaak is.

“**parkeer**” om ’n voertuig, met of sonder insittendes, langer te laat stilhou as wat redelikerwys nodig is om persone of goedere werklik op of af te laai, maar nie ook die stilhou van ’n voertuig weens ’n rede buite die beheer van die persoon in beheer van daardie voertuig nie;

“**raad**” die munisipale raad van Hessequa Munisipaliteit;

“**sleepwa**” ’n voertuig wat nie selfgedrewe is nie en wat ontwerp of aangepas is om deur ’n motorvoertuig getrek te word, maar nie ook ’n syspan wat aan ’n motorfiets geheg is nie;

“straat” enige straat, pad, fietspad, of deurgang of enige ander plek wat insluit:

- (a) die soom van enige sodanige pad, straat of deurgang;
- (b) enige voetpad, sypaadjie of soortgelyke voetgangergedeelte van ’n padreserwe;
- (c) enige brug, pont of drif waaroor of waardeur enige sodanige pad, straat of deurgang loop;
- (d) enige ander voorwerp wat ’n deel uitmaak van sodanige pad, straat of deurgang, wat te enige tyd-
 - (i) aan die publiek opgedra is;
 - (ii) sonder onderbreking deur die publiek gebruik is vir ’n tydperk van minstens dertig jaar;
 - (iii) deur die munisipaliteit of ander bevoegde owerheid tot sodanig verklaar of gemaak is, of
 - (iv) deur ’n plaaslike owerheid aangelê is, en
 - (v) enige grond, met of sonder geboue of strukture daarop, wat as ’n straat aangetoon word op-
 - (aa) enige onderverdelingsplan of diagram deur die munisipaliteit of ander bevoegde owerheid goedgekeur en waarvolgens gehandel is, of
 - (bb) enige algemene plan soos omskryf in die Opmetingswet, 9 van 1927, wat in ’n registrasiekantoor of die Landmeter-Generaal se kantoor geregistreer is of gebêre word,

tensy sodanige grond op sodanige plan of diagram as ’n private straat beskryf word.

“sypaadjie” dié gedeelte van ’n straat tussen die buitengrens van die ryvlak van ’n pad en die grenslyne van aanliggende eiendomme of geboue wat bedoel is vir die gebruik van voetgangers;

“voertuig” ’n toestel ontwerp of aangepas om hoofsaaklik op wiele, bande of rusperbande te loop en ook so ’n toestel wat met ’n trekstang aan ’n teëspoedwa verbind is en gebruik word as deel van die sleeptoerusting van ’n teëspoedwa om enige of al die asse van ’n motorvoertuig wat geberg word, te ondersteun, behalwe so ’n toestel wat uitsluitlik op spore beweeg; en

“werk” werk van watter aard ook al wat onderneem word op enige grond of straat of openbare plek binne die regsgebied van Drakenstein Munisipaliteit en, sonder om die gewone betekenis van die woord op enige wyse te beperk, omvat dit die oprigting van ’n nuwe gebou of veranderings of aanbouings aan enige bestaande gebou, die lê van kables of pype, die stort van bou- of ander materiaal op enige plek in ’n straat of openbare plek of die aflewering aan of verwydering vanaf enige perseel van enige grond of materiaal van watter aard ook al.

2. Doel en oogmerke

Handelende in terme van die Grondwet en ander relevante wetgewing en bewus van sy verpligting om die gebruik van paaie, strate en sypaadjies te beheer en om enige werk wat in dusdanige strate, paaie en sypaadjies verrig word te bestuur ten einde ’n veilige omgewing vir alle mense binne die munisipale gebied te verseker, aanvaar die Hessequa Munisipaliteit hierdie verordening ten einde meganismes en riglyne vir dusdanige beheer en bestuur te voorsien.

HOOFSTUK 2: ALGEMENE BEPALINGS VAN TOEPASSING OP PAAIE EN STRATE

3. Strate en sypaadjies

Niemand mag –

- (a) ’n straat of ’n sypaadjie bou, aanlê, heraanlê of verander nie-
 - (i) behalwe met die skriftelike toestemming van die munisipaliteit, of
 - (ii) behalwe in ooreenstemming met die vereistes wat die munisipaliteit bepaal, of
- (b) behalwe met die skriftelike toestemming van die munisipaliteit ’n veranda, muur of ’n stoep, trappies of ander uitsteeksel bou of ’n paal oprig in ’n straat of openbare plek nie.

4. Advertensies in strate

- (1) Niemand mag ’n advertensie, aanplakbiljet, plakkaat of biljet in ’n straat of openbare plek vertoon nie-
 - (a) behalwe met die skriftelike toestemming van die munisipaliteit, en
 - (b) onderworpe aan die voorwaardes wat die munisipaliteit stel.
- (2) Hierdie artikel is nie van toepassing op tekens wat kragtens die bepalinge van die munisipaliteit se toepaslike verordening insake Advertensietekens toegelaat word nie.

5. Diere of voorwerpe wat 'n versperring veroorsaak

Niemand mag -

- (a) goedere of artikels in 'n straat, of op 'n area waar daarvoor voorsiening gemaak is, of op of in 'n openbare plek neersit of laat bly nie, behalwe vir 'n redelike tydperk terwyl dit op- of afgelaai of verwyder word, of
- (b) op enige wyse die voetgangverkeer op 'n sypaadjie belemmer deur enige dier, voorwerp of voertuig (uitgesonderd 'n kinderwaentjie of rolstoel wat vir die vervoer van kinders of gestremdes gebruik word) daarop te bring of toe te laat dat dit daarop gebring word nie, of
- (c) 'n blinding, skerm, tou of ander voorwerp oor of op 'n straat laat uitsteek of span of toelaat dat dit daaroor uitsteek of gespan word nie -
 - (i) behalwe met die skriftelike toestemming van die munisipaliteit, en
 - (ii) onderworpe aan die voorwaardes wat die munisipaliteit stel.

6. Bome in strate

- (1) Die bestuur en beskerming van bome in paaie, strate or openbare plekke sal ingevolge die munisipaliteit se beleid ten opsigte van bome geskied en niemand mag sonder die munisipaliteit se goedkeuring enige boom of struik in 'n pad, straat of openbare plek plant, verwyder, snoei of afkap nie.
- (2) Enige persoon wat die bepalinge van subartikel (1) oortree begaan 'n misdryf.

7. Bome of gewasse wat 'n hindernis of versperring veroorsaak

- (1) Wanneer daar ook al op 'n eiendom 'n boom of ander gewas is wat luggrade belemmer of wat ergernis, skade, gevaar of ongerief veroorsaak vir persone wat 'n straat of openbare plek gebruik, kan die munisipaliteit by skriftelike kennisgewing die eienaar of okkupeerder van sodanige eiendom gelas om sodanige boom of gewas te snoei of te verwyder in die mate en binne die tydperk wat in sodanige kennisgewing bepaal word.
- (2) Iedereen wat in gebreke bly om te voldoen aan 'n kennisgewing wat ingevolge subartikel (1) uitgereik word, is skuldig aan 'n misdryf.
- (3) Indien iemand versuim om te voldoen aan 'n kennisgewing ingevolge hierdie artikel, kan die munisipaliteit self die boom of gewas snoei of verwyder op koste van die persoon aan wie die kennisgewing beteken is.

8. Vullis, motorvoertuigwrakke, afvalmateriaal, ens.

Niemand mag -

- (a) enige tuinvullis, motorvoertuigwrakke, onderdele van voertuie, bou- of afvalmateriaal, rommel of enige ander afvalprodukte in 'n straat of openbare plek stort of laat lê of ophoop nie, of
- (b) toelaat dat sodanige voorwerpe of stowwe vanaf 'n perseel waarvan hy die eienaar of okkupeerder is, in 'n straat of op 'n openbare plek gestort of geplaas word nie, behalwe met die skriftelike toestemming van die munisipaliteit en onderworpe aan die voorwaardes wat sodanige munisipaliteit stel.

9. Parkering van swaar voertuie en karavane

- (1) Niemand mag binne die munisipale gebied -
 - (a) 'n motorvoertuig met 'n tarra wat 3500 kilogram oorskry;
 - (b) 'n sleepwa;
 - (a) 'n leunwa, of
 - (b) 'n woonwa
 in 'n straat of openbare plek parkeer vir 'n ononderbroke tydperk wat twee ure oorskry nie, buiten op plekke wat vir swaar voertuie ge-oormerk is.
- (2) Wanneer ook al 'n voertuig geparkeer is in stryd met subartikel (1), word daar, totdat die teendeel bewys word, vermoed dat sodanige voertuig geparkeer is deur die eienaar daarvan.

10. Parkeerplek aanwysers

- (1) Niemand mag, hetsy teen vergoeding or enigiets anders van waarde in afwagting van vergoeding:
 - (a) die operateur of okkupeerder van 'n motorvoertuig aanwys waar 'n parkeerruimte is nie; of
 - (b) enige ander parker of verwante dienste in 'n openbare plek verrig nie.

(2) Ondanks die bepalings van subartikel (1), mag die munisipaliteit, onderworpe aan enige vereistes en voorwaardes wat dit mag stel, by die ontvangs van 'n aansoek van enige persoon of organisasie, so 'n persoon of organisasie toelaat om parkeeruitmes aan te wys of enige ander parker of verwante dienste in 'n openbare plek te verrig.

11. Oorskrydings

(1) Onderworpe aan die bepalings van artikel 3 en aan enige verdere voorwaardes wat die munisipaliteit mag stel, mag die munisipaliteit oorskryding op munisipale eiendom of the oprigting van of onderhoud aan 'n veranda, balkon, teken of soortgelyke struktuur wat in of oor 'n straat of openbare plek hang of uitsteek, goedkeur.

(2) Wanneer daar sonder toestemming van die munisipaliteit op enige onroerende eiendom van die munisipaliteit oorskry word, mag die munisipaliteit die stappe neem wat nodig is om sodanige oorskryding te verwyder of te regulariseer.

(3) Die munisipaliteit mag die omvang van 'n openbare plek of straat waarop daar oorskry word verminder tot die mate van die oorskryding of tot so 'n groter omvang as wat wenslik mag wees.

(4) 'n Permit wat in terme van subartikel (1) uitgereik is word vir die doeleindes van subartikel (2) geag regularisering te wees ten opsigte van die oorskryding daarin vermeld.

(5) Enige persoon wat die munisipaliteit se toestemming, soos beoog in subartikel (1), wil bekom moet die voorgeskrewe vorm voltooi en by die munisipaliteit indien en die munisipaliteit mag so 'n permit uitreik indien die voorgeskrewe fooi betaal is.

(6) Enige persoon wat die bepalings van subartikel (5) verbreek pleeg 'n misdryf en enige persoon wat enige voorwaarde wat ingevolge subartikel (1) opgelê pleeg 'n misdryf en die munisipaliteit mag, bykomend tot enige ander straf wat opgelê mag word -

(a) die oorskrydende struktuur afbreek, verwyder of invul; or

(b) reel dat die oorskrydende struktuur afgebreek, verwyder of ingevul word en die eienaar of persoon wat vir die oorskryding verantwoordelik is aanspreeklik hou vir die kostes verbonde aan enige afbreek, verwydering of invulling.

HOOFSTUK 3: VERBOD OP SEKERE AKTIWITEITE IN PAAIE EN STRATE

12. Herstelwerk aan voertuie in strate

Niemand mag in 'n straat of openbare plek-

(a) 'n voertuig herstel of versien nie, behalwe waar dit nodig is om sodanige voertuig te kan verwyder van die plek waar dit in 'n ongeluk betrokke was, of

(b) 'n voertuig skoonmaak of was nie.

13. Speletjies en ander handeling in strate

Niemand mag -

(a) in, op of oor 'n straat of openbare plek 'n hoepel rol, 'n vlieër oplaai, met 'n pyl en boog of 'n rekker skiet, vuurwerk afskiet of 'n klip, stok of ander werptuig gooi nie, of

(b) enigiets in 'n straat of openbare plek doen wat die lewe of veiligheid van 'n persoon, dier of ding in gevaar kan stel of 'n oorlas, belemmering of ergernis vir die publiek kan wees nie, tensy sodanige straat of openbare plek voorsien is van duidelike tekens en identifiseerbare plaveisel en meublement wat dit onderskei as "woonerf" of "straatpark".

14. Gebruik van springstowwe

Niemand mag in of op 'n straat of openbare plek springstowwe gebruik of skietwerk uitvoer nie -

(a) behalwe met die skriftelike toestemming van die munisipaliteit en

(b) onderworpe aan die voorwaardes wat die munisipaliteit stel.

15. Vervoer van karkasse van diere of ander afvalstowwe deur strate en openbare plekke

Niemand mag die karkas van 'n dier of afval, nagvuil, vullis, rommel, vuilgoed, mis, gruis of sand deur 'n straat of openbare plek dra of vervoer nie -

(a) tensy dit behoorlik bedek is, en

(b) tensy dit in so 'n tipe houer vervoer word dat aanstootlike vloeistowwe of dele van die vrag nie in die straat of openbare plek gestort word nie.

16. Heinings op straatgrense

Onderworpe aan die bepalings van die Verordening op Heinings en Omheinings mag niemand sonder die munisipaliteit se skriftelike toestemming 'n doringdraadheining, lemmetjiesdraadheining, geëlektrifiseerde heining of ander gevaarlike heining op die grens van 'n straat of openbare plek oprig nie.

17. Boumateriaal in strate en openbare plekke

Niemand mag in 'n straat of openbare plek klippe of stene boor of kap, kalk blus of sif, of enige boumateriaal meng nie, of boumateriaal of enige ander materiaal opberg of plaas nie behalwe met die skriftelike toestemming van die munisipaliteit en onderworpe aan die vereistes wat die munisipaliteit bepaal.

18. Balkonne en verandas

Behalwe met die skriftelike toestemming van die munisipaliteit, mag niemand –

- (a) 'n balkon of veranda wat verby die grenslyn van 'n straat of openbare plek opgerig is, gebruik vir die doel van handeldryf of die opberg van goedere, of vir die was of droog van klere daarop nie, of
- (b) 'n balkon of veranda wat verby die grenslyn van 'n straat of openbare plek opgerig is of gedeelte daarvan as 'n woon- of slaapvertrek omsluit of afskort nie.

19. Droogmaak van wasgoed op heinings op grense van strate

Niemand mag wasgoed op 'n heining op die grens van 'n straat droogmaak of dit daarvoor hang nie.

20. Beskadiging van kennisgewingborde

Niemand mag 'n kennisgewingbord, padverkeersteken, straatnaambord of ander soortgelyke teken of 'n skutting ontsier of beskadig of hom of haar op enige wyse daarmee bemoei nie.

21. Straat-, huis-tot-huiskollektes en verspreiding van strooibiljette

(1) Niemand mag –

- (a) in 'n straat of openbare plek geld insamel of probeer insamel of sodanige insameling organiseer of op enige wyse behulpsaam wees met die organisering daarvan nie, behalwe met die skriftelike toestemming van die munisipaliteit en onderworpe aan die voorwaardes deur die munisipaliteit gestel;
 - (b) van huis tot huis kollekteer, bedel of aalmoese vra of invorder nie, behalwe met die skriftelike toestemming van die munisipaliteit; of
 - (c) 'n strooibiljet of soortgelyke advertensiemateriaal versprei of laat versprei in enige straat of openbare plek, of enige strooibiljet of soortgelyke advertensiemateriaal op of in enige voertuig plaas of laat plaas sonder voorafverkreë toestemming van die munisipaliteit nie.
- (2) Aansoekgelde soos van tyd tot tyd deur die munisipaliteit bepaal kan deur die munisipaliteit gehef word ten opsigte van enige aansoek ingevolge subartikel (1)(c).

22. Gif in strate

Niemand behalwe 'n amptenaar van die munisipaliteit of 'n gemagtigde persoon wat wettig goedgekeurde onkruidodders of gifstof toedien, mag gif in 'n straat of openbare plek plaas, gebruik of gooi nie.

23. Rolskaats en skaats op skaatsplanke

Niemand mag, behalwe met die voorafverkreë skriftelike toestemming van die munisipaliteit, met rolskaats of 'n skaatsplank of soortgelyke toestel in of op 'n straat of openbare plek, of in of op 'n terrein waar dit deur 'n toepaslike padverkeersteken verbied word, skaats nie.

24. Persone moet behoorlik geklee wees

Niemand mag op straat of in 'n openbare plek verskyn sonder om geklee te wees of geklee wees op 'n wyse wat nie aan die eise van welvoeglikheid voldoen nie, met dien verstande dat hierdie bepaling nie op 'n kind onder die ouderdom van sewe van toepassing is nie.

25. Vermaaklikheidsvertonings en –toestelle

- (1) Niemand mag 'n sirkus, draaimeule, mallemeule of ander byvertoning of toestel vir die vermaak of ontspanning van die publiek in 'n straat of op 'n openbare plek oprig of gebruik nie –
- (a) behalwe met die skriftelike toestemming van die munisipaliteit en onderworpe aan die voorwaardes wat die munisipaliteit stel;
 - (b) tensy geskikte sanitêre geriewe vir albei geslagte van die personeel aldaar verskaf is, en
 - (c) as dit enigsins gevaarlik of onveilig vir die gebruik van die publiek is.
- (2) 'n Gemagtigde amptenaar van die munisipaliteit het vir inspeksiedoeleindes te alle redelike tye vrye toegang tot sodanige sirkus, draaimeule, mallemeule of ander byvertoning of toestel.

26. Diere in 'n straat

Geen eienaar of persoon –

- (a) wat beheer het oor 'n wilde of kwaai dier, aap of horingvee, mag toelaat dat dit te eniger tyd in 'n straat of openbare plek sonder voldoende toesig is of los rondloop, of mag sodanige dier op so 'n wyse aanhou dat dit gevaarlik of 'n ergernis vir die publiek kan wees nie.
- (b) mag duld, toelaat of veroorsaak dat enige dier in of op enige straat of openbare plek wei of rondloop nie.

27. Beperking van toegang tot paaie

Niemand mag sonder die munisipaliteit se goedkeuring enige straat sluit of toegang daartoe beperk nie.

HOOFSTUK 4: WERK IN PAAIE, OPENBARE PAAIE EN SYPAADJIES EN UITLAAT VAN WATER OP PAAIE EN STRATE

28. Gebruik van voertuie wat straatoppervlak kan beskadig

- (1) Niemand mag –
- (a) 'n voertuig in 'n straat of openbare plek gebruik of toelaat dat dit daarin gebruik word indien sodanige voertuig in so 'n gebrekkige toestand is dat dit skade aan 'n straat of openbare plek sal veroorsaak of moontlik sal veroorsaak nie, en
 - (b) enige voorwerp, masjien of ander materiaal deur of langs 'n straat of openbare plek bestuur, stoot, rol, trek of laat voortbeweeg op so 'n wyse, of terwyl sodanige voorwerp, masjien of materiaal in so 'n toestand is, dat die oppervlak van die straat of openbare plek op enige wyse daardeur beskadig, gebreek of vernietig kan word nie.
- (2) Indien die munisipaliteit 'n persoon identifiseer wat die oppervlak van die straat beskadig, gebreek of vernietig het deur aksies te verrig waarna in subartikel (2) verwys word, mag die kostes verbode aan die herstel van die straat, soos deur die munisipaliteit bepaal, van die oortreder verhaal word.

29. Obstruksie in openbare paaie en strate

Niemand mag enige sand, klip, grond, stene, hout, lym, sement of enige ander bou- of uitgrawingsmateriaal van watter aard ookal op 'n gedeelte van 'n openbare pad, sypaadjie of voetpad laat of toelaat dat dit daar gelaat word nie, tensy dit in 'n afsluiting, wat deur die munisipaliteit goedgekeur is, gelaat word.

30. Werk in openbare paaie of strate

- (1) Niemand mag enige werk in 'n openbare pad of op eiendom wat aan die munisipaliteit behoort onderneem sonder die voorafverkreë goedkeuring van die munisipaliteit in terme van die operasionele handleiding soos bedoel in artikel 31 nie.
- (2) Enige persoon wat subartikel (1) oortree pleeg 'n misdryf.

31. Norme, standaarde en riglyne

- (1) Die munisipaliteit mag norme, standaarde en riglyne daarstel en publiseer wat gepaste maatreëls vir werk in openbare paaie, strate of ander munisipale eiendom daarstel, en dusdanige norme, standaarde en riglyne moet in die vorm van 'n operasionele handleiding bygehou word.
- (2) Die norme, standaarde en riglyne waarna in subartikel (1) verwys word, mag tussen gemeenskappe, geografiese gebiede en verskillende tipes persele differensieer.

32. Vrylaat van water op 'n openbare pad

- (1) Niemand mag sonder die voorafverkreë skriftelike goedkeuring van die munisipaliteit –
- (a) enige water, behalwe stormwater, op of oor 'n openbare pad lei of vrystel nie; of
 - (b) op welke wyse ookal die vlak van water in 'n rivier, dam of enige waterwerke verhoog op so 'n wyse dat dit inmeng met 'n openbare pad of dit in gevaar stel nie.
- (2) Enige persoon wat 'n handeling soos beoog in subartikel (1) wil verrig moet 'n aansoek met die volledige tegniese besonderhede van die voorgenome optrede by die munisipaliteit indien en die munisipaliteit mag die aansoek goed- of afkeur en –
- (a) indien die munisipaliteit toestemming sou weier, moet dit skriftelike redes vir sodanige weiering verstrek; of
 - (b) indien die munisipaliteit toestemming sou verleen, mag dit voorwaardes, vereistes of spesifikasies stel of voorskryf vir elke individuele geval.
- (3) Die munisipaliteit mag, onderworpe aan enige regsbeplanning wat van toepassing mag wees en nadat die eienaar of okkupeerder van grond, indien enige, se toestemming verkry is –
- (a) 'n stroom of rivier of enige ander waterwerke se vloei verander, inndien so 'n verandering nodig is vir-
 - (i) die beskerming van 'n openbare pad of enige struktuur wat daarmee verband hou; of
 - (ii) die oprigting van 'n struktuur wat verband hou met of behoort aan 'n openbare pad; en
 - (b) stormwater van of onder 'n openbare pad op privaateiendom aflei, behalwe grond waarop geboue, ander strukture of verbeterings is.
- (4) Die munisipaliteit moet die eienaar of okkupeerder van grond wat skade gelei het as gevolg van optrede ingevolge subartikel (3) vergoed vir dusdanige skade en die bedrag moet by wyse van ooreenkoms tussen die munisipaliteit en die eienaar of okkupeerder bepaal word.
- (5) Aansoeke om goedkeurings moet op die voorgekrewe vorm gedoen word.
- (6) Enige persoon wat subartikel (1) of enige voorwaarde, vereiste of spesifikasie ingevolge subartikel (2)(b) verbreek, pleeg 'n misdryf.

33. Oorvloei van water op 'n openbare pad

- (1) Niemand mag enige water, behalwe reënwater, in 'n straat of openbare plek laat loop of toelaat dat dit daarin loop nie.
- (2) Enige persoon wat die bepaling van subartikel (1) oortree, pleeg 'n misdryf.

HOOFSTUK 5: GEDRAG IN STRATE**34. Verbode gedrag**

Niemand mag in 'n straat of openbare plek –

- (a) tot oorlas van ander persone slenter, staan, sit, lê of bedel nie;
- (b) slaap of oornag of enige skuiling oprig nie;
- (c) klere, komberse of ander huishoudelike artikels was, skoonmaak of droogmaak nie;
- (d) skel-, beledigende, onweloweglike, dreigende of godslasterlike taal besig nie;
- (e) baklei of oproerig optree nie;
- (f) 'n vuurwapen, windbuis of windpistool afvuur nie;
- (g) tot ergernis of ongemak van enige ander persoon skreeu, gil of enige lawaai op watter wyse ook al maak nie;
- (h) homself was, ontlas of urineer nie;
- (i) met die oog op prostitusie of onsedelikheid iemand aanspreek of lastig val nie;
- (j) dobbelary beoefen nie;
- (k) dronk wees of bedwelmende drank of ander dwelmmiddels gebruik nie; of
- (l) spuug nie.

HOOFSTUK 6: VERTONING VAN STRAATNOMMERS

35. Straatnommers

- (1) Die munisipaliteit kan by wyse van skriftelike kennisgewing aan die eienaar van enige perseel, voorskryf dat 'n nommer wat deur die munisipaliteit ingevolge artikel 37(c) aan so 'n perseel toegeken is, op sodanige perseel vertoon moet word en die eienaar van sodanige perseel moet binne 30 dae na die datum van sodanige kennisgewing die toegekende nommer op die perseel aanbring.
- (2) 'n Nommer wat vertoon word soos beoog by sub-artikel (1) moet:
- op 'n opsigtelike plek op die perseel vertoon word en moet te alle tye sigbaar en leesbaar vanaf die aangrensende straat wees; en
 - deur die eienaar van die perseel vervang word so dikwels as wat dit uitgewis of geskend of onleesbaar word.

HOOFSTUK 7: ALGEMENE BEVOEGDHEDE VAN DIE MUNISIPALITEIT

36. Munisipaliteit kan optree en koste verhaal

- (1) Ondanks enige andersluidende bepalings van hierdie verordening kan die munisipaliteit –
- waar die toestemming van die munisipaliteit benodig is alvorens 'n persoon 'n sekere daad mag verrig of iets mag bou of oprig, en sodanige toestemming nie verkry is nie, en
 - waar enige bepaling van hierdie verordening oortree word in omstandighede waar die oortreding beëindig kan word deur die verwydering van enige struktuur, voorwerp, materiaal of stof,
- 'n skriftelike kennisgewing aan die eienaar van die perseel of die oortreder, na gelang van die geval, beteken om sodanige oortreding te beëindig, of die struktuur, voorwerp, materiaal of stof te verwyder, of die ander stappe te doen wat die munisipaliteit vereis om sodanige oortreding reg te stel binne die tydperk in sodanige kennisgewing vermeld.
- (2) Iedereen wat versuim om aan 'n kennisgewing ingevolge subartikel (1) te voldoen, is skuldig aan 'n misdryf, en die munisipaliteit kan, sonder inkorting van sy bevoegdhede om teen die oortreder op te tree, die nodige stappe doen om op koste van die eienaar van die perseel of die oortreder, na gelang van die geval, uitvoering aan sodanige kennisgewing te gee.

37. Sluiting van paaie en strate

- (1) Die munisipaliteit kan enige straat of openbare plek permanent sluit of enige gedeelte van 'n straat of openbare plek sluit of verlê of toegang na 'n straat of openbare plek beperk.
- (2) Indien die munisipaliteit ingevolge subartikel (1) wil handel, moet hy ingevolge sy kommunikasiebeleid kennis gee van sy voorneme om dit te doen; by gebrek aan sodanige beleid moet die munisipaliteit sy voorneme deur middel van 'n toepaslike kennisgewing in minstens twee amptelike tale in 'n plaaslike nuusblad bekend maak.
- (3) Enige besware teen die voorgenome handeling moet binne 30 dae na datum van kennisgewing ingevolge subartikel (2) skriftelik by die Munisipale Bestuurder ingedien word vir voorlegging aan die Raad of 'n komitee of persoon aan wie bevoegdheid gedelegeer is om daarvoor te besluit.

38. Tydelike sluiting van paaie of strate

- (1) Die munisipaliteit kan, sonder nakoming van die bepalings van artikel 37 'n straat of openbare plek tydelik sluit –
- vir die doeleindes of in afwagting van die aanleg, heraanleg, onderhoud of herstel van sodanige straat of openbare plek;
 - vir die doeleindes of in afwagting van die bou, oprigting, aanleg, uitbreiding, onderhoud, herstel of sloping van enige gebou, struktuur, werke of diens langsaan, op, dwarsoor, deur, oor of onder sodanige straat of openbare plek;
 - indien sodanige straat na die mening van die munisipaliteit in 'n toestand is wat gevaarlik is vir verkeer;
 - omrede van enige noodtoestand of openbare geleentheid wat na die mening van die munisipaliteit spesiale maatreëls vir die beheer van verkeer of spesiale voorsiening vir die akkommodasie van skares verei, of
 - om enige ander rede wat na die mening van die munisipaliteit die tydelike sluiting van sodanige straat of openbare plek wenslik maak, en
 - 'n straat wat ingevolge paragraaf (a) gesluit is, tydelik verlê.

- (2) Die munisipale bestuurder kan, indien hy dit nodig ag, 'n kennisgewing van sodanige tydelike sluiting vir algemene inligting in 'n plaaslike nuusblad plaas.

39. Aanleg, onderhoud en benaming van strate en openbare plekke

Die munisipaliteit kan binne sy regsgebied-

- (a) strate en openbare plekke maak, aanlê, heraanlê, verander en onderhou;
- (b) strate en openbare plekke benoem en herbenoem;
- (c) nommers toeken en hertoeken aan eiendomme wat aan strate en openbare plekke grens.

40. Verklaring van strate

(1) Die munisipaliteit kan:

- (a) enige grond of gedeelte grond onder sy beheer tot straat, of enige straat of gedeelte daarvan tot 'n openbare plek verklaar; en
- (b) enige privaat straat of gedeelte daarvan tot openbare straat of enige plek of gedeelte daarvan tot openbare pad verklaar.

(2) Indien die munisipaliteit ingevolge subartikel (1) wil handel moet hy ingevolge sy kommunikasiebeleid kennis gee van sy voorneme om dit te doen; by gebrek aan sodanige beleid moet die munisipaliteit sy voorneme deur middel van 'n toepaslike kennisgewing in minstens twee amptelike tale in 'n plaaslike nuusblad bekendmaak.

(3) Enige besware teen die voorgenome handeling moet binne 30 dae na datum van kennisgewing ingevolge subartikel (2) skriftelik by die munisipale bestuurder ingedien word.

HOOFSTUK 8: OPTOGTE

41. Optogte

(1) Behoudens die bepalings van sub-artikel (6) mag niemand in enige straat of openbare plek 'n optog, of byeenkoms hou, organiseer, op tou sit of beheer of daadwerklik daaraan deelneem, of dans of sing of 'n musiekinstrument bespeel, of enigiets doen wat waarskynlik 'n byeenkoms van persone of 'n verwarring of versperring van verkeer in sodanige straat of openbare plek sal veroorsaak, of enige luidspreker of ander toestel vir die reproduksie of versterking van klank gebruik nie sonder die skriftelike toestemming van die munisipaliteit ingevolge subartikels (2) en (3).

(2) Iedereen wat voornemens is om een of meer van die handeling in subartikel (1) beskryf, in enige straat of openbare plek te verrig of uit te voer, moet 'n skriftelike aansoek om toestemming daartoe indien, wat die munisipaliteit moet bereik minstens sewe dae voor die datum waarop dit die voorneme is om een of meer van sodanige handeling te verrig of uit te voer; met dien verstande dat persone wat voornemens is om daadwerklik aan 'n optog, byeenkoms in enige straat of openbare plek deel te neem, nie by die munisipaliteit om toestemming daartoe aansoek hoeft te doen nie en dit nie vir sodanige persone onwettig is om daadwerklik aan sodanige optog of byeenkoms deel te neem nie indien die organiseerder, ondernemer of beheerder daarvan die toestemming van die munisipaliteit verkry het. 'n Aansoek wat hierkragtens gedoen word, moet die volgende bevat:

- (a) volledige besonderhede van die naam, adres en beroep van die aansoeker;
- (b) volledige besonderhede van die straat of openbare plek waar en roete waarlangs dit die voorneme is om een of meer van die handeling beskryf in sub-artikel (1) te verrig of uit te voer, die voorgestelde aanvangs- en sluitingstyd van een of meer van voornoemde handeling en, in die geval van optogte, en byeenkomste, die getal persone wat na verwagting teenwoordig sal wees, en
- (c) algemene besonderhede en die doel van een of meer van voornoemde handeling wat dit die voorneme is om te verrig of uit te voer.

(3) Enige aansoek wat ooreenkomstig subartikel (2) ingedien word, moet deur die munisipaliteit oorweeg word, en indien een of meer handeling wat verrig of uitgevoer gaan word soos in sodanige aansoek voorgestel, na die mening van die munisipaliteit waarskynlik nie in stryd met die belange van die openbare vrede, goeie orde of veiligheid sal wees nie, moet die munisipaliteit 'n sertifikaat uitreik waarby toestemming en magtiging verleen word vir die verrigting of uitvoering van een of meer van sodanige handeling, onderworpe aan die voorwaardes wat die munisipaliteit nodig ag vir die handhawing van die openbare vrede, goeie orde of veiligheid.

(4) Die munisipaliteit kan weier om toestemming te verleen vir die verrigting of uitvoering van een of meer van die handeling wat in sub-artikel (1) beskryf word, indien die verrigting of uitvoering van sodanige handeling of handeling na die mening van die munisipaliteit in stryd met die belange van die openbare vrede, goeie orde of veiligheid sal wees.

- (5) Die munisipaliteit kan enige toestemming wat kragtens subartikel (3) verleen is, terugtrek indien hy, as gevolg van nadere inligting van mening is dat die verrigting of uitvoering van die betrokke handeling of handeling in stryd met die belange van die openbare vrede, goeie orde of veiligheid sal wees.
- (6) Die bepalings van hierdie artikel is nie van toepassing nie op-
- (a) optogte vir huwelike of begrafnisse; en
 - (b) 'n byeenkoms of betoging soos beoog by die Wet op die Reëling van Byeenkomste, No 205 van 1993 in welke geval die bepalings van die betrokke wet van toepassing sal wees.

HOOFSTUK 9: ALGEMENE BEPALINGS

42. Appèl

'n Persoon wie se regte geraak word deur 'n besluit wat deur die munisipaliteit gedelegeer is, mag ingevolge Artikel 62 van die Wet op Plaaslike Regering : Munisipale Stelsels, Wet 32 van 2000 teen daardie besluit appèl aanteken deur binne 21 dae van die kennisgewing van die besluit skriftelike kennis van die appèl en die redes daarvoor aan die Munisipale Bestuurder te gee.

43. Vrystellings

- (1) Enigiemand mag by wyse van 'n skriftelike aansoek, waarin die redes volledig verstrekkend word, by die munisipaliteit aansoek doen om vrystelling van enige bepaling van hierdie verordening.
- (2) Die munisipaliteit mag –
 - (a) skriftelik vrystelling verleen en die voorwaardes waarvolgens en die tydperk waarvoor sodanige vrystelling verleen word, moet in die vrystelling uiteengesit word;
 - (b) enige vrystelling of voorwaarde van 'n vrystelling verander of kanselleer; of
 - (c) weier om 'n vrystelling te verleen.
- (3) Ten einde 'n aansoek ingevolge subartikel (1) te oorweeg mag die munisipaliteit die insette en kommentare van die eienaars of okkuperders van omliggende persele aanvra.
- (4) 'n Vrystelling tree nie in werking voordat die aansoeker skriftelik onderneem het om aan alle voorwaardes wat die Munisipaliteit ingevolge subartikel (2) opgelê het, te voldoen nie, en indien daar met 'n aktiwiteit begin word voordat sodanige onderneming aan die munisipaliteit voorgelê is, verstryk die vrystelling.
- (5) Indien daar nie aan enige voorwaarde van 'n vrystelling voldoen word nie, verval die vrystelling onmiddellik.

44. Strafbepaling

Iedereen wat enige bepaling van hierdie verordening oortree of nalaat om daaraan te voldoen is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met -

- (a) 'n boete of gevangenisstraf, of óf sodanige boete of sodanige gevangenisstraf óf beide sodanige boete en sodanige gevangenisstraf;
- (b) in die geval van 'n voortdurende misdryf, met 'n addisionele boete, of 'n addisionele tydperk van gevangenisstraf of óf sodanige addisionele boete of sodanige addisionele gevangenisstraf, óf beide sodanige addisionele boete en gevangenisstraf vir elke dag wat sodanige misdryf voortduur, en
- (c) 'n verdere bedrag gelyk aan enige koste en uitgawes wat na bevinding van die hof deur die munisipaliteit aangegaan is as gevolg van sodanige oortreding of versuim.

45. Herroeping van verordeninge

Die bepalings van enige verordeninge wat voorheen deur die munisipaliteit of deur enigen van die afgeskafte munisipaliteite wat nou in die munisipaliteit geïnkorporeer is, afgekondig is, word hiermee herroep insoverre hulle betrekking het op sake waarvoor daar in hierdie verordening voorsiening gemaak word en insoverre dit toepaslik gemaak is op die munisipaliteit deur die magtiging vir die uitvoering van magte en funksies ingevolge Artikel 84(3) van die Wet op Plaaslike Regering : Munisipale Strukture, Wet 117 van 1998.

46. Kort titel en inwerkingtrede

Hierdie verordening heet die Verordening insake Strate en tree in werking op die datum van publikasie daarvan in die Provinsiale Koerant.

HESSEQUA MUNICIPALITY SPORTING FACILITIES BY-LAW

In terms of and under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996, the Hessequa Municipality, enacts as follows:-

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Section

1. Interpretation
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3. Application of By-laws
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5. Access to sporting facilities and storage facilities
6. Admission fees and other fees
7. Prohibited behaviour in or on a sporting facility or its premises
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8. Organised sporting activities
9. Reservation and hiring of sporting facilities
10. Cancellation, postponement or extension of reservation
11. Termination of hire
12. Duties of organisation
- Chapter 3: Miscellaneous provisions
13. Enforcement
14. Indemnity
15. Appeal
16. Penalty
17. Revocation of by-laws
18. Short title and commencement

1. Definitions

In this by-law, unless the context otherwise indicates –

"**accessories**" means an object or objects on or in a field, sporting area or course necessary for a particular sport to be performed, such as, but not limited to goal posts, a tennis net, or a flag, and any other feature or fixture;

"**appurtenance**" means any fitting, installation, appliance, device, instrument, apparatus, utensil, tool whatsoever on the premises, such as, but not limited to a lock, cock, tap, valve, pipe and includes any other appliance or any machine;

"**equipment**" means gear used by a person in a sporting activity;

"**facility**" means a sporting facility and includes any appliance, equipment, apparatus or storage facility in or on a facility;

"**municipality**" means the Municipality of Hessequa 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 or any employee 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;

"**organised sporting activity**" means a sporting activity that is organised or controlled by an organisation, and includes a practice or training session;

"**organisation**" means a sport club, educational institution, or association of people, and includes a group or sport club established by the municipality, which sport club or association or group can be joined by a member of the public;

"**sporting facility**" means any land, area, premises, building or structure, or part thereof, which is administered or controlled by the municipality and which is designated, demarcated, or set aside for a sporting activity, and includes facilities surrounding and normally supplementary to a sporting facility.

2. Principles and objectives

The municipality recognizes the right of the community, whether associated to an organization or not, to use and enjoy sporting facilities, and accepts the duty to maintain and develop the resources of the municipality to the best interest of the community, and aims, in this by-law, to control and administer sporting facilities.

3. Application of By-laws

This by-law apply to all sporting facilities under the control and administration of the Municipality, but do not apply to land, areas, buildings, and structures regulated by the Municipality's Public Amenities By-laws.

CHAPTER 1: ADMINISTRATION, ACCESS, FEES AND PROHIBITED BEHAVIOR

4. Administration, control over and maintenance of sporting facilities

- (1) The municipality may establish a body or sport committee with the aim of advising it on matters relating to sporting facilities.
- (2) All sporting facilities must be administered by the municipality in accordance with this By-law.
- (3) The municipality may acquire land or a building with the aim of developing sporting facilities, or dispose of existing sporting facilities or any rights thereto.
- (4) A person or organisation who uses or hires sporting facilities does so subject to the provisions of this by-law and in terms of conditions as may be determined by the municipality.
- (5) Where an organized sporting activity is not organized or controlled by the municipality, a municipal employee may be present.
- (6) Subject to the terms and conditions stipulated in any contract of hire, and subject to any applicable national laws, no person –
 - (a) may sell any alcoholic beverage on the premises of a sporting facility without first obtaining express approval for that activity from the municipality;
 - (b) may bring his or her own supply of alcoholic beverages on or into a sporting facility without written authority from an authorised official.
- (7) If the municipality permits the sale or consumption of alcohol on or in a facility by an organization or body, the sale or consumption is subject to the following conditions:
 - (a) no alcoholic beverage may be served in a glass bottle, glass cup or other container made of glass;
 - (b) beer, cider and alcoholic cordials may be served in cans, kegs, or plastic cups only;
 - (c) the organization or body must maintain good order within the sporting facility.
- (8) The municipality may close a facility when:
 - (a) The facility is substantially unusable due to -
 - (i) destruction;
 - (ii) severe damage; or
 - (iii) the absence of municipal services;
 - (b) the facility constitutes a danger to human life or property;
 - (c) an emergency has arisen which requires such closure.
- (9) The municipality may temporarily close a facility for purposes of repair or maintenance or for any other reason in the municipality's discretion.
- (10) A person who or organization that contravenes subsection (6) or (7) commits an offence.

5. Access to sporting facilities and storage facilities

- (1) The municipality may by notice posted at or near the entrance to a facility indicate the hours during which it may be used by the public.
- (2) The municipality reserves the right of access to a facility and an official may instruct a person who has contravened a provision of this by-law to leave the facility or premises immediately and should the person fail to observe the instruction, the official may remove or cause the person to be removed.
- (3) The municipality has the right to determine the maximum capacity of a sporting facility and an official must, once the maximum capacity has been reached, refuse further access and may take measures necessary to prevent access.

6. Admission fees and other fees

The municipality may prescribe fees to be charged for admission to or the hire or use of a sporting facility or equipment.

7. Prohibited behavior in or on sporting facility or its premises

- (1) No person may –
 - (a) enter any part of a facility otherwise than by an entrance designated for that purpose;

- (b) enter or remain inside a facility, without permission, or at any time other than during the hours when such facility is open to members of the public, or when access to the facility has been denied;
 - (c) smoke in a sporting facility, except in an open air facility or in those areas which have been designated for this purpose, as indicated by notices to that effect;
 - (d) wear footwear that may damage the surface of a facility;
 - (e) attend or engage in a sporting activity if dressed indecently or if undressed, except in a facility set aside for use by a person of the same sex;
 - (f) relieve him or herself in any part of the sporting facility other than in the ablution facilities;
 - (g) excluding a child under the age of five years, use change rooms, places of ablution, cubicles, or any other facilities set aside for a particular sex if he or she is not of that particular sex;
 - (h) enter or remain in any area of the sporting facility, which area is reserved for the use of persons of the other sex;
 - (i) use a change room, place of ablution, cubicle or any other facility for longer than is reasonably necessary to undertake an activity intended to be undertaken;
 - (j) use profane or indecent language or behave in any other manner that constitutes a nuisance or unacceptable behavior towards other persons;
 - (k) destroy, damage or deface any part of a sporting facility, accessories or equipment;
 - (l) discard rubbish other than in a container provided for that purpose;
 - (m) in any manner, interfere with the substance covering the surface of a sporting facility;
 - (n) light any fire;
 - (o) drive, draw, or propel a vehicle, or walk upon or recline on lawn on the premises of a sporting facility if prohibited to do so by a notice on the premises;
 - (p) ride or use in or on a sporting facility a bicycle, roller blades, roller skates, a skateboard, a tricycle or any similar form of transport or amusement, except in a sporting facility which specifically provides for the riding of bicycles;
 - (q) without the prior written consent of the municipality, sell, hawk, advertise, offer for sale or purchase or exhibit any article for sale, lease or hire, distribute a pamphlet, book, handbill or other written or printed matter inside a sporting facility or in the immediate vicinity of the entrance thereto;
 - (r) neither inside nor outside a sporting facility, obstruct, resist or interfere with an official in the execution of his or her duties or the exercise of any authority in terms of this by-law;
 - (s) tamper or interfere with an appurtenance in or on the premises of a sporting facility;
 - (t) bring into or keep on a sporting facility an animal, except a guide dog, without the prior consent of the municipality, unless the sporting activity engaged in involves the use of animals;
 - (u) bring into or keep on a facility a weapon or any other dangerous object;
 - (v) erect or attempt to erect any enclosure, tent or similar construction, stall, booth, stand, screen, fence, or drive into the ground any peg or spike without the permission of the official in charge of the facility;
 - (w) behave or conduct himself or herself in a manner which may prejudice good order;
 - (x) bring into or onto a facility any substance or matter which may endanger the safety of people, or which may be used to disrupt proceedings at or spoil the peaceful enjoyment of the facility;
 - (y) behave or conduct himself or herself in a manner which may disrupt a sporting activity; or
 - (z) fail to comply with a lawful instruction given by an official.
- (2) A person who contravenes any of the provisions of this section commits an offence.

CHAPTER 2: ORGANISED SPORTING ACTIVITIES

8. Organised sporting activities

- (1) The municipality may allow the use of its facilities by sport organisations, municipal staff, or other persons such as, but not limited to free lance instructors.
- (2) An organization to which a sporting facility or a portion thereof has been allocated for use at regular times, must ensure that only its members or persons invited by an organisation use the facility,

and should it be impossible for the organisation to use the facilities at those times, the organization must notify the official in charge of the sporting facility beforehand, and should an organization fail to do so, the municipality may suspend or cancel the organisation's further use of the facility.

9. Reservation and hiring of sporting facilities

- (1) The municipality may set aside or hire out a sporting facility for the purpose of organised sport or for special occasions on such conditions as it may prescribe and the municipality may charge a fee, or may make it available free of charge or grant free admission to selected persons.
- (2) The representative of an organization that wishes to hire a sporting facility must complete and lodge a prescribed application form with the municipality.
- (3) When considering an application the municipality may have, in addition to other relevant factors, due regard to the following:
 - (a) The principles and objectives of this by-law;
 - (b) that the sporting facility may be used for lawful purposes only;
 - (c) that the use of the sporting facility will not constitute a nuisance or annoyance to other users of another part of the sporting facility which has not been hired by the organisation, or to the occupiers of neighbouring premises; and
 - (d) that the use of the sporting facility will not constitute a danger to any person or property or negatively affect the environment.
- (4) The municipality may approve the use of a sporting facility subject to any condition it may impose, or it may refuse consent.
- (5) The municipality must, within seven days after the application form has been lodged, in writing notify the organisation if the application has been approved or refused, and –
 - (a) if the application is refused, the municipality must supply to the organisation the reasons why the application was refused; or
 - (b) if the application is approved, the municipality must forward a notice of approval which must specify the conditions to which the use of the sporting facility is subject.
- (6) An organisation may not, before the municipality's approval has been received by it, advertise or announce the sporting activity for which it has lodged an application.
- (7) The municipality may, before it approves an application, require of an organization that wishes to make use of a sporting facility to take out, with an insurance company approved by the municipality –
 - (a) insurance in an amount approved by the municipality to cover any structural damage which may occur to the sporting facility whilst being used by the organization; and
 - (b) public liability insurance.
- (8) An organization which supplies false information in an application form or with respect to the requirements in subsection (7) or which contravenes subsection (6) commits an offence.

10. Cancellation, postponement or extension of reservation

- (1) An organisation who has applied for the reservation of a sporting facility, may cancel the application, and where the organisation has paid a fee the municipality will determine the percentage of the paid fee to be refunded to the organisation.
- (2)
 - (a) After approval has been given by the municipality, an organisation may apply for the postponement of the reservation to a later date.
 - (b) Approval of the postponement does not result in a penalty or forfeiture of any fees already paid.
 - (c) Postponement may be refused if the facility has been reserved.
- (3) An organisation may apply for an extension of the period of use of the sporting facility, and –
 - (a) the application must be in writing and lodged at the Municipal Manager's offices; and
 - (b) the facility must be available for such use.
- (4) The municipality may cancel the hire of a facility under the circumstances contemplated in section 4(8), or should the municipality require the facility for municipal purposes at the same time, however, the municipality may refund the fees that have already been paid to it in respect of the reservation; or
- (5) Should the municipality cancel a reservation, the municipality must, within a reasonable time and in writing notify the organisation of its decision, however, where a notice is given in terms of section 4(8), the notice is deemed to be effective from the date on which the destruction or damage took place.

(6) Subject to the provisions of subsection (4), an organisation has no claim against the municipality for loss of use of the sporting facility or for damage arising from a cancellation in terms of subsection (4).

11. Termination of hire

(1) Prior to and upon termination of the hire an organisation and an official must inspect the facilities for the purpose of assessing the conditions of the facilities.

(2) The organisation must –

- (a) return the sporting facility to the municipality in the condition it was when it was hired out to the organisation;
- (b) repair any damage or breakages;
- (c) comply with any instructions by the municipality in respect of the cleaning of the sporting facility; and
- (d) vacate the sporting facility within the period stated in the application;

and should the organisation fail to comply with –

- (i) subsection (2)(a), (b) or (c), the municipality may replace, repair or make good any breakages or damages, and recover the costs from the organisation; or
- (ii) (d), the municipality may levy an additional fee for the period during which the organisation occupies the sporting facility after the expiry of the period stipulated in the application.

12. Duties of organisation

(1) Before an organisation commences to use the sporting facility, a representative must inspect the facilities, and should he or she find that buildings, structures, accessories or equipment are in a state of disrepair, this fact must be reported to the municipality in writing, and failure to do so is deemed as an acceptance by the organisation that the facilities are in a proper condition.

(2) The organisation must comply with any conditions determined by the municipality in terms of section 4(4) and take all reasonable measures to ensure that its members and persons attending a sporting activity, as participants, visitors or spectators comply with section 7.

CHAPTER 3: MISCELLANEOUS PROVISIONS

13. Enforcement

(1) An official may, with consent of the person involved, search any person, vehicle or container in, entering into or being brought onto a facility; provided that a woman shall be searched by a woman only.

(2) A person who refuses consent to being searched, may be refused entrance to the facility.

(2) An official may, upon searching a person, vehicle or container as contemplated in subsection (1), confiscate liquor, or any other dangerous object, substance or matter which may endanger the safety of people in the facility, or which may be used to disrupt proceedings at or spoil the enjoyment of the facility, but must return to the person such confiscated item when he or she leaves the sporting facility.

(3) If the official finds an unlawful substance as a result of the search contemplated in subsection (1), he or she must immediately alert the South African Police Services, or if he or she is appointed as a peace officer in terms of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), he or she may act in terms of the Act.

14. Indemnity

Any person visiting or using a facility does so at his or her own risk and the municipality will not be liable for any injury, loss or damage that such person may suffer while in or on the facility.

15. Appeal

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

16. Penalty

A person who has committed an offence in terms of this by-law is liable upon conviction to a fine or imprisonment, or either such fine or imprisonment or to both such fine and such imprisonment and, in the case of a continuing offence, to 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, 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 or failure.

17. Revocation 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, and insofar as it has been made applicable to the municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Local Government: Municipal Structures Act, Act 117 of 1998.

18. Short title and commencement

This by-law may be cited as the Sporting Facilities By-law, and commences on the date of publication thereof in the Provincial Gazette.

**HESSEQUA MUNISIPALITEIT:
VERORDENINGE INSAKE SPORTGERIEWE**

Kragtens die bepalings van artikel 156 van die Grondwet van die Republiek van Suid-Afrika, 1996, verorden die Hessequa Munisipaliteit as volg:-

INHOUDSOPGAWE

Artikel

1. Woordoms krywing
2. Beginsels en doelstellings
3. Toepassing van verordening
- Hoofstuk 1: Administrasie, toegang, tariewe en verbode gedrag
4. Administrasie, beheer oor en instandhouding van sportgeriewe
5. Toegang tot sportgeriewe en stoorgeriewe
6. Toegangs- en ander gelde
7. Verbode gedrag in of op sportgerief of -perseel
- Hoofstuk 2: Georganiseerde sportbedrywigheede
8. Georganiseerde sportbedrywigheede
9. Bespreking en huur van sportgeriewe
10. Kansellasië, uitstel of verlenging van bespreking
11. Beëindiging van huur
12. Pligte van organisasie
- Hoofstuk 3: Algemene bepalings
13. Toepassing
14. Vrywaring
15. Appèl
16. Boete
17. Herroeping van verordeninge
18. Kort titel en inwerkingtreding

1. Woordoms krywing

In hierdie verordening, tensy die konteks anders aandui, het die volgende woorde die volgende betekenis –

"bykomstighede": 'n voorwerp of voorwerpe op of in 'n veld, sportarea of -sportbaan wat nodig is vir die beoefening van 'n spesifieke sportsoort, wat die volgende insluit, maar nie daartoe beperk nie: doelpale, 'n tennisnet, of 'n vlag, en enige ander item of vaste toebehore;

"georganiseerde sportbedrywigheid": 'n sportbedrywigheid wat deur 'n organisasie georganiseer of beheer is en sluit 'n oefen- of opleidingsessie in;

"gerief": 'n sportgerief en sluit enige toestel, toerusting, apparaat of stoorgerief in of op 'n fasiliteit in;

"munisipaliteit": die Hessequa Munisipaliteit wat ingevolge Artikel 12 van die Wet op Plaaslike Regering: Munisipale Strukture, 117 van 1998, gestig is en sluit in enige politieke struktuur, politieke ampsdraer, raadslid, behoorlik gemagtigde agent of enige werknemer wat in verband met hierdie verordening optree uit hoofde van 'n mag wat by die munisipaliteit berus en wat aan sodanige politieke struktuur, politieke ampsdraer, raadslid, agent of werknemer gedelegeer of gesubdelegeer is;

"organisasie": 'n sportklub, onderwysinrigting, of vereniging van mense en sluit 'n groep of sportklub in wat deur die munisipaliteit gestig is, by welke sportklub of vereniging of groep lede van die publiek mag aansluit;

"sportgerief": enige grond, area, perseel, gebou of struktuur, of gedeelte daarvan, wat deur die munisipaliteit geadministreer of beheer word en wat vir 'n sportbedrywigheid aangewys, afgebaken of opsygesit is en sluit fasiliteite in wat om 'n sportgerief aangetref word en normaalweg aanvullend daartoe is.

"toebehore": enige montasie, installasie, inrigting, toestel, instrument, apparaat, gereedskap en werktuig hoegenaamd op die perseel soos 'n slot, stopkraan, kraan, klep en pyp en sluit enige ander toestel of enige masjien in, maar is nie daartoe beperk nie;

"toerusting": enige uitrusting wat iemand in 'n sportaktiwiteit gebruik.

2. Beginsels en doelstellings

Die munisipaliteit erken die reg van die gemeenskap, hetsy dit in 'n organisasie georganiseer is of nie, om sportgeriewe te gebruik en te geniet en aanvaar die plig om die hulpbronne van die munisipaliteit in

die beste belang van die gemeenskap in stand te hou en te ontwikkel en beoog met hierdie verordening die doel om sportgeriewe te beheer en te administreer.

3. Toepassing van Verordening

Hierdie verordening is van toepassing op alle sportgeriewe onder die beheer en administrasie van die munisipaliteit, maar is nie van toepassing op grond, areas, geboue en strukture wat deur die munisipaliteit se Verordening insake Openbare Geriewe gereguleer word nie.

HOOFSTUK 1: ADMINISTRASIE, TOEGANG, TARIWE EN VERBODE GEDRAG

4. Administrasie van, beheer oor en instandhouding van sportgeriewe

- (1) Die munisipaliteit kan 'n liggaam of sportkomitee stig om hom van raad te dien oor aangeleenthede wat met sportgeriewe verband hou.
- (2) Die munisipaliteit moet alle sportgeriewe ooreenkomstig hierdie verordening administreer.
- (3) Die munisipaliteit mag grond of geboue verkry met die doel om sportgeriewe te ontwikkel, of met bestaande sportgeriewe of enige regte daartoe handel.
- (4) 'n Persoon of organisasie wat sportgeriewe gebruik of verhuur, doen dit onderworpe aan die bepalings van hierdie verordening en ingevolge voorwaardes wat deur die munisipaliteit bepaal word.
- (5) Waar 'n georganiseerde sportaktiwiteit nie deur die munisipaliteit georganiseer of beheer word nie, mag 'n munisipale werknemer teenwoordig wees.
- (6) Onderworpe aan die bepalings en voorwaardes wat in enige huurkontrak uiteengesit word en onderworpe aan enige toepaslike nasionale wette, mag niemand –
 - (a) sy of haar eie voorraad alkoholiese drank op of in 'n sportgerief bring sonder skriftelike toestemming van die munisipaliteit nie;
 - (b) enige alkoholiese drank na of in 'n sportgerief bring sonder skriftelike magtiging van 'n gemagtigde beampte nie.
- (7) Indien die munisipaliteit die verkoop of gebruik van alkohol op of in 'n gerief toelaat, is die verkoop of verbruik onderworpe aan die volgende voorwaardes:
 - (a) geen alkoholiese drank mag in 'n glasbottel, glaskoppie of ander houer wat van glas gemaak is, bedien word nie;
 - (b) bier, sider en alkoholiese vrugtedranke mag net in blikkies, vaatjies of plastiekkoppies voorgesit word;
 - (c) die organisasie moet orde binne die sportgerief handhaaf.
- (8) Die munisipaliteit mag 'n gerief sluit wanneer:
 - (a) Die fasiliteit weselik onbruikbaar gemaak word weens –
 - (i) vernietiging;
 - (ii) ernstige skade; of
 - (iii) die afwesigheid van munisipale dienste.
 - (b) die gerief 'n gevaar vir menselewens of eiendom inhou;
 - (c) 'n noodtoestand ontstaan het wat sodanige sluiting nodig maak.
- (9) Die munisipaliteit mag 'n gerief tydelik sluit ten einde herstel- of instandhoudingswerk uit te voer, of om enige ander rede wat die munisipaliteit mag goeddink.
- (10) 'n Persoon of 'n organisasie wat subartikel (6) of (7) oortree, pleeg 'n misdryf.

5. Toegang tot sportgeriewe en bewaringsgeriewe

- (1) Die munisipaliteit mag 'n kennisgewing by of naby die ingang na 'n gerief aanbring waarop die ure waartydens die gerief deur die publiek gebruik mag word, verstrekkend word.
- (2) Die munisipaliteit behou hom die reg tot toegang na 'n gerief voor en die beampte mag 'n persoon wat 'n bepaling van hierdie verordening oortree het, opdrag gee om die gerief of perseel onmiddellik te verlaat en, indien die persoon versuim om gehoor aan die opdrag te gee, kan die beampte die persoon verwyder of laat verwyder.
- (3) Die munisipaliteit het die reg om die maksimum kapasiteit van 'n sportgerief te bepaal en sodra hierdie maksimum kapasiteit bereik word, moet 'n beampte enige verdere toegang weier en kan hy of sy maatreëls wat nodig is om toegang te verhoed, tref.

6. Toegangsgelde en ander gelde

Die munisipaliteit kan gelde voorskryf wat gehê kan word vir toegang tot of die huur of gebruik van 'n sportgerief of -toerusting.

7. Verbode gedrag in of op 'n sportgerief of -perseel

(1) Niemand mag –

- (a) enige deel van 'n gerief binnegaan op enige ander wyse as deur 'n ingang wat vir dié doel aangewys is nie;
- (b) 'n gerief op enige tydstip behalwe gedurende ure wanneer sodanige gerief vir lede van die publiek oop is, sonder toestemming binnegaan of daarbinne bly of wanneer toegang tot die gerief geweier is nie;
- (c) in 'n sportgerief rook nie, behalwe in 'n opelugfasiliteit of in areas wat spesiaal vir daardie doel aangewys is, soos aangedui deur kennisgewings te dien effekte;
- (d) skoeisel dra wat die oppervlak van 'n gerief kan beskadig nie;
- (e) by 'n sportaktiwiteit teenwoordig wees of daaraan deelneem indien hy of sy onbetaamlik geklee of ongekleed is nie, behalwe in 'n gerief wat opsygesit is vir gebruik deur persone van dieselfde geslag;
- (f) hom- of haarself in enige deel van die sportgerief wat nie die ablusiegeriewe is nie, ontlas nie;
- (g) met uitsondering van kinders onder die ouderdom van 5 jaar, kleedkamers, ablusiegeriewe, aantrekhoekies of enige geriewe wat vir 'n bepaalde geslag opsygesit is, gebruik indien hy of sy nie van daardie geslag is nie;
- (h) enige area van die sportgerief binnegaan of daarin bly indien die area vir die gebruik van persone van die teenoorgestelde geslag gereserveer is nie;
- (i) 'n kleedkamer, ablusiegerief, aantrekhoekie of enige ander gerief vir 'n langer tydperk gebruik as wat dit redelikerwys nodig is om die beoogde handeling te verrig nie;
- (j) onweloweglike of vuiltaal gebruik of hom- of haarself op 'n wyse gedra wat 'n ergernis of onaanvaarbare gedrag teenoor ander mense behels nie;
- (k) enige deel van 'n sportgerief, bybehore of toerusting vernietig, beskadig of ontsier nie;
- (l) vullis weggooi nie, behalwe in 'n houer wat vir daardie doel voorsien is;
- (m) op enige wyse peuter met die materiaal wat die oppervlak van 'n sportgerief bedek nie;
- (n) enige vuur aansteek nie;
- (o) 'n voertuig op 'n grasperk op die perseel bestuur, trek of aandryf of op die grasperk loop op die perseel van 'n sportgerief loop of daarop lê indien dit by wyse van 'n kennisgewing op die perseel verbied word nie;
- (p) 'n fiets, rollemme, rolskaatse, 'n skaatsplank, 'n driewiel of enige soortgelyke vorm van vervoer of vermaak in of op 'n sportgerief ry of gebruik nie, behalwe in 'n sportgerief wat die gebruik van sodanige toestelle toelaat;
- (q) sonder die vooraf verkreë uitdruklike toestemming van die munisipaliteit enige item verkoop, smous, adverteer, te koop aanbied of aankoop of enigiets vertoon vir verkoop, bruikhuur of huur, of 'n pamflet, boek of strooibiljet of ander gedrukte materiaal binne 'n sportgerief of in die onmiddellike omgewing van die ingang daarvan versprei nie;
- (r) hetsy binne of buite 'n sportgerief enige beampte in die uitvoering van sy of haar pligte of die uitoefening van enige gesag ingevolge hierdie verordening belemmer, teenstaan of daarmee inmeng nie;
- (s) peuter of inmeng met toebehore in of op die perseel van 'n sportgerief nie;
- (t) 'n dier, behalwe 'n gidshond, sonder die vooraf verkreë toestemming van die munisipaliteit in 'n sportfasiliteit inbring of daarin hou nie, tensy die sportaktiwiteit waaraan deelgeneem word, die gebruik van diere behels nie;
- (u) 'n wapen of ander gevaarlike voorwerp in 'n gerief inbring of daarin hou nie.
- (v) sonder die toestemming van die beampte in beheer van die gerief enige kamp ("enclosure"), tent of soortgelyke konstruksie, stalletjie, hokkie, staanplek, skerm of heining oprig of probeer oprig of enige pen of spyker in die grond inslaan nie;
- (w) hom- of haarself gedra of optree op 'n wyse wat die orde kan belemmer nie;
- (x) enige middel of materiaal wat die veiligheid van mense in gevaar kan stel of wat gebruik kan word om verrigtinge by die fasiliteit te ontwrig of die vreedsame genieting daarvan kan belemmer, na of op 'n gerief bring nie;
- (y) hom- of haarself op 'n wyse gedra wat 'n sportaktiwiteit kan ontwrig nie; of
- (z) versuim om aan enige wettige instruksie wat deur 'n gemagtigde beampte gehoor te gee nie.

- (2) 'n Persoon wat enigeen van die bepalings van hierdie artikel oortree, pleeg 'n misdryf.

HOOFSTUK 2: GEORGANISEERDE SPORTBEDRYWIGHED

8. Georganiseerde sportbedrywighede

- (1) Die munisipaliteit kan toelaat dat sy fasiliteite gebruik word deur sportorganisasies, munisipale personeel of ander persone.
- (2) 'n Organisasie aan wie 'n sportgerief of 'n gedeelte daarvan vir gebruik op gereelde tye toegewys is moet toesien dat net sy lede die gerief gebruik en indien dit onmoontlik vir die organisasie is om die gerief op die betrokke tye te gebruik, moet die organisasie die beampte in beheer van die sportgerief vroegetydig laat weet, en indien 'n organisasie versuim om dit te doen, kan die munisipaliteit die organisasie se voortgesette gebruik van die gerief opskort of kanselleer.

9. Bespreking en huur van sportgerief

- (1) Die munisipaliteit kan 'n sportgerief vir die doel van georganiseerde sport of vir spesiale geleenthede opsysit of verhuur volgens sodanige voorwaardes as wat hy mag neerlê en die munisipaliteit kan 'n tarief daarvoor hef of dit gratis beskikbaar stel of gratis toegang vir geselekteerde persone verleen.
- (2) Die verteenwoordiger van 'n organisasie wat 'n sportgerief wil huur, moet die voorgeskrewe aansoekvorm invul en dit by die munisipaliteit indien.
- (3) By die oorweging van 'n aansoek kan die munisipaliteit, afgesien van ander relevante faktore, die volgende in aanmerking neem:
- die beginsels en doelstellings van hierdie verordening;
 - dat die sportgerief net vir wettige doeleindes gebruik mag word;
 - dat die sportgerief nie 'n hindernis of ergernis vir ander gebruikers van 'n ander deel van die sportgerief wat nie deur die organisasie gehuur is nie, of vir die okkuperders van aanliggende persele, mag uitmaak nie; en
 - dat die gebruik van die sportgerief nie 'n gevaar vir enige persoon of eiendom mag inhou of 'n negatiewe uitwerking op die omgewing sal hê nie.
- (4) Die munisipaliteit kan die gebruik van 'n sportgerief toestaan onderworpe aan enige voorwaarde wat hy wil oplê, of kan toestemming weier.
- (5) Die munisipaliteit moet die betrokke organisasie binne sewe dae nadat die aansoekvorm ingedien is, skriftelik in kennis stel of die aansoek goedgekeur of geweier is, en –
- indien die aansoek geweier is, moet die munisipaliteit die redes waarom die aansoek geweier is, aan die organisasie verstrek; of
 - indien die aansoek goedgekeur is, moet die munisipaliteit 'n kennisgewing van goedkeuring aanstuur waarin die voorwaardes waaraan die gebruik van die sportgerief onderworpe is, uiteengesit word.
- (6) 'n Organisasie mag nie die sportaktiwiteit waarvoor dit 'n aansoek ingedien het, adverteer of aankondig voordat hy die munisipaliteit se goedkeuring ontvang het nie.
- (7) Die munisipaliteit mag, voordat hy 'n aansoek goedkeur, van 'n organisasie wat 'n sportgerief wil gebruik, vereis om die volgende uit te neem by 'n versekeringsmaatskappy wat deur die munisipaliteit goedgekeur is –
- versekering vir 'n bedrag goedgekeur deur die munisipaliteit om enige strukturele skade wat op die sportgerief veroorsaak mag word terwyl dit deur die organisasie gebruik word, te dek; en
 - versekering teen openbare aanspreeklikheid.
- (8) 'n Organisasie wat vals inligting in 'n aansoekvorm of ten opsigte van die vereistes in subartikel (7) verstrek, of wat subartikel (6) oortree, pleeg 'n misdryf.

10. Kansellasië, uitstel of verlenging van bespreking

- (1) 'n Organisasie wat aansoek gedoen het om 'n sportgerief te bespreek, kan die aansoek kanselleer, en indien die organisasie reeds 'n tarief betaal het, kan die munisipaliteit bepaal welke persentasie van die tarief wat betaal is, aan die organisasie terugbetaal moet word.
- (2) (a) Nadat goedkeuring deur die munisipaliteit gegee is, kan 'n organisasie aansoek doen dat die bespreking na 'n later datum uitgestel word.
- (b) Goedkeuring van die uitstelling sal nie meebring dat 'n boete betaal moet word of dat enige gelde wat reeds betaal is, verbeur word nie.
- (c) Die munisipaliteit kan weier dat die besprekingsdatum uitgestel word, indien die gerief reeds vir daardie datum bespreek is.

- (3) 'n Organisasie kan aansoek doen dat die tydperk van gebruik van die sportgerief verleng word, en –
- (a) die aansoek moet op skrif gestel en by die Munisipale Bestuurder se kantoor ingedien word; en
 - (b) die gerief moet vir sodanige gebruik beskikbaar wees.
- (4) Die munisipaliteit kan die huur van 'n gerief onder die omstandighede beoog in artikel 4(8) kanselleer of indien die munisipaliteit die gerief op dieselfde tydperk nodig het vir munisipale doeleindes, kan die munisipaliteit die gelde wat reeds ten opsigte van die bespreking aan hom betaal is, terugbetaal; of
- (5) Indien die munisipaliteit 'n bespreking kanselleer, moet die munisipaliteit die organisasie binne 'n redelike tydperk en skriftelik van sy besluit in kennis stel; indien 'n kennisgewing ingevolge artikel 4(8) gegee word, word die kennisgewing egter geag om in werking te tree op die datum waarop die vernietiging of skade plaasgevind het.
- (6) Onderworpe aan die bepalings van subartikel (4) het 'n organisasie geen eis teen die munisipaliteit vir die verlies van die gebruik van die sportgerief of vir skade wat voortspruit uit 'n kansellering ingevolge subartikel (4) nie.

11. Beëindiging van huur

- (1) By die beëindiging van die huur, moet 'n organisasie en 'n beampte die fasiliteite inspekteer om die toestand van die fasiliteite te evalueer.
- (2) Die organisasie moet –
- (a) die sportgerief aan die munisipaliteit terugbesorg in die toestand waarin dit was toe dit aan die organisasie uitgehuur is;
 - (b) enige skade of gebreekte items regmaak;
 - (c) voldoen aan enige opdragte deur die munisipaliteit ten aansien van die skoonmaak van die sportgerief; en
 - (d) die sportgerief binne die tydperk gemeld in die aansoek ontruim;
- en indien die organisasie versuim om te voldoen aan –
- (i) subartikel (2)(a), (b) of (c), kan die munisipaliteit enige gebreekte items of skade vervang, regmaak of vergoed en die koste van die organisasie verhaal; of
 - (ii) subartikel (d), kan die munisipaliteit 'n bykomende tarief hef vir die tydperk waartydens die organisasie die sportgerief beset ná die verstryking van die tydperk gemeld in die aansoek.

12. Pligte van organisasie

- (1) Voordat 'n organisasie begin om die sportgerief te gebruik, moet 'n verteenwoordiger die fasiliteite inspekteer en indien hy of sy bevind dat die geboue, strukture, bykomstighede of toerusting in 'n vervalde toestand is, moet hierdie feit skriftelik aan die munisipaliteit gerapporteer word, en by versuim om dit te doen, word dit geag aanvaarding deur die organisasie te wees dat die fasiliteite in 'n behoorlike toestand is.
- (2) Die organisasie moet voldoen aan enige voorwaardes wat deur die munisipaliteit ingevolge artikel 4(4) gestel word en moet alle redelike maatreëls tref om te verseker dat sy lede en die persone wat 'n sportaktiwiteit bywoon, hetsy as deelnemers, toeskouers of besoekers, aan artikel 7 voldoen.

HOOFSTUK 3: ALGEMENE BEPALINGS

13. Toepassing

- (1) 'n Beampte mag enige persoon, voertuig of houer wat 'n gerief binnegaan of daarin gebring word, deursoek.
- (2) 'n Beampte kan beslag lê op drank of gevaarlike voorwerp, middel of materiaal wat die veiligheid van mense in die gerief in gevaar kan stel, of die verrigtinge by die gerief kan ontwig of die genieting van die gerief kan belemmer, maar moet die goedere waarop beslag gelê is, terugbesorg aan die persoon wanneer hy of sy die sportgerief verlaat.
- (3) Indien die beampte in die loop van die deursoeking beoog in Subartikel (1) op 'n onwettige middel afkom, moet hy of sy die Suid-Afrikaanse Polisiedienste onmiddellik in kennis stel of, indien hy of sy ingevolge die Straffproseswet, 1977 (Wet Nr. 51 van 1977) as 'n vredesbeampte aangestel is, mag hy of sy uit hoofde van die Wet optree.
- (4) Iemand wat 'n beampte in die uitvoering van sy of haar pligte hinder of daarmee inmeng, pleeg 'n misdryf.

14. Vrywaring

Enigiemand wat 'n gerief besoek of wat dit gebruik, doen dit op sy of haar eie risiko en die munisipaliteit is nie aanspreeklik vir enige besering, verlies of skade wat sodanige persoon mag ly terwyl hy of sy in of op die gerief is nie.

15. Appèl

'n Persoon wie se regte deur 'n besluit van die munisipaliteit geraak word, kan ingevolge Artikel 62 van die Wet op Plaaslike Regering : Munisipale Stelsels, Wet 32 van 2000 binne 21 dae van die datum van inkennisstelling van die besluit appèl teen die besluit aanteken by die Munisipale Bestuurder, by wyse van skriftelike kennisgewing van die appèl en die redes daarvoor.

16. Boete

'n Persoon wat kragtens die bepalings van hierdie verordening 'n misdryf pleeg, sal by skuldigbevinding 'n boete of tronkstraf opgelê word of, by versuim om te betaal, aan tronkstraf, of aan tronkstraf sonder die opsie van 'n boete, of aan beide sodanige boete en tronkstraf, en in die geval van opeenvolgende of voortgesette oortredings, 'n bykomende boete of bykomende tronkstraf of bykomende tronkstraf sonder die keuse van 'n boete of beide sodanige bykomende boete en tronkstraf vir elke dag wat sodanige oortreding voortduur, of indien die persoon versuim om te betaal, aan tronkstraf, en vir 'n bedrag gelykstaande aan enige kostes of uitgawes deur die munisipaliteit aangegaan as gevolg van sodanige oortreding of versuim.

17. Herroeping van verordeninge

Die bepalings van enige verordeninge wat voorheen deur die munisipaliteit of deur enige van die afgeskafte munisipaliteite wat nou in die munisipaliteit geïnkorporeer is, uitgevaardig is, word herroep insoverre hulle betrekking het op aangeleenthede waarvoor daar in hierdie verordening voorsiening gemaak word en insoverre dit op die munisipaliteit van toepassing gemaak is deur magtiging vir die uitoefening van magte en funksies ingevolge Artikel 84(3) van die Wet op Plaaslike Regering: Munisipale Strukture, Wet 117 van 1998.

18. Kort titel en inwerkingtreeding

Hierdie verordening word die Verordening insake Sportgeriewe genoem en tree in werking op die datum van die publikasie hiervan in die Provinsiale Koerant.

**HESSEQUA MUNICIPALITY
SOLID WASTE DISPOSAL BY-LAW**

Under of section 156 of the Constitution of the Republic of South Africa, 1996 (, the Hessequa Municipality, enacts as follows:-

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1. Definitions

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

“**attendant**”, means an employee of the municipality or agent of the municipality duly authorised to be in charge of the disposal site;

“**municipality**” means the Municipality of Hessequa 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 or any employee 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;

“**owner**” also means lessee, occupier, resident or any person who obtains a benefit from the premises or is entitled thereto and also includes any insolvent estate, executor, administrator, trustee, liquidator judicial manager;

“**premises**” means residential-, business-, and industrial premises and includes any land, whether vacant, occupied or with buildings thereon, forming part of a piece of land laid out as a township, irrespective of being proclaimed as a township;

“**removal “day”**” means the day fixed by the municipality for removal of waste from premises and depending on the case may be multiple removals per week;

“**waste**” includes -

- (a) "business waste" which means any matter or substance arising out of the use of business premises but does not include, hazardous waste, material, domestic waste or garden waste;
- (b) "domestic waste" which means any fruit or vegetable peels, fruit or vegetable waste, general domestic waste which is of such size that it may be deposited in a refuse bin but does not include garden waste;

- (c) "garden waste" which means waste originating from a gardening activity such as grass cutting, leaves, plants flowers or similar waste of such size that it can be placed in a refuse bin;
- (d) "hazardous waste" which means any waste, matter or substance which may be hazardous or harmful to the environment and residents or which may pollute the environment including asbestos, motor oils or lubricants, or any other waste, matter or substance which constitutes hazardous waste as envisaged in the Hazardous Substances Act, 1973, Act 15 of 1973;
- (e) "offensive waste" means any waste, matter or substance which may be harmful to the environment and residents and includes, but is not limited to-
 - (i) animal products, animal carcasses and meat as defined in the Meat Safety Act, (Act 40 of 2000) and in the Red Meat Regulations promulgated under GN 1072 of 17 September 2004;
 - (ii) fruit or vegetables or any by-product obtained from such fruit or vegetables;
 - (iii) perishable foodstuffs; and
 - (iv) health care waste as defined in the Western Cape Health Care Waste Management Act, 2007, (Act 7 of 2007).;
- (f) "materials" which means any stone, rock, sand, building materials or building rubble or any other type of composite or artificial materials such as plastic pipes and similar materials as well as materials which are utilised in the erection of buildings or structures or any other materials which constitute materials;

"**waste bin**" means a mobile container with a capacity determined by the municipality, or alternatively plastic bags, which the municipality may make available to each premises;

"**waste management activities**" means the generation, reduction and minimisation of waste, waste handling, which includes the separation, storage, collection, and transfer of waste, and waste treatment, which includes the recovery of waste, recovery being the recycling, reclamation and re-use of waste, and disposal of waste, and any word to which a meaning has been assigned in the Environment Conservation Act, 1989 (Act 73 of 1989) and in the Directions with regard to the Control and Management of General Communal and General Small Waste Disposal Sites issued under the Act and published per GN R91 in Government Gazette No. 23053 dated 1st February 2002, bears that meaning.

2. Purpose of by-laws

This by-law strive to promote the achievement of a safe and healthy environment for the benefit of residents within the area of jurisdiction of the municipality, and to provide for procedures, methods and practices to promote waste management activities such as, but not limited to, the dumping of waste and the management of solid waste disposal sites.

3. Applicable legislation

The directions in terms of section 20(5)(b) of the Environment Conservation Act, 1989 (Act 73 of 1989) with regard to the Control and Management of General Communal and General Small Waste Disposal Sites as published in GN 91 in GG 23053 of 1 February 2002 apply.

4. Duties and powers of municipality

- (1) The municipality as the primary service provider in the municipal area has a duty to the local community to progressively ensure efficient, affordable, economical and sustainable access to waste management services in its area or a part of its area.
- (2) This duty is subject to -
 - (a) the duty of members of the local community as users of the municipality's waste management services or any other person making use of the municipality's waste management services to pay for the provision of the services, the prescribed charges, which must be priced in accordance with any nationally prescribed norms and standards for rates and tariffs; and
 - (b) the right of the municipality to differentiate between geographical areas when providing types of waste management services, without compromising on service equity in line with the Constitution.
- (3) The municipality must as far as is reasonably possible and subject to the provisions of this by-law provide, at a cost to users of the services prescribed by the municipality -
 - (a) for the collection of waste on a regular basis, except waste in its area, which is so situated that the cost of collecting it would be unreasonably high; and
 - (b) access to facilities for the recovery and disposal of waste.
- (4) The municipality must notify all users of its waste management services of any decisions taken in terms of this By-law.

5. Compulsory use of service

- (1) No one except the municipality or a person authorised by the municipality may remove any refuse from any premises or dispose thereof.
- (2) Each owner of premises must, where a service is rendered, make use of the service provided by the municipality for the removal or disposal of refuse, in respect of refuse originating from such premises.
- (3) The tariff as fixed by the municipality shall be payable to the municipality by the owner, irrespective whether the service is being used, or not.
- (4) The provisions of this section do not apply to an owner of residential premises who occasionally wishes to dispose of garden refuse generated on such premises.
- (5) A person who contravenes the provisions of subsections (1), (2) and (3) commits an offence.

6. Establishment and control of disposal site

The municipality may establish and control a disposal site, or may appoint agents or may contract some other person or body to control, manage and operate a disposal site on behalf of the municipality in accordance with the provisions of this by-law and the provisions of any other legislation that may be applicable.

7. Access to disposal site

- (1) Only a person wishing to dump waste who has paid the prescribed fees or who is in possession of a written permission issued by the municipality which permits him or her to dump such waste at a disposal site and a person having obtained the written consent of the municipality to recycle any materials or objects on such a site, is entitled to enter the disposal site or to be on the site.
- (2) Notwithstanding anything to the contrary contained in this by-law, any employee of the municipality or anybody acting on behalf of the municipality and duly authorised thereto, may enter a disposal site at any time in exercising his or her duties.
- (3) A person making use of the disposal site or entering the disposal site, do so at his or her own risk and the municipality accepts no responsibility for the safety of such person or any damages or losses sustained by such person.
- (4) A person who enters a disposal site or who is found on such a site in contravention of the provisions of this section commits an offence.

8. Off-loading of waste

- (1) A person who wishes to dump waste at a disposal site, must off-load such waste at such a place within the borders of the disposal site and in such a manner as the attendant may direct.
- (2) The municipality may-
 - (a) set aside any part of a disposal site where only waste of a particular kind may be dumped or deposited;
 - (b) limit the type or size of vehicle from which waste may be dumped or deposited at any disposal site;
 - (c) limit the quantity of waste in general or the quantity of a particular type of waste which may be dumped or deposited at any disposal site; and
 - (d) determine the days when and hours during which dumping may take place at any disposal site.
- (3) Any requirement imposed in terms of this by-law must be indicated to the public by means of an appropriate notice erected at the entrance of the disposal site concerned and any instruction issued by an official of the municipality or a person acting on behalf of the municipality in charge of access control at the dumping site, shall be strictly complied with.
- (4) Notwithstanding the provisions of subsection (2) the municipality reserves the right not to permit the dumping of hazardous or offensive waste at a disposal site.
- (5) A person who contravenes any of the provisions of this section commits an offence.

9. Ownership of waste

- (1) Waste dumped at a disposal site, becomes the property of the municipality and no person who is not duly authorised by the municipality to do so may remove or interfere with such waste.
- (2) A person who contravenes subsection (1) commits an offence.

10. Categories of waste

The municipality may, for the purposes of this by-law, categorise waste into different categories.

11. Separation of waste

The municipality may, for the purposes of this by-law, require that waste be separated into different kinds and nature of waste.

12. Provision of waste bins

- (1) The municipality may –
- (a) provide waste bins, or alternatively plastic bags, for the disposal of waste generated on premises; and
 - (b) authorise the use of bins and lids constructed of rubber or other material where the design and construction has been approved by the municipality.
- (2) Waste bins other than plastic bags provided in terms of subsection (1) remain the property of the municipality.
- (3) The municipality may prescribe special waste bins for the reception and storage of such types of waste as the municipality may specify and may by written notice on the owner of premises require the owner to provide at his or her own expense such number of special waste bins as are specified in the notice.
- (4) Where any waste bin provided on premises is –
- (a) of a size likely to hinder the efficient removal of waste there from by the servants of the municipality;
 - (b) is insufficient for the reception of all waste which is to be removed from such premises by the municipality;
 - (c) dilapidated; or
 - (d) likely to cause a nuisance,

the municipality may by notice, require the owner of the premises to provide, at his or her own expense, an additional number of waste bins or such other means of storing receptacles as may be necessary to comply with the provisions of this by-law.

- (5) A waste bin shall be replaced as and when it is necessary, provided that where such waste bin has to be replaced as a result of theft or damage caused through the negligence of the owner, such owner shall be held liable for the cost of replacing it.
- (6) No person may dispose of any waste by placing it anywhere else than in a waste bin provided or approved by the municipality.
- (7) In respect of a group development the municipality may provide less waste bins per household subject to the following conditions -
- (a) a central refuse collection point must be provided by the managing body;
 - (b) the managing body must apply in writing for the reduction of waste bins issued to the development;
 - (c) the reduced number of bins must be approved by the municipality; and
 - (d) the managing body shall be held liable for payment of the account for waste removal.
- (8) A person who contravenes a provision of subsection (6) or who fails to comply with a notice issued in terms of subsections (3) and (4) commits an offence.

13. Location of waste bins

- (1) The owner of premises must provide adequate space on the premises where a waste bin or other receptacle for the purpose of depositing waste or a specific category of waste are kept, and the space must –
- (a) comply with requirements imposed by the municipality by notice to the owner;
 - (b) where applicable, be constructed in accordance with the requirements of any applicable building regulations and be so located that the waste bin or receptacle is not visible from a street or public place;
 - (c) where applicable, be so located as to permit convenient access to and egress from such place for a waste collection vehicle; and
 - (d) be in a location convenient for the use by users or occupants of the premises so as to discourage littering or the unhealthy accumulation of waste.
- (2) In the case of multi-storey buildings, the municipality may approve the installation of refuse chutes of an approved design and specification, and subject to the submission and approval of the plans for such installation.
- (3) The owner of premises must place or cause the waste bins to be placed in the space provided and must at all times keep it there.

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

14. Maintenance of waste bins

- (1) The occupier of premises must ensure that a waste bin other than plastic bags is –
- (a) at all times maintained in good order and repair;
 - (b) emptied and cleansed when full, so that its contents do not become a nuisance or provide grounds for complaint;
 - (c) protected against unauthorised disturbance or interference at all times when waste is not being deposited into it or discharged from it.
- (2) No person may remove a waste bin from any premises to which it has been allocated or destroy or damage it, or permit it to be removed, destroyed or damaged.
- (3) A person who contravenes any provision of this section commits an offence.

15. Collection of waste

- (1) The municipality may indicate a position within or outside the premises where waste bins must be placed for the collection and removal thereof and may require certain kinds of waste, such as garden waste, to be bundled or packaged and be placed in that position at the times and for a period as the municipality may require.
- (2) The municipality shall on removal days collect only waste placed in waste bins or other containers approved by it or which is bundled or packaged in a manner approved by the municipality.
- (3) Where a particular kind of waste as stipulated by the municipality is not collected by the municipality from premises, the owner of the waste must arrange for the collection and transport of the waste as often as may be necessary to prevent undue accumulation or any nuisance arising there from, to a waste disposal or processing site under the control of the municipality, or to such other place as may be approved by the municipality.
- (4) The municipality may decide on separate times on which particular categories of waste are to be collected.
- (5) The municipality may –
- (a) cause collections to be made at regular periods daily or otherwise, and may alter dates of collection;
 - (b) increase the number of collections as it may deem necessary or desirable; or
 - (c) make additional collections should it be desirable.
- (6) In the event of any additional collection being required by the owner of premises, the additional collection will be subject to the approval of the municipality and each additional collection must be paid for by the owner of premises from which the waste is collected at the tariff prescribed by the municipality.
- (7) The municipality may, upon application by the owner of premises, approve alternative arrangements for removal of waste from such premises.
- (8) A person who contravenes the provisions of section (1) or (3) commits an offence.

16. Access to premises

Except where otherwise approved by the municipality, the owner of premises must ensure that access from the nearest public road to the waste storage area on a premises is independent and unimpeded, and an owner who fails to do so, commits an offence.

17. Right of entry

- (1) Any duly authorised employee of the municipality is entitled to enter premises in respect of which the municipality's waste management services are rendered at any reasonable time on any day, or at any other time at which the service is ordinarily rendered for any of the following purposes:
- (a) for collecting and supervising the collection of waste;
 - (b) for replacing waste bins; or
 - (c) for inspecting the means of access to the premises, or the space where waste bins are kept so as to ensure that they are accessible and convenient for the collectors.
- (2) The owner of the premises may not refuse access to the premises by an employee of the municipality, provided that such employee carries an identification card issued by the municipality and produces it upon request of an owner.
- (3) An owner of premises commits an offence if he or she –
- (a) denies access to the premises to an authorised employee of the municipality in the performance of his or her duties; or

- (b) obstructs or impedes such employee of the municipality in the performance of his or her duties.

18. Dumping and littering

- (1) No person may –
- (a) except by permission of the owner or of the person or authority having control thereof; or
 - (b) unless authorised by law to do so, dump, accumulate, place, deposit or leave any waste whatsoever, whether for gain or otherwise, or cause or allow to be dumped, accumulated, placed, deposited or left such waste on or in –
 - (i) any road, highway, street, lane, public footway or pavement or any road verge;
 - (ii) any commonage land, village green, park, recreation ground or other open space to which the public have access;
 - (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 do any of the acts contemplated in subsection (1), the municipality may by written notice require any of the following persons to dispose of, destroy or remove the waste within the period stated in the notice:
- (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 premises on which the waste was dumped, accumulated, placed, deposited, or left, whether or not he or she is responsible therefore.
- (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 land in contravention of subsection (1) and –
- (a) in order to remove or prevent pollution of land, water or air or harm to human health, it is necessary that the waste be forthwith removed or other steps taken to eliminate or reduce the consequences of the deposit or both; and
 - (b) there is no occupier of the land; or
 - (c) the owner neither made nor knowingly permitted the deposit of the waste, the municipality may remove the waste or take other steps to eliminate or reduce the consequences of the deposit and is entitled to recover the cost incurred by it–
 - (i) 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
 - (ii) 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 as the municipality deems fit.
- (6) A person who contravenes a provision of subsection (1) commits an offence.

19. Burning of waste

No person may burn waste without the written approval of the municipality.

20. Charges

- (1) The municipality may fix the charges payable to it for the removal of waste from premises or the dumping of waste at a disposal site under the control of the municipality.
- (2) A person who fails or refuses to pay the charges contemplated in subsection (1) commits an offence.

21. Exemptions

- (1) A person may by means of a written application, in which the reasons are given in full, apply to the municipality for exemption from any provision of this by-law.
- (2) The municipality may –

- (a) grant an exemption in writing and the conditions in terms of which, if any, and the period for which such exemption is granted must be stipulated therein;
 - (b) alter or cancel any exemption or condition in 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 conditions imposed by the municipality under subsection (2), however, if an activity is commenced before such undertaking has been submitted to the municipality, the exemption lapses.
- (4) If any condition of an exemption is not complied with, the exemption lapses immediately.

22. 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; and
 - (b) promoting the waste management activities of the municipality.
- (2) A liaison forum may consist of –
- (a) a member of members of an interest group, or an affected person, in the spirit of section 2(4)(f) – (h) of the National Environmental Management Act, 1998 (Act 107 of 1998);
 - (b) a member or members of a community in whose immediate area a solid waste disposal site exists or may come be established;
 - (c) a designated official or officials of the municipality;
 - (d) a councillor; and
 - (e) such other person or persons the municipality may decide on.
- (3) (a) The municipality may, when considering an application for consent, permit or exemption certificate in terms of this by-law, where applicable, request the input of a liaison forum.
- (b) A liaison forum, person or persons contemplated in subsection (2), or any other person may, on own initiative, having regard to the provisions of section 31 of the National Environmental Management Act, 1998, submit an input to the municipality for consideration.

23. Authentication and service of order, notice or other document

- (1) An order, notice or other document requiring authentication by the municipality must be sufficiently signed by the Municipal Manager shall be deemed to be duly issued if it is signed by the Municipal Manager.
- (2) Any notice or other document that is served on a person in terms of this by-law is regarded as having been served -
- (a) when it has been delivered to that person personally;
 - (b) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of sixteen years;
 - (c) when it has been posted by registered or certified mail to that person's last know residential or business address in the Republic and an acknowledgment of the posting thereof from the postal service is obtained;
 - (d) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided by paragraphs (a), (b) or (c);
 - (e) if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the property or premises, if any, to which it relates; or
 - (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.
- (3) Service of a copy shall be deemed to be service of the original.
- (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 municipal manager's office.

24. Appeal

A person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local

Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision.

25. Penalties

A person who has committed an offence in terms of this by-law is liable upon conviction to a fine or imprisonment, or either such fine or imprisonment or to both such fine and such imprisonment and, in the case of a continuing offence, to 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, 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 or failure.

26. Revocation 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, and insofar as it has been made applicable to the municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Local Government: Municipal Structures Act, Act 117 of 1998.

27. Short title and commencement

This by-law may be cited as the Solid Waste Disposal By-law, and commences on the date of publication thereof in the Provincial Gazette.

**HESSEQUA MUNISIPALITEIT:
VERORDENING RAKENDE WEGDOENING MET VASTE AFVAL**

Kragtens die bepalings van artikel 156 van die Grondwet van die Republiek van Suid-Afrika, 1996, verorden die Hessequa Munisipaliteit as volg:-

Inhoudsopgawe

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27. Kort titel en inwerkingtrede

1. Woordomsrywings

In hierdie verordening, tensy die inhoud anders aandui –

“afval” sluit in –

- (a) “besigheidsafval” wat beteken enige saak of stof wat ontstaan deur die gebruik van besigheidspersele maar sluit nie gevaarhoudende afval, materiaal, huishoudelike afval of tuinafval in nie;
- (b) “huishoudelike afval” wat beteken enige vrugte of groente skille, vrugte of groente afval, algemene huishoudelike afval wat van sodanige grootte is dat dit in ‘n vullisdrom gelaat mag word maar sluit nie tuinafval in nie;
- (c) “tuinafval” wat beteken afval wat voortspruit uit ‘n tuin aktiwiteit soos gras snysels, blare, plante, blomme of soortgelyke afval van sodanige grootte dat dit in ‘n vullisdrom geplaas mag word;
- (d) “gevaarhoudende afval” wat beteken enige afval, saak of stof wat gevaarhoudend of skadelik vir die omgewing en inwoners mag wees of die omgewing mag besoedel ingesluit asbes, motorolies of smeermiddels, of enige ander afval, saak of stof wat gevaarhoudende afval bevat soos beoog in die Wet op Gevaarhoudende Stowwe, 1973, Wet 15 van 1973;
- (e) “aanstootlike afval” beteken enige afval, saak of stof wat skadelik vir die omgewing en inwoners mag wees en sluit in, maar nie beperk nie tot –
 - (i) dierprodukte, dierkarkasse en vleis soos omskryf in die Wet op die Veiligheid van Vleis, 2000 (Wet 40 van 2000) en in die Rooivleis Regulasies uitgevaardig ingevolge GK 1072 van 17 September 2004;

- (ii) vrugte of groente of enige byprodukte verkry van sodanige vrugte of groente;
 - (iii) bederfbare kossoorte; en
 - (iv) gesondheidsorg afval soos omskryf in die Wes-Kaapse Wet op die Bestuur van Gesondheidsorgafval, 2007 (Wet 7 van 2007);
- (f) “materiale” wat beteken enige klip, rots, sand, boumateriaal of bourommel of enige ander soort kombinasie of kunsmatige materiale soos plastiese pype en soortgelyke materiale asook materiale wat gebruik word in die oprigting van geboue of strukture of enige ander materiale wat materiale verteenwoordig;

“**afvalbestuursaktiwiteite**” beteken die generering, vermindering en minimalisering van afval, afval hantering, wat insluit die skeiding, berging, afhaal, en vervoer van afval, en afvalbehandeling, wat insluit die herwinning van afval, herwinning behelsende die hersirkulering, terugwinning en hergebruik van afval, en wegdoen van afval, en enige ander woord waaraan ‘n betekenis gegee is in die Wet op Omgewingsbewaring, 1989 (Wet 73 van 1989) en in die voorskrifte met betrekking tot die Beheer en Bestuur van Algemene Gemeenskaplike en Algemene Klein Afval Stortingsterreine uitgereik ingevolge die Wet en gepubliseer by GK R91 in Staatskoerant No. 23053 gedateer 1 Februarie 2002, dra daardie betekenis;

“**afvalhouer**” beteken ‘n mobiele houer met ‘n kapasiteit bepaal deur die munisipaliteit, of alternatiewelik, plastiese sakke, wat die munisipaliteit beskikbaar mag stel aan elke perseel;

“**diensdoener**” beteken ‘n werknemer van die munisipaliteit of agent van die munisipaliteit wat behoorlik gemagtig is om in beheer te wees van die wegdoeningsterrein;

“**eienaar**” beteken ook huurder, okkupeerder, bewoner of enige ander persoon wat ‘n voordeel van die perseel verkry of daarop geregtig is en sluit ook in enige insolvente boedel, eksekuteur, administrateur, trustee, likwidateur of geregtelike bestuurder;

“**munisipaliteit**” beteken die Hessequa Munisipaliteit ingevolge artikel 12 van die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet 117 van 1998) en sluit enige politieke strukture, politieke ampsbekleër, raadslid, behoorlik gemagtigde agent of enige werknemer in handelende ingevolge hierdie verordening uit hoofde van ‘n bevoegdheid wat in die munisipaliteit berus en gedelegeer of gesubdelegeer is aan sodanige politieke strukture, politieke ampsbekleër, raadslid, agent of werknemer;

“**perseel**” beteken residensiële-, besigheids- en nywerheidspersele en sluit in enige grond, hetsy vakant, geokkupeer of met geboue daarop, wat deel vorm van ‘n stuk grond uitgelê as ‘n dorp, ongeag of dit geproklameer is as ‘n dorp;

“**verwyderingsdatum**” beteken die dag vasgestel deur die munisipaliteit vir die verwydering van afval van persele en afhangend van die geval mag veelvuldige verwyderings per week wees.

2. Doel van verordeninge

Hierdie verordening strem om die bereiking van ‘n veilige en gesonde omgewing vir die voordeel van inwoners binne die jurisdiksiegebied van die munisipaliteit te bevorder, en om voorsiening te maak vir prosedures, metodes en praktyke om vaste afval bestuursaktiwiteite te bevorder, soos, maar nie beperk nie tot, die storting van afval en die bestuur van vaste afval wegdoeningsterreine.

3. Toepassing van verordening

Die voorskrifte ingevolge artikel 20(5)(b) van die Wet op Omgewingsbestuur, 1989 (Wet 73 van 1989) met betrekking tot die Beheer en Bestuur van Algemene Gemeenskaplike en Algemene Klein Afval Stortingsterreine soos gepubliseer by GK 91 in SK 23053 van 1 Februarie 2002 is van toepassing.

4. Pligte en bevoegdhede van munisipaliteit

(1) Die munisipaliteit as die primêre diensverskaffer in die munisipale gebied het ‘n plig teenoor die plaaslike gemeenskap om progressief effektiewe, bekostigbare, ekonomiese en volhoubare toegang tot afvalbestuursdienste in sy gebied of deel van sy gebied, te verseker.

(2) Hierdie plig is onderhewig aan –

- (a) die plig van lede van die plaaslike gemeenskap as gebruikers van die munisipaliteit se afval bestuursdienste of enige ander persoon wat van die munisipaliteit se afval bestuursdienste gebruik maak, om die voorgeskrewe koste vir die voorsiening van die dienste, wat geprys moet word in ooreenstemming met enige nasionale voorgeskrewe norms en standaarde vir belastinge en tariewe, te betaal; en

- (b) die reg van die munisipaliteit om tussen geografiese gebiede te differensieer wanneer soorte afval bestuursdienste voorsien word, sonder om diensgelykheid ooreenkomstig die Grondwet te kompromitteer.
- (3) Die munisipaliteit moet sover dit redelik moontlik is en onderhewig aan die bepalings van hierdie verordening, aan gebruikers van die dienste teen 'n koste voorgeskryf deur die munisipaliteit, voorsien –
 - (a) vir die afhaal van afval op 'n gereelde basis, behalwe afval in sy gebied wat so geleë is dat die koste vir afhaal daarvan onredelik hoog sal wees; en
 - (b) toegang tot fasiliteite vir die herwinning en wegdoen van afval.
- (4) Die munisipaliteit moet alle gebruikers van sy afval bestuursdienste in kennis stel van besluite geneem ingevolge hierdie verordening.

5. Verpligte gebruik van diens

- (1) Niemand behalwe die munisipaliteit of 'n persoon gemagtig deur die munisipaliteit mag enige vullis van enige perseel verwyder of daarvan wegdoen nie.
- (2) Elke eienaar van persele moet, waar 'n diens gelewer word, gebruik maak van die diens wat deur die munisipaliteit voorsien word vir die verwydering of wegdoen van vullis, ten opsigte van vullis wat vanaf sodanige persele ontstaan.
- (3) Die tarief vasgestel deur die munisipaliteit sal deur die eienaar aan die munisipaliteit betaalbaar wees, ongeag of van die diens gebruik gemaak word, aldan nie.
- (4) Die bepalings van hierdie artikel is nie van toepassing op 'n eienaar van residensiële persele wat by geleentheid verlang om tuinvullis wat op sodanige perseel gegenerer is, weg te doen nie.
- (5) 'n Persoon wat die bepalings van subartikels (1), (2) en (3) oortree begaan 'n misdryf.

6. Instelling en beheer van wegdoeningsterrein

Die munisipaliteit mag 'n wegdoeningsterrein instel en beheer, of mag agente aanstel of 'n ander persoon of liggaam kontrakteer om 'n wegdoeningsterrein namens die munisipaliteit te beheer, bestuur en bedryf ooreenkomstig die bepalings van hierdie verordening en die bepalings van enige ander wetgewing wat van toepassing mag wees.

7. Toegang tot wegdoeningsterrein

- (1) Slegs 'n persoon wat verlang om afval te stort en die voorgeskrewe gelde betaal het of wat in besit is van 'n skriftelike toestemming uitgereik deur die munisipaliteit wat hom of haar toelaat om sodanige afval by 'n stortingsterrein te stort en 'n persoon wat die skriftelike toestemming van die munisipaliteit verkry het om enige materiaal of voorwerpe op sodanige perseel te herbenut, is geregtig om die wegdoeningsterrein binne te gaan of op die terrein te wees.
- (2) Nieteenstaande enigiets tot die teendeel bevat in hierdie verordening, mag enige werknemer van die munisipaliteit of enigiemand wat namens die munisipaliteit handel en behoorlik daartoe gemagtig is, 'n wegdoeningsterrein te enige tyd binnegaan vir die verrigting van sy of haar pligte.
- (3) 'n Persoon wat van die wegdoeningsterrein gebruik maak of die wegdoeningsterrein binnegaan, doen dit op sy of haar eie risiko en die munisipaliteit aanvaar geen verantwoordelikheid vir die veiligheid van sodanige persoon of enige skade of verlies deur sodanige persoon nie.
- (4) 'n Persoon wat die wegdoeningsterrein binnegaan of wat op sodanige terrein gevind word in stryd met die bepalings van hierdie artikel begaan 'n misdryf.

8. Aflaai van afval

- (1) 'n Persoon wat verlang om afval by 'n wegdoeningsterrein te stort, moet sodanige afval aflaai op 'n plek binne die grense van die wegdoeningsterrein en op sodanige wyse soos die diensdoende mag voorskryf.
- (2) Die munisipaliteit mag –
 - (a) enige deel van 'n wegdoeningsterrein opsysit waar slegs afval van 'n bepaalde soort gestort of agtergelaat mag word;
 - (b) die soort of grootte voertuig waarvan afval by enige wegdoeningsterrein gestort of agtergelaat mag word, beperk;

- (c) die hoeveelheid afval in die algemeen of die hoeveelheid afval van 'n bepaalde soort wat by enige wegdoeningsterrein gestort of agtergelaat mag word, beperk; en
 - (d) die dae wanneer en ure waartydens storting by enige wegdoeningsterrein mag plaasvind, bepaal.
- (3) Enige vereiste opgelê ingevolge hierdie verordening moet vir die publiek aangedui word by wyse van 'n toepaslike kennisgewing wat by die ingang tot die betrokke wegdoeningsterrein opgerig is en enige instruksie uitgereik deur 'n beampte van die munisipaliteit of 'n persoon handelende namens die munisipaliteit in beheer van toegang kontrole by die wegdoeningsterrein, sal streng nagekom word.
- (4) Nieteenstaande die bepalings van subartikel (2) behou die munisipaliteit die reg voor om nie die storting van gevaarhoudende of offensiewe afval by 'n wegdoeningsterrein toe te laat nie.
- (5) 'n Persoon wat enige van die bepalings van hierdie artikel oortree begaan 'n misdryf.

9. Eienaarskap van afval

- (1) Afval gestort by enige wegdoeningsterrein word die eiendom van die munisipaliteit en geen persoon wat nie behoorlik deur die munisipaliteit daartoe gemagtig is nie, mag sodanige afval verwyder of daarmee inmeng nie.
- (2) 'n Persoon wat subartikel (2) oortree begaan 'n misdryf.

10. Kategorisering van afval

Die munisipaliteit mag, vir doeleindes van hierdie verordening, afval in verskillende kategorieë kategoriseer.

11. Skeiding van afval

Die munisipaliteit mag, vir doeleindes van hierdie verordening, vereis dat afval in verskillende soorte en aard van afval geskei word.

12. Voorsiening van afvalhouers

- (1) Die munisipaliteit mag –
- (a) afvalhouers, of alternatiewelik plastiese sakke, voorsien vir die wegdoening van afval gegeneer op persele; en
 - (b) die gebruik van houers en deksels vervaardig van rubber of ander materiaal magtig waar die ontwerp en vervaardiging deur die munisipaliteit goedgekeur is.
- (2) Afvalhouers en plastiese sakke voorsien ingevolge subartikel (2) bly die eiendom van die munisipaliteit.
- (3) Die munisipaliteit mag spesiale afvalhouers voorskryf vir die ontvangs en berging van sodanige soorte afval soos deur die munisipaliteit gespesifiseer mag word en mag by skriftelike kennisgewing aan die eenaar van persele vereis om op sy of haar koste sodanige getal spesiale afvalhouers te voorsien soos bepaal in die kennisgewing.
- (4) Waar enige afvalhouers voorsien op persele –
- (a) van 'n soort is wat waarskynlik die effektiewe verwydering van afval daarvan deur dienaars van die munisipaliteit mag hinder;
 - (b) onvoldoende is vir die ontvangs van alle afval wat deur die munisipaliteit van sodanige perseel verwyder moet word;
 - (c) vervalle is; of
 - (d) waarskynlik 'n steurnis kan veroorsaak,
- mag die munisipaliteit by kennisgewing van die eenaar van die perseel vereis om op sy of haar koste 'n addisionele getal afvalhouers of sodanige ander bergingsbak soos nodig mag wees om aan die bepalings van hierdie verordening te voldoen, te voorsien.
- (5) 'n Afvalhouer sal soos en wanneer nodig vervang word, met dien verstande dat waar sodanige afvalhouer vervang moet word as gevolg van diefstal of skade veroorsaak deur die nalatigheid van die eenaar, sodanige eenaar aanspreeklik gehou sal word vir die koste om dit te vervang.
- (6) Geen persoon mag enige afval wegdoen deur dit op enige ander plek as in die afvalhouer voorsien en goedgekeur deur die munisipaliteit, te plaas nie.

- (7) In die geval van 'n groepontwikkeling mag die munisipaliteit minder afvalhouers per huishouding voorsien onderworpe aan die volgende voorwaardes –
- (a) 'n sentrale vullis afhaalpunt moet deur die bestuursliggaam voorsien word;
 - (b) die bestuursliggaam moet skriftelik aansoek doen vir die vermindering van afvalhouers uitgereik aan die ontwikkeling;
 - (c) die verminderde getal afvalhouers moet deur die munisipaliteit goedgekeur word; en
 - (d) die bestuursliggaam sal aanspreeklik gehou word vir die betaling van die afvalverwydering rekening.
- (8) 'n Persoon wat die bepalings van subartikel (6) oortree of in gebreke bly om aan 'n kennisgewing uitgereik ingevolge subartikels (3) en (4) te voldoen begaan 'n misdryf.

13. Plasing van afvalhouers

- (1) Die eienaar van persele moet voldoende ruimte op die perseel voorsien waar 'n afvalhouer of ander houer vir die doel om afval agter te laat of 'n spesifieke kategorie van afval gehou word, en die ruimte moet –
- (a) moet voldoen aan vereistes by kennisgewing deur die munisipaliteit aan die eienaar opgelê;
 - (b) waar van toepassing, gebou wees in ooreenstemming met die vereistes van enige toepaslike bouregulasies en so geleë wees dat die afvalhouer of bak nie vanaf 'n straat of openbare plek sigbaar is nie;
 - (c) waar toepaslik, so geleë wees om gemaklike toegang na en uitgang van sodanige ruimte vir 'n afvalverwydering voertuig te verleen; en
 - (d) in 'n ligging wees om gemaklik deur gebruikers of bewoners van die perseel gebruik te word sodat dit rommelstrooiing of ongesonde versameling van afval ontmoedig.
- (2) In die geval van meer-verdieping geboue, mag die munisipaliteit die installering van vullisgylgange van 'n goedgekeurde ontwerp en spesifikasie goedkeur, en onderworpe aan die voorlegging en goedkeuring van die planne vir sodanige installasie.
- (3) Die eienaar van persele moet die afvalhouers plaas of bewerkstellig dat dit geplaas word in die ruimte voorsien en moet te alle tye daar hou.
- (4) 'n Persoon wat 'n bepaling van subartikels (1) of (3) oortree begaan 'n misdryf.

14. Onderhoud van afvalhouers

- (1) Die okkupeerder van persele moet verseker dat 'n afvalhouer anders as plastiese sakke –
- (a) te alle tye onderhou word in 'n goeie toestand en herstel;
 - (b) leeg en skoongemaak word wanneer vol, sodat die inhoud daarvan nie 'n steurnis raak of gronde vir klagtes voorsien nie;
 - (c) te alle tye wanneer afval nie daarin agtergelaat of daarvan verwyder word, beskerm word teen ongemagtigde verstoring of inmenging.
- (2) Geen persoon mag 'n afvalhouer van enige perseel waaraan dit toegeken is verwyder of vernietig of beskadig nie, of toelaat dat dit verwyder, vernietig of beskadig word.
- (3) 'n Persoon wat enige bepaling van hierdie artikel oortree begaan 'n misdryf.

15. Afhaal van afval

- (1) Die munisipaliteit mag 'n posisie binne of buite die perseel aandui waar afvalhouers geplaas moet word vir die afhaal en verwydering daarvan en mag vereis dat sekere soorte afval, soos tuinafval, saamgebind of verpak en geplaas word in daardie posisie op die tye en vir 'n periode soos die munisipaliteit mag vereis.
- (2) Die munisipaliteit sal op verwyderingsdae slegs afval wat in afvalhouers of ander houers deur dit goedgekeur, of wat saamgebind en verpak is op 'n wyse goedgekeur deur die munisipaliteit, afhaal.
- (3) Waar 'n spesifieke soort van afval soos bepaal deur die munisipaliteit nie deur die munisipaliteit by die perseel afgehaal word nie, moet die eienaar van die afval reëlings tref vir die afhaal en vervoer van die afval so dikwels as wat nodig mag wees om onbehoorlike versameling of enige steurnis wat daaruit

voortspruit te voorkom, na 'n wegdoeningsterrein of prosesseringsperseel onder beheer van die munisipaliteit, of na sodanige ander plek soos goedgekeur deur die munisipaliteit.

- (4) Die munisipaliteit mag op verskillende tye besluit waarop bepaalde kategorieë van afval afgehaal word.
- (5) Die munisipaliteit mag –
 - (a) bewerkstellig dat verwyderings by gereelde periodes daaglik of andersins gedoen word, en mag verwydering datums verander;
 - (b) die getal verwyderings vermeerder soos wat dit nodig of wenslik mag ag; of
 - (c) addisionele verwyderings doen indien dit wenslik geag word.
- (6) In die geval waar enige addisionele verwyderings deur die eienaar van persele vereis word, sal die addisionele verwyderings onderworpe wees aan die goedkeuring van die munisipaliteit en enige addisionele verwydering moet deur die eienaar van persele waarvan die afval afgehaal word, betaal word teen die tarief voorgeskryf deur die munisipaliteit.
- (7) Die munisipaliteit mag, by aansoek deur die eienaar van persele, alternatiewe reëlings goedkeur vir die verwydering van afval van sodanige persele.
- (8) 'n Persoon wat die bepalinge van subartikels (1) en (2) oortree begaan 'n misdryf.

16. Toegang tot persele

Tensy waar anders goedgekeur deur die munisipaliteit, moet die eienaar van persele verseker dat toegang vanaf die naaste openbare pad na die afvalbergingsgebied op die perseel onafhanklik en onbelemmer is, en 'n eienaar wat in gebreke bly om dit te doen begaan 'n misdryf.

17. Reg van toegang

- (1) Enige behoorlik gemagtigde beampte van die munisipaliteit is geregtig om persele ten opsigte waarvan die munisipaliteit se afvalbestuursdiens gelewer word op enige redelike tyd op enige dag, of op enige ander tyd waarop die diens gewoonlik gelewer word, binne te gaan vir enige van die volgende doeleindes –
 - (a) vir afhaal en toesighouding van die afhaal van afval;
 - (b) om afvalhouers te vervang; of
 - (c) om die wyse van toegang tot die perseel of die ruimte waar afvalhouers gehou word te inspekteer, ten einde te verseker dat dit toeganklik en gemaklik vir die afhalers is.
- (2) Die eienaar van die perseel mag nie toegang tot die perseel deur 'n werknemer van die munisipaliteit weier nie, met dien verstande dat sodanige werknemer 'n identifikasiekaart uitgereik deur die munisipaliteit dra en dit op versoek van die eienaar toon.
- (3) 'n Eienaar van persele begaan 'n misdryf wanneer hy of sy –
 - (a) toegang tot die perseel aan 'n gemagtigde beampte van die munisipaliteit in die uitoefening van sy of haar pligte, weier; of
 - (b) sodanige werknemer belemmer of hinder in die uitoefening van sy of haar pligte.

18. Storting en rommelstrooiing

- (1) Geen persoon mag –
 - (a) behalwe met toestemming van die eienaar of van die persoon of owerheid wat beheer daaroor het; of
 - (b) tensy gemagtig deur wet om dit te doen, enige afval hoegenaamd stort, versamel, plaas, aflaai of laat, hetsy vir wins of andersins, of veroorsaak of toelaat om gestort, versamel, geplaas, afgelaai of gelaat te word op of in –
 - (i) enige pad, snelweg, straat, laan, openbare voetpad of sypaadjie of enige padgrens;
 - (ii) enige meentgrond, dorpstuintuin, park, ontspanningsgrond of ander openbare plek waartoe die publiek toegang het;
 - (iii) enige drein, waterweg, vloedliggende gebiede, gety of ander water in of aangrensend tot enige sodanige pad, snelweg, straat, laan, openbare voetpad of sypaadjie, padrand of ander openbare plek waartoe die publiek toegang het; of

(iv) privaat if munisipale grond.

- (2) Indien enige persoon enige van die handelinge beoog in subartikel (1) verrig, mag die munisipaliteit by skriftelike kennisgewing enige van die volgende persone vereis om die afval binne die periode gemeld in die kennisgewing mee weg te doen, te vernietig of te verwyder :
- (a) die persoon direk of indirek verantwoordelik vir die storting, versameling, plasing, aflaaï of laat van die afval;
 - (b) die eienaar van die afval, ongeag of hy of sy verantwoordelik is vir die storting, versameling, plasing, aflaaï of laat van die afval, al dan nie; of
 - (c) die eienaar van die perseel waarop die afval gestort, versameling, geplaas, afgelaai of gelaat is, ongeag of hy of sy daarvoor verantwoordelik is, al dan nie.
- (3) Indien 'n persoon versuim om aan die vereistes van 'n skriftelike kennisgewing te voldoen, mag die munisipaliteit die afval mee wegdoen, vernietig of verwyder en mag die koste daarvan van die persoon of persone aan wie die kennisgewing uitgereik is, verhaal.
- (4) Indien afval afgelaai is in of op enige grond in stryd met subartikel (1) en –
- (a) ten einde besoedeling van grond, water en lug of skade aan menslike gesondheid uit te skakel of te voorkom, dit nodig is dat die afval onmiddellik verwyder of ander stappe geneem word om die gevolge van die aflaaï te elimineer of te verminder of beide; en
 - (b) daar geen okkupeerder van die grond is nie; of
 - (c) die eienaar nie die aflaaï gedoen of wetende die aflaaï van die afval toegelaat het nie, mag die munisipaliteit die afval mee wegdoen of ander stappe neem om die gevolge van die aflaaï te elimineer of te verminder en is geregtig om die koste aangegaan te verhaal –
 - (i) van die eienaar van die grond tensy hy of sy bewys dat hy of sy nie die aflaaï gedoen of wetende veroorsaak of wetende die aflaaï van die afval toegelaat het nie; of
 - (ii) van enige persoon wat die aflaaï gedoen of wetende veroorsaak of wetende die aflaaï van enige van die afval toegelaat het.
- (5) Enige afval wat deur die munisipaliteit verwyder word behoort aan die munisipaliteit en mag mee gehandel word soos die munisipaliteit goeddink.
- (6) 'n Persoon wat die bepalings van subartikel (1) oortree begaan 'n misdryf.

19. Verbranding van afval

Geen persoon mag afval sonder die skriftelike goedkeuring van die munisipaliteit brand nie.

20. Koste

- (1) Die munisipaliteit mag die koste aan dit betaalbaar vir die verwydering van afval van persele of die storting van afval by 'n wegdoeningsterrein onder beheer van die munisipaliteit, vasstel.
- (2) 'n Persoon wat versuim of weier om die koste beoog in subartikel (1) te betaal begaan 'n misdryf.

21. Vrystellings

- (1) 'n Persoon mag by wyse van 'n skriftelike aansoek, waarin die redes volledig gegee word, by die munisipaliteit aansoek doen om vrystelling van enige bepaling van hierdie verordening.
- (2) Die munisipaliteit mag –
- (a) 'n vrystelling skriftelik toestaan en die voorwaardes ingevolge waarvan, indien enige, en die periode waarvoor sodanige vrystelling toegestaan is, moet daarin gemeld word;
 - (b) enige vrystelling of voorwaarde in 'n vrystelling wysig of kanselleer; of
 - (c) weier om 'n vrystelling toe te staan.
- (3) 'n Vrystelling tree nie in werking voordat die aansoeker skriftelik onderneem het om aan al die voorwaardes deur die munisipaliteit opgelê ingevolge subartikel (2) te voldoen nie, met dien verstande dat die vrystelling verval indien 'n aktiwiteit 'n aanvang neem voordat sodanige onderneming aan die munisipaliteit voorgelê is.
- (4) Indien enige voorwaarde van 'n vrystelling nie nagekom word nie, verval die vrystelling onmiddellik.

22. Skakelforums in gemeenskap

- (1) Die munisipaliteit mag een of meer skakelforums in die gemeenskap instel vir doeleindes om -
 - (a) omstandighede vir 'n plaaslike gemeenskap te skep om deel te neem aan die sake van die munisipaliteit; en
 - (b) die afvalbestuursaktiwiteite van die munisipaliteit te bevorder.
- (2) 'n Skakelforum mag bestaan uit -
 - (a) 'n lid of lede van 'n belangegroep, of 'n geaffekteerde persoon, in die gees van artikel 2(4)(f) – (h) van die Wet op Nasionale Omgewingsbestuur, 1998 (Wet 107 van 1998);
 - (b) 'n lid of lede van 'n gemeenskap in wie se onmiddellike gebied 'n vaste afval wegdoeningsterrein bestaan of ingestel mag word;
 - (c) 'n aangewese beampte of beamptes van die munisipaliteit;
 - (d) 'n raadslid; en
 - (e) sodanige ander persoon of persone wat die munisipaliteit mag besluit.
- (3)
 - (a) Die munisipaliteit mag, wanneer 'n aansoek om toestemming, permit of vrystellingsertifikaat ingevolge hierdie verordening, waar toepaslik, oorweeg word die insette van 'n skakelforum versoek.
 - (b) 'n Skakelforum, persoon of persone beoog in subartikel (2), of enige ander persoon mag, op eie inisiatief, met inagneming van artikel 31 van die Wet op Nasionale Omgewingsbestuur, 1998 'n inset aan die munisipaliteit vir oorweging voorsien.

23. Magtiging en betekening van bevel, kennisgewings en ander dokumente

- (1) 'n Bevel, kennisgewing of ander dokument wat magtiging deur die munisipaliteit vereis, moet behoorlik deur die Munisipale Bestuurder geteken word en sal geag behoorlik uitgereik te wees indien dit geteken is deur die Munisipale Bestuurder.
- (2) 'n Kennisgewing of ander dokument wat op 'n persoon beteken word ingevolge hierdie verordeninge, word as beteken geag -
 - (a) wanneer dit persoonlik aan daardie persoon gelewer is;
 - (b) wanneer dit by daardie persoon se woonplek of sakeperseel binne die Republiek gelaat is by 'n persoon wat oënskynlik ouer as sestien jaar is;
 - (c) wanneer dit per geregistreerde of gesertifiseerde pos na daardie persoon se laaste bekende woon- of sakeadres binne die Republiek versend is en 'n erkenning van so 'n versending van die posdienste verkry is;
 - (d) indien so 'n persoon se adres binne die Republiek onbekend is, wanneer dit op daardie persoon se agent of verteenwoordiger binne die Republiek beteken is op die wyse soos voorsien in paragrawe (a), (b) of (c);
 - (e) indien daardie persoon se adres en agent of verteenwoordiger binne die Republiek onbekend is, wanneer dit op 'n opsigtelike plek op die eiendom of perseel, indien enige, waarop dit betrekking het, geplaas is; of
 - (f) in die geval van 'n beheerliggaam, wanneer dit by die geregistreerde kantoor van die sakeperseel van sodanige beheerliggaam gelewer is;
- (3) Betekening van 'n afskrif word geag die betekening van die oorspronklike te wees.
- (4) Enige regsproses word effektief en voldoende op die munisipaliteit beteken wanneer dit aan die munisipale bestuurder of 'n persoon aanwesig in die kantoor van die munisipale bestuurder, gelewer is.

24. Appèl

'n Persoon wie se regte geraak word deur 'n besluit van die munisipaliteit mag teen sodanige besluit appelleer ingevolge artikel 62 die Wet op Plaaslike Regering : Munisipale Stelsels, 2000, Wet 32 van 2000 deur skriftelike kennisgewing van die appèl en die redes daarvoor binne 21 dae vanaf die datum van bekendmaking van die besluit, aan die munisipale bestuurder te gee.

25. Strawwe

'n Persoon is wat 'n misdryf ingevolge hierdie verordening begaan het, is by skuldigbevinding aanspreeklik vir 'n boete of gevangenisstraf, of vir sodanige boete of gevangenisstraf of beide sodanige boete en sodanige gevangenisstraf en, in die geval van 'n herhaalde misdryf, tot 'n bykomende boete of 'n bykomende periode van gevangenisstraf of tot sodanige gevangenisstraf sonder die keuse van 'n boete of beide sodanige bykomende boete en gevangenisstraf vir elke dag wat sodanige misdryf voortduur, en 'n verdere bedrag gelyk aan die koste en uitgawes bevind deur die hof aangegaan te gewees het deur die munisipaliteit as gevolg van sodanige oortreding of versuim.

26. Herroeping van verordeninge

Die bepalings van enige verordeninge voorheen uitgevaardig deur die munisipaliteit of deur enige van die afgeskafde munisipaliteite wat nou by die munisipaliteit ingelyf is, word hiermee herroep in so ver dit betrekking het op enige aangeleenthede waarvoor in hierdie verordening voorsiening gemaak word, en in so ver dit van toepassing gemaak is op die munisipaliteit deur die magtiging vir die uitoefening van magte en funksies ingevolge artikel 84(3) van die Wet op Plaaslike Regering : Munisipale Strukture, 1998, Wet 117 van 1998.

27. Kort titel en inwerkingtrede

Hierdie verordening mag aangehaal word as die Wegdoen van Vaste Afval Verordening en tree in werking op die datum van publikasie daarvan in die Provinsiale Koerant.

HESSEQUA MUNICIPALITY: STREET TRADING BY-LAWS

In terms of and under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996 the Hessequa Municipality enacts as follows:-

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1. Definitions

(1) In this by-law, unless the context otherwise indicates –

“**Act**” means the Businesses Act, 1991 (Act 71 of 1991), and includes the regulations promulgated under the Act;

“**approval**” means approval by the municipality and “**approve**” has a corresponding meaning;

“**garden**” means a garden to which the public has a right to access;

“**goods**” means any movable property and includes a living thing;

“**intersection**” means an intersection as defined in the regulations promulgated in terms of the National Road Traffic Act, 1996 (Act 93 of 1996);

“**litter**” means any object or matter which is discarded by a person in any place except in an approved receptacle provided for that purpose or at a waste disposal or processing facility;

“**motor vehicle**” means a motor vehicle as defined in section 1 of the National Road Traffic Act, 1996 (Act 93 of 1996);

“**municipality**” means –

- (a) the Hessequa Municipality, and includes any political structure, political office bearer, councilor, duly authorised agent thereof or any employee 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, councilor, agent or employee; or

- (b) A service provider fulfilling a responsibility under this by-law, assigned to it in terms of section 81(2) of the Local Government: Municipal Systems Act, 2000, or any other law as the case may be;

“**municipal manager**” is the person appointed by the municipality in terms of Section 82 of the Municipal Structures Act, 1998 and includes any person:

- (a) acting in such position; and
- (b) to whom the municipal manager has delegated any power, function or responsibility in as far as it concerns the execution of those powers, functions or duties.

“**nuisance**” means any act, omission or condition which is offensive or dangerous, or which materially interferes with the ordinary comfort, convenience, peace or quiet of other people or which affects, or may affect, the safety of the public;

“**official**” means a designated officer who is authorized by the municipality to perform and exercise any or all of the functions and powers contemplated in this by-law;

“**park**” means a park to which the public has a right to access;

“**perishable foodstuffs**” mean perishable foodstuffs declared as such in the Perishable Foodstuffs Regulations published under Government Notice R1183 in Government Gazette 12497 of 1 June 1990 (as amended) in terms of the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act 54 of 1972 and which includes meat, milk, fish, fish spawn, molluscs, crustaceans, fruit, vegetables and bread;

“**premises**” includes any land, building, structure, part of a building or of a structure, or any vehicle, conveyance, vessel or aircraft;

“**prescribed**” means prescribed by the municipality by resolution;

“**property**”, in relation to a street trader, means goods in which a street trader trades, and includes any article, container, vehicle or structure used or intended to be used in connection with street trading by the street trader;

“**public amenity**” means –

- (a) any land, square, camping site, 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 of 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 road**” means any road, street or thoroughfare or any other place (whether a thoroughfare or not) which is commonly used by the public or any section thereof or to which the public or any section thereof has a right of access, and includes-

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

“**roadway**” means a roadway as defined in section 1 of the National Road Traffic Act, 1996 (Act 93 of 1996);

“**sell**” includes barter, exchange, hire out, display, expose, offer or prepare for sale, store with a view to sell, or provide a service for reward, and “**sale**” or “**selling**” has a corresponding meaning;

“**sidewalk**” means a sidewalk as defined in section 1 of the National Road Traffic Act, 1996 (Act 93 of 1996);

“**street furniture**” means any furniture installed by the municipality on the street for public use;

“**street trader**” means any person carrying on business, whether as principal, employee or agent, by selling, supplying or offering any goods or the supplying or offering to supply any service for reward, in or from a public road or public place in the municipality, but excludes a newspaper vendor;

“**street trading**” means the carrying on of the business as a street trader;

“**verge**” means a verge as defined in section 1 of the National Road Traffic Act, 1996 (Act 93 of 1996), and any words or expressions to which a meaning has been assigned in the Businesses Act, 1991, (Act 71 of 1991) have a corresponding meaning in this by-law.

(2) A single act of selling or offering or rendering of services in a public road or public amenity constitutes street trading.

(3) A reference to a person carrying on the business of street trader includes the employee of the person.

2. Principles and objectives

(1) The Municipality, acting in terms of section 6A(1)(a)(i) of the Businesses Act, 1991 (Act 71 of 1991), and –

- (a) having regard to the principles set out in the Act and in the Constitution;
- (b) taking into consideration the need of the residents to actively participate in economic activities; and
- (c) taking into consideration the need to maintain a clean, healthy and safe environment, in this by-law provides mechanisms, procedures and rules to manage street trading.

(2) In the development and management of its obligations and the implementation of this by-law, the municipality also recognises the infrastructural, social and economical disparities and inequalities resulting from previous local government dispensations and shall strive to overcome such disparities and inequalities by supporting the new goals for local government as determined in section 152 of the Constitution.

(3) In the implementation and enforcement of this by-law, the municipality may take into consideration the realities of the Hessequa area, the different customs, cultures, circumstances, geographical areas, kinds of premises levels of development and conventions and the municipality may use the devices provided for in this by-law, including

the application of different norms, standards and guidelines, the granting of exemptions and the utilisation of liaison forums.

3. Application

This by-law applies to all persons who carry on the business of street trading within the area of jurisdiction of the Hessequa Municipality.

CHAPTER 1: GENERAL PROVISIONS APPLICABLE TO STREET TRADING

4. Restricted and prohibited areas

- (1) The municipality may, in terms of section 6A(2)(a) of the Act and subject to the provisions of paragraphs (b) up to and including (j), declare any place in its area of jurisdiction to be an area in which street trading is restricted or prohibited.
- (2) The municipality may by public notice and by erected sign indicate such areas, and the notice and sign must indicate –
 - (a) the restriction or prohibition against street trading;
 - (b) if street trading is restricted –
 - (i) the boundaries of the area or stand set aside for restricted street trading;
 - (ii) the hours when street trading is restricted or prohibited; and
 - (iii) the goods or services in respect of which street trading is restricted or prohibited; and
 - (c) that the area has been let or otherwise allocated.
- (3) The municipality may change the areas contemplated in subsection (1) if the needs and circumstances of residents and street traders demand such reconsideration.
- (4) A person who carries on the business of a street trader in contravention of a notice contemplated in subsection (2) commits an offence.

5. Places where street trading is prohibited

- (1) Unless the municipality has so permitted in terms of an agreement or by means of the display of a sign, no person may carry on the business of a street trader in any of the following places:
 - (a) In a garden or a park to which the public has a right of access; or
 - (b) on a verge contiguous to –
 - (i) a building belonging to, or occupied solely by the State or the municipality;
 - (ii) a church or other place of worship; or
 - (iii) a building declared to be a public monument under the National Heritage Resources Act, 1999.
- (2) No person may carry on the business of a street trader in any of the following places:
 - (a) in a place declared by the municipality under section 6A(2)(a) of the Act as a place in which street trading is prohibited;
 - (b) at a place where street trading obstructs the use of the sidewalk by pedestrians or interferes with the ability of persons using the sidewalk to view the goods displayed behind a shop display window or obscures such goods from view.
 - (c) within 5 metres of an intersection as defined in Regulation 322 of the National Road Traffic Regulations published under GN R225 in GG 20963 of 17 March 2000 in terms of the National Road Traffic Act, 1996 (Act 93 of 1996);
 - (d) at a place where street trading obstructs –
 - (i) a fire hydrant;
 - (ii) the entrance to, or exit from, a building;
 - (iii) vehicular traffic;
 - (iv) access to a pedestrian crossing, a parking or loading bay or any other facility for vehicular or pedestrian traffic;
 - (v) access to, or the use, of street furniture or any other facility designed for the use of the general public;
 - (vi) obscures a road traffic sign that is displayed in terms of the National Road Traffic Act, 1996; or
 - (vii) obscures a marking, notice or sign displayed or made in terms of this by-law;
 - (e) on that half of a public road contiguous to a building which is used for residential purposes, if the owner or person who is in control or any occupier of the building objects thereto;
 - (f) on a portion of a sidewalk or public amenity in contravention of a notice or sign erected or displayed by the municipality for the purposes of this by-law; or

- (g) within ten meters (10m) of the entrance to a financial institution or electronic banking facility.
- (3) A person to whom an area or stand has been let or allocated under paragraph (c) of section 6A(3) of the Act –
- (a) must comply with the conditions of the lease of allocation;
 - (b) must be in possession of written proof that municipality has let or allocated the area or stand to him or her; and
 - (c) may not transfer any written proof that municipality has let or allocated the area or stand to him or her
- (4) No person may purchase or offer to purchase from a street trader any goods or service, including casual labour services, in or at a place where street trading is prohibited.
- (5) A person who contravenes a provision of this section commits an offence.

6. Duties of street trader

- (1) A street trader must –
- (a) when he or she concludes business for the day, remove his or her property, except if stored in any structure approved and permitted by the municipality, to a place which is not part of a public road or public amenity;
 - (b) when requested by an official of the municipality or a by a person who has been authorized to provide municipal services, move his or her property so as to permit the official or other person to carry out any work in relation to a public road, public amenity or service;
 - (c) keep the area or stand occupied by him or her in a clean and sanitary condition;
 - (d) ensure that the area is free of litter at all times, and must, when he or she concludes business for the day, dispose of litter generated by his or her business in receptacles provided by the municipality for the public;
 - (e) on request by an official of the municipality, move his or her property so as to permit the cleansing of the area where he or she is trading;
 - (f) regarding the size and location of the area or stand occupied by him or her, –
 - (i) ensure that the area which he or she uses does not exceed 6 m² in size and not exceed 3 metres in length;
 - (ii) ensure that a space of not less than 1,5 metres is left between the wall of the shop (contiguous to which he or she conducts his or her business) and himself or herself; and
 - (iii) leave a space of not less than 0,5 metre from the kerb of the roadway.
- (2) A person who contravenes a provision of subsection (1) commits an offence.

7. Prohibited conduct

- (1) A street trader –
- (a) may not sleep or overnight at the area where he or she is trading, or at the area where another street trader is trading;
 - (b) may not place or stack his or her property in such a manner that it –
 - (i) constitutes a danger to any person or property; or
 - (ii) is likely to injure any person or cause damage to any property;
 - (c) may not dispose of litter in a manhole, storm water drain or other place not intended for the disposal of litter;
 - (d) may not release onto a public road or public amenity or into a storm water drain any fat, oil or grease in the course of conducting his or her business;
 - (e) may not allow smoke, fumes, noise, smells, or other substance arising from his or her activities to cause a nuisance or pollution of any kind;
 - (f) may not erect a structure for the purpose of providing shelter, except for a temporary structure to provide shelter against the weather in which case the said shelter must be removed at the end of the day's business;
 - (g) may not place his or her property on the surface of a public road or in a public amenity;
 - (h) who conducts his or her business from a vehicle, may not park the vehicle or trailer in such a manner as to obstruct pedestrian or vehicular traffic and must ensure that he or she complies with the provisions of the National Road Traffic Act, 1996;
 - (i) may not display his or her goods or other property on or in a building, without the consent of the owner, lawful occupier or person in control of such building or property;
 - (j) may not attach an object by any means to a building, structure, sidewalk, tree, parking meter, lamp, pole, electricity pole, telephone booth, post box, traffic sign, bench or any other street furniture in or on a public road or public amenity;

- (k) may not carry on his or her business in such a manner as to –
 - (i) create a nuisance;
 - (ii) damage or deface the surface of a public road or public amenity or public or private property; or
 - (iii) create a traffic hazard;
 - (l) may not make an open fire that poses a health or environment hazard to any person or property or to street furniture;
 - (m) may not, other than in a refuse receptacle approved or supplied by the municipality, accumulate, dump, store or deposit any litter on –
 - (i) any land or premises;
 - (ii) any public road or public amenity or;
 - (iii) any public or private property;
 - (n) may not store his or her property in a manhole, storm water drain, public toilet, bus shelter, on the median between traffic lanes or in a tree;
 - (o) may not carry on such business in a place or area in contravention of any prohibition or restriction approved by the municipality in terms of section 6A(2)(a) of the Act;
 - (p) may not trade in front of a formal business in goods that are similar to any goods offered for sale by such formal trader;
 - (q) may not allow children under the age of sixteen to accompany him or her trade on his or her behalf where they will be operating on a public road;
 - (r) may not trade from door-to-door in any business centre as indicated in the municipality's zoning scheme; and
 - (s) may not cause a nuisance by insisting, begging or intimidating any person to purchase goods.
- (2) A person who contravenes a provision of subsection (1) commits an offence.

8. Removal and impoundment

- (1) An official who reasonably suspects that property is being used or intended to be used in, or in connection with, street trading, whether or not the property is in possession or under the control of any person may, subject to subsection (2), remove and impound the property which he or she finds at a place where street trading is restricted or prohibited and which constitutes an infringement of any such restriction or prohibition.
- (2) An official who acts under subsection (1) must, except in the case of goods that have been left or abandoned, issue to the street trader a receipt for the property so removed and impounded and the receipt must contain the following particulars:
- (a) the address where the impounded property will be kept and the period it will be kept;
 - (b) the conditions for the release of the impounded property; and
 - (c) that unclaimed property will be sold by public auction.
- (3) If any impounded property is attached to immovable property or a structure, and the impounded property is under the apparent control of a person present at that place, an official may order the person to remove the impounded property.
- (4) When a person fails to comply with an order to remove the impounded property, an official may take such steps as may be necessary to remove the impounded property.
- (5) A person who hinders or obstructs an official in the performance of his or her duties under this section, or who refuses or fails to remove the object when ordered to do so by an official, commits an offence.

9. Confiscated goods register

The Municipality must –

- (1) maintain a register containing the information contemplated in Schedule 1, which must be available for public inspection at all reasonable times; and
- (2) complete the confiscated goods register immediately upon the acceptance into the place of safekeeping and storage set aside for this purpose.

10. Disposal of impounded goods

- (1) Any perishable foodstuffs removed and impounded in terms of section 8(1) may, subject to subsection (2) be sold or destroyed or otherwise be disposed of in terms of any policy of the municipality within a reasonable time after its impoundment, provided that the property will at any time prior to its disposal be returned to the owner at the request of and upon submission of proof of ownership by the owner to the municipality.
- (2) The municipality is entitled to keep and dispose of any impounded perishable foodstuffs claimed by its owner in terms of subsection (1) until all reasonable expenses incurred by it or any fine issued by it have been paid.

(3) The owner of any goods other than perishable foodstuffs already dealt with by the municipality in terms of subsections (1) and (2) who wishes to claim the return thereof must, within a period of 14 days of the date of the impoundment thereof, apply to the municipality and must present the receipt contemplated in section 8(2)(a), failing which the goods may be sold, subject to section 11.

(4) In the event of the proceeds of any sale of goods contemplated by this section not being sufficient to defray any expenses incurred by the municipality, the owner thereof shall in terms of section 8(3)(a) remain liable for the difference.

11. Sale of impounded goods

(1) If the owner of impounded goods, excluding perishable foodstuffs, fails to claim such goods and pay the prescribed fees as determined by the municipality from time to time within 14 days of the impoundment of the goods, the municipality must –

- (a) apply to the Court for authority to sell the goods; and
- (b) in the application contemplated in paragraph (a), provide the Court with proof that a statement as contemplated in sub-section (2) was lodged with the owner.

(2) The statement contemplated in subsection (1)(b) must include the fees and costs due in terms of this by-law.

(3) The Court, whether the amounts set forth in the statement contemplated in subsection (1)(b) are disputed or not, must –

- (a) summarily enquire into the matter;
- (b) enquire whether notice was given to the owner of the goods by the municipality; and
- (c) make such 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 confiscated goods.

12. Municipal employees and councillors may not purchase impounded goods

Employees and councillors of the municipality, or a family member, or a close associate of any municipal employee or councillor, may not purchase any goods offered for sale in terms of this by-law, either personally or through any other person, directly or indirectly.

13. Newspaper vendors

(1) Any publisher of a newspaper that sells such newspaper by using vendors in or on a road must enter into an agreement with the municipality regarding the areas where and times during which such sales may be undertaken.

(2) The municipality may determine the hours during which the sale of newspapers in terms of subsection (1) may be undertaken.

(3) The municipality may levy a tariff for the sale of newspapers in or on any road within its area of jurisdiction.

(4) Any publisher or vendor that contravenes the provisions of this section commits an offence.

CHAPTER 2: MISCELLANEOUS PROVISIONS

14. Penalty

A person who has committed an offence in terms of these by-laws is, on conviction, and subject to penalties prescribed in any other law, 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.

15. Responsibility of persons employing street traders

When an employee of a person who performs an act which contravenes a provision of this by-law, the employer is deemed to have committed the contravention him- or herself, unless he or she proves that –

- (a) he or she did not permit such act;
- (b) he or she took all reasonable steps to prevent the performance of the act; and
- (c) it was not in the scope of the authority or the course of employment of the employee to perform an act which contravenes this by-law.

16. Indemnity

The municipality will not be liable for any loss or damage suffered arising from the impoundment of any goods in terms of this by-law.

17. Appeal

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

18. 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; and
 - (b) promoting economic development.
- (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 ward committee in whose immediate area street trading is conducted;
 - (c) a designated official or officials of the municipality; and
 - (d) a councillor.
- (3)
 - (a) The municipality may, when considering an application for an approval, or exemption certificate 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 input to the municipality for consideration.

19. Revocation 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 these By-laws.

20. Short title and commencement

This by-law may be cited as the Hessequa Municipality Street Trading By-law and commences on the date of publication thereof in the Provincial Gazette.

SCHEDULE 1
Confiscated Goods Register Information
(Section 9)

A confiscated goods register must, at least, contain the following information –

1. Place where goods are kept
2. Date of receipt of goods
3. Number and description of goods
4. Name and address of person who seized the goods
5. Name and address of owner of goods
6. Name and address or description of place where goods were found
7. Distance between place where animal was seized and pound
8. Date of sale of goods
9. Proceeds of sale of goods
10. Name and address of purchaser
11. Excess amount (if any) paid to owner or municipality
12. Receipt number

HESSEQUA MUNISIPALITEIT: VERORDENING INSAKE STRAATHANDEL

Ingevolge die bepalings van artikel 156 van die Grondwet van die Republiek van Suid-Afrika, 1996, bepaal die Hessequa Munisipaliteit soos volg:-

Inhoudsopgawe

1. Woordomsrywings
2. Beginsels en doelwitte
3. Toepassing

HOOFSTUK 1: ALGEMENE BEPALINGS VAN TOEPASSING OP STRAATHANDEL

4. Beperkte en verbode gebiede
5. Plekke waar straathandel verbied word
6. Pligte van straathandelaars
7. Verbode gedrag
8. Verwydering en skut
9. Algemene goedere register
10. Wegdoening met geskutte goedere
11. Verkoop van geskutte goedere
12. Munisipale werknemers en raadslede mag nie geskutte goedere koop nie
13. Koerantverkopers

HOOFSTUK 2: ALGEMENE BEPALINGS

14. Boete
15. Verantwoordelikheid van persone wat straathandelaars in diens neem
16. Vrywaring
17. Appèl
18. Skakelforums binne die gemeenskap
19. Herroeping van verordeninge
20. Kort titel en inwerkingtreding

1. Woordomsrywings

- (1) In hierdie verordening, behalwe as die sinsverband anders aandui, beteken-
- “**Wet**” die Wet op Besighede 1991, (Wet 71 van 1991) en sluit dit die regulasies in wat ingevolge die Wet afgekondig is;
- “**goedkeuring**” goedkeuring deur die munisipaliteit en het “goedkeur” ‘n ooreenstemmende betekenis;
- “**tuin**” ‘n tuin waartoe die publiek die reg van toegang het;
- “**goedere**” enige roerende saak en sluit dit enige lewende ding in;
- “**kruising**” ‘n kruising soos omskryf in die regulasies, afgekondig ingevolge die Nasionale Parkeerswet, 1996 (Wet 93 van 1996);
- “**rommelstrooiing**” enige voorwerp of goed wat deur ‘n persoon weggegooi word in enige plek behalwe ‘n goedgekeurde vullishouer wat vir daardie doel voorsien is, of by ‘n afvalstortingsterrein of prosesseringsterrein;
- “**motorvoertuig**” ‘n motorvoertuig soos omskryf in artikel 1 van die Nasionale Padverkeerswet, 1996 (Wet 93 van 1996);
- “**munisipaliteit**”-

- (a) Die Hessequa Munisipaliteit, en sluit dit enige politieke struktuur, politieke ampsdraer, raadslid, behoorlik gemagtigde agent daarvan of enige werknemer wat ingevolge hierdie verordening optree uit hoofde van ‘n mag wat in die munisipaliteit vestig en gedelegeer of gesubdelegeer is aan sodanige politieke struktuur, politieke ampsbekleer, raadslid, agent of werknemer, of
- (b) ‘n Diensverskaffer wat ‘n verantwoordelikheid nakom onder hierdie verordening, wat aan hom toegewys is ingevolge artikel 81(2) van die Plaaslike Regering: Munisipale Stelselwet, 2000 (Wet 32 van 2000), of enige ander wet soos die geval mag wees;

“**munisipale bestuurder**” ‘n persoon deur die munisipaliteit aangestel ingevolge artikel 82 van die Munisipale Strukturewet, 1998 en sluit dit enige persoon in:

- (a) wat waarneem in sodanige pos; en
- (b) aan wie die munisipale bestuurder enige mag, funksie of verantwoordelikheid gedelegeer het insoverre dit die uitvoering van daardie magte, funksies of verantwoordelikhede raak.

“**oorlas**” enige optrede, lating of toestand wat aanstootlik of gevaarlik is, of wat ‘n wesenlike invloed het op die gewone gerief, gemak, vrede of stilte van ander mense of wat die veiligheid van die publiek beïnvloed of mag beïnvloed;

“**amptelik**” ‘n aangewese beampte wat deur die munisipaliteit gemagtig is om enige of al die funksies en magte wat in hierdie verordening beoog word, te mag uitvoer of uitoefen;

“**park**” ‘n park waartoe die publiek die reg van toegang het;

“**bederfbare eetgoed**” bederfbare eetgoed wat as sodanig in die Bederfbare Eetgoed Regulasies, afgekondig onder Goewerment Kennisgewing R1183 in Staatskoerant 12497 van 1 Junie 1990 (soos gewysig) kragtens die Wet op Eetgoed, Skoonheids- en Ontsmettingsmiddels, 1972 (Wet 54 van 1972) en sluit vleis, melk, vis, viseiers, weekdiere, skaaldiëre, vrugte, groente en brood in;

“**perseel**” sluit enige grond, gebou, struktuur, gedeelte van ‘n gebou of ‘n struktuur, of enige voertuig, vervoermiddel, vaartuig of vliegtuig in;

“**voorgeskryf**” voorgeskryf deur die munisipaliteit volgens ‘n besluit;

“**eiendom**” in verhouding tot ‘n straathandelaar, beteken goedere waarmee ‘n straathandelaar handel dryf, en sluit dit enige artikel, houer, voertuig of struktuur in wat gebruik word of wat beoog gebruik te word in verband met straathandel deur ‘n straathandelaar;

“**openbare geriewe**”-

- (a) enige grond, vierkant, kampeerterrein, karavaanpark, strand, swembad, openbare oopruimte, openbare oord, ontspanningsterrein, rivier, dam, natuurreservaat, dieretuin, botaniese- of ander tuin, of wandelpad, insluitend enige gedeelte daarvan en enige gerief of apparaat daarin of daarop, wat die eiendom is van, of wat besit, beheer of gelewer word deur die munisipaliteit en waartoe die algemene publiek toegang het, hetsy deur betaling van toegangsgeld al dan nie, maar met uitsondering van ‘n openbare pad of –straat;
- (b) ‘n gebou, struktuur, saalvertrek of kantoor, insluitend enige gedeelte daarvan of enige gerief of apparaat daarin, wat die eiendom is van, of besit word, of benut, beheer of verhuur word deur die munisipaliteit en waartoe die algemene publiek toegang het, hetsy toegangsgelde betaal word al dan nie, en
- (c) ‘n openbare gerief beoog by paragraaf (a) en (b) indien dit wettiglik beheer en bestuur word ingevolge ‘n ooreenkoms tussen ‘n persoon en die munisipaliteit;

“**openbare pad**” enige pad, straat of deurgang of enige ander plek (hetsy ‘n deurgang al dan nie) wat algemeen deur die publiek of ‘n gedeelte daarvan gebruik word en waartoe die publiek of enige gedeelte daarvan ‘n reg van toegang het, insluitende –

- (a) die soom van enige sodanig pad, straat of deurgang;
- (b) enige brug, put of drif wat deur enige sodanige pad, straat of deurgang gekruis word; en
- (c) enige ander werk of voorwerp wat deel vorm van of verbind is met of behoort tot sodanige pad, straat of deurgang;

“**rypad**” ‘n rypad soos omskryf in artikel 1 van die Nasionale Padverkeerswet, 1996 (Wet 93 van 1996);

“**verkoop**” ook ruil, omruil, verhuur, uitstal, blootstel, aanbied of voorberei vir verkoop, berg met die doel om te verkoop, of ‘n diens verskaf teen vergoeding, en het “verkoping” of “uitverkoping” ‘n ooreenstemmende betekenis;

“**sypaadjie**” ‘n sypaadjie soos omskryf in artikel 1 van die Nasionale Padverkeerswet, 1996 (Wet 93 van 1996);

“**straatmeubels**” enige meublement deur die munisipaliteit op die straat aangebring vir publieke gebruik;

“**straathandelaar**” enige persoon wat sake doen, hetsy as prinsipaal, werknemer of agent, deur enige goedere te verkoop, verskaf of aan te bied of die verskaffing of aanbod om enige diens teen vergoeding te verskaf, op of van ‘n openbare pad of openbare plek in die munisipale gebied maar sluit ‘n koerantverkoper uit;

“**straathandel**” om as straathandelaar sake te doen;

“**soom**” ‘n soom soos omskryf in artikel 1 van die Nasionale Padverkeerswet, 1996 (Wet 93 van 1996), en enige woorde of uitdrukkings waaraan ‘n betekenis geheg is in die Wet op Besighede 1991, (Wet 71 van 1991) het ‘n ooreenstemmende betekenis in hierdie verordening.

(2) ‘n Enkele daad van verkoping of aanbieding of lewering van dienste op ‘n openbare pad of ‘n openbare gerief word as straathandel beskou.

(3) ‘n Verwysing na ‘n persoon wat as straathandelaar sake doen, sluit die werknemer van die persoon in.

2. Beginsels en doelwitte

(1) Die Munisipaliteit wat ingevolge artikel 6 A (1) (a) (i) van die Wet op Besighede, 1991 (Wet 71 van 1991) optree, en-

- (a) insoverre dit die beginsels in die Wet en Grondwet uiteengesit raak;
- (b) met inagneming van die inwoners se behoeftes om aktief aan die ekonomiese aktiwiteite deel te neem; en
- (c) met inagneming van die behoefte om ‘n skoon, gesonde en veilige omgewing in stand te hou, voorsien in hierdie verordening meganismes, prosedures en reëls om straathandel te bestuur.

(2) In die ontwikkeling en bestuur van sy verpligtinge en in die toepassing van hierdie verordening, erken die munisipaliteit ook die infrastrukturele, sosiale en ekonomiese teenstrydighede en ongelykhede wat uit vorige plaaslike regering handelings voortvloei en sal daarna streef om sodanige teenstrydighede en ongelykhede te oorkom deur die nuwe doelwitte vir plaaslike regering soos bepaal in artikel 152 van die Grondwet, te ondersteun.

(3) In die toepassing en handhawing van hierdie verordening, mag die munisipaliteit die realiteit van die Eden Distriksgebied in ag neem, die verskillende gebruike, kulture, omstandighede, geografiese gebiede, soorte persele, vlakke van ontwikkeling en tradisies en mag die munisipaliteit gebruik maak van die idees in hierdie verordening voorsien, insluitend die toepassing van verskillende norme, standaarde en riglyne, die goedkeuring van vrystellings en die gebruik van skakelforums.

3. Toepassing

Hierdie verordening is van toepassing op alle persone wat in straathandel sake doen binne die regsgebied van die Hessequa Munisipaliteit.

HOOFTUK 1: ALGEMENE BEPALINGS VAN TOEPASSING OP STRAATHANDEL

4. Beperkte en verbode gebiede

(1) Die munisipaliteit mag, ingevolge artikel 6A(2)(a) van die Wet en onderhewig aan die bepalings van paragraaf (6) tot en met en insluitend (j), enige plek binne sy regsgebied as 'n gebied verklaar waarbinne straathandel beperk of verbode is.

(2) Die munisipaliteit mag by openbare kennisgewing en deur 'n opgerigte teken sodanige areas aandui, en die kennisgewing en teken moet –

- (a) die beperkings of verbod op straathandel;
- (b) indien straathandel beperk word –
 - (i) die grense van die gebied of staanplek ter syde gestel vir beperkte straathandel;
 - (ii) die ure waartussen straathandel beperk of verbied word; en
 - (iii) die goedere of dienste in verband waarmee straathandel beperk of verbied word; en
- (c) dat die gebied uitverhuur is of andersins toegewys is, aandui.

(3) Die munisipaliteit mag die gebiede beoog by sub-artikel (1) verander, indien die behoeftes en omstandighede van inwoners en straathandelaars sodanige herooringering vereis.

(4) 'n Persoon wat as 'n straathandelaar sake doen, teenstrydig met 'n kennisgewing in sub-artikel (2), begaan 'n misdryf.

5. Plekke waar straathandel verbode is

(1) Behalwe as die munisipaliteit dit toelaat ingevolge 'n ooreenkoms of by wyse van die vertoon van 'n teken, mag geen persoon as straathandelaar sake doen, binne enige van die volgende plekke nie:

- (a) in 'n tuin of park waartoe die publiek die reg van toegang het; of
- (b) 'n soom wat grens aan –
 - (i) 'n gebou wat behoort aan of slegs deur die Staat of die munisipaliteit beset word;
 - (ii) 'n kerk of ander plek van aanbidding; of
 - (iii) 'n gebou wat as openbare monument onder die Wet op Nasionale Erfenishulpbronne, 1999, verklaar is.

(2) Geen persoon mag as 'n straathandelaar sake doen in enige van die volgende plekke nie:

- (a) in 'n plek verklaar deur die munisipaliteit onder artikel 6A(2)(a) van die Wet, as 'n plek waarbinne straathandel verbode is;
- (b) by 'n plek waar straathandel die gebruik van die sypaadjie deur voetgangers belemmer of inmeng met die vermoë van mense wat die sypaadjie gebruik om goedere wat agter 'n vertoonvenster uitgestal word, te besigtig of daardie goedere buite sig verberg;
- (c) binne 5 meter van 'n kennisgewing soos omskryf in Regulasie 322 van die Nasionale Padverkeersregulasies afgekondig onder GK R225 in Staatskoerant 20963 van 17 Maart 2000, kragtens die Nasionale Padverkeerswet, 1996, (Wet 93 van 1996);
- (d) op 'n plek waar straathandel –
 - (i) 'n brandkraan;
 - (ii) die ingang tot of uitgang van 'n gebou;
 - (iii) voertuig verkeer;
 - (iv) toegang tot 'n voortoegang, 'n parkeer- of oplaai- of enige ander gerief vir voertuig- of voetganger verkeer;
 - (v) toegang tot, of die gebruik van straatmeublement of enige ander gerief ontwerp vir gebruik deur die algemene publiek;
 - (vi) 'n padverkeersteken wat vertoon word ingevolge die Nasionale Padverkeerswet, 1996;
 - (vii) 'n merk, kennisgewing of teken vertoon of gemaak ingevolge hierdie verordening, versper;

- (e) op daardie gedeelte van 'n openbare pad wat aan 'n gebou wat vir woondoeleindes gebruik word, grens, indien die eienaar of persoon in beheer of enige inwoner van die gebou beswaar maak daarteen;
 - (f) op 'n gedeelte van 'n sypaadjie of openbare gerief, teenstrydig met 'n kennisgewing of teken deur die munisipaliteit opgerig of vertoon, vir die doeleindes van hierdie verordening; of
 - (g) binne tien meter (10m) van die ingang van 'n finansiële instelling of elektroniese bank gerief.
- (3) 'n Persoon aan wie 'n gebied of staanplek verhuur of toegeken is onder paragraaf (c) van artikel 6A(3) van die Wet –
- (a) moet voldoen aan die bepalings van die huurkontrak van toekenning;
 - (b) moet in besit wees van skriftelike bewys dat die munisipaliteit die gebied of staanplek aan hom of haar toegeken het; en
 - (c) mag nie enige skriftelike bewys dat die munisipaliteit 'n gebied of staanplek aan hom toegeken het, oordra nie.
- (4) Geen persoon mag enige goedere of dienste, insluitend dienste van los werkers in of by 'n plek waar straathandel verbied word, koop of aanbied om dit te koop nie.
- (5) 'n Persoon wat 'n bepaling van hierdie artikel oortree, begaan 'n misdryf.

6. Pligte van 'n straathandelaar

- (1) 'n Straathandelaar moet –
- (a) wanneer hy of sy sake vir die dag afsluit, sy of haar eiendom verwyder, behalwe as dit gestoor word in 'n struktuur wat deur die munisipaliteit goedgekeur en toegelaat is, na 'n plek wat nie deel van 'n openbare pad of openbare gerief vorm nie;
 - (b) wanneer deur 'n beampte van 'n munisipaliteit versoek of deur 'n persoon wat gemagtig is om munisipale dienste te voorsien, sy of haar eiendom skuif ten einde die beampte of ander persoon toe te laat om enige werk in verband met 'n openbare pad, openbare gerief of diens, uit te voer;
 - (c) die gebied of staanplek deur hom of haar beset in 'n skoon en higiëniese toestand hou;
 - (d) toesien dat die gebied altyd vry van rommel is, en moet, wanneer hy of sy hul sake vir die dag afsluit, wegdoen met rommel wat uit sy of haar besigheid ontstaan het, in houters wat deur die munisipaliteit vir die publiek voorsien is;
 - (e) op versoek van 'n beampte van die munisipaliteit, sy of haar eiendom skuif ten einde die gebied waar hy of sy handel dryf, skoon te maak;
 - (f) ten opsigte van die grootte en ligging van die gebied of staanplek deur hom of haar beset, -
 - (i) toesien dat die gebied wat hy of sy gebruik, nie 6m² in grootte en nie 3 meter in lengte oorskry nie;
 - (ii) toesien dat 'n ruimte van nie minder nie as 1,5 meter tussen die muur van die winkel (aangrensend aan waar hy of sy, sy of haar besigheid bedryf) en homself of haarself; en
 - (iii) 'n ruimte laat wat nie minder is as 0,5 meter van die randsteen van die ryvlak nie.
- (2) 'n Persoon wat 'n bepaling van sub-artikel (1) oortree, begaan 'n misdryf.

7. Verbode optrede

- (1) 'n Straathandelaar –
- (a) mag nie slaap of oornag by die gebied waar hy of sy handel dryf nie, of by die gebied waar 'n ander straathandelaar handel dryf nie;
 - (b) mag nie sy of haar eiendom so plaas of opstapel op so 'n wyse dat dit –
 - (i) 'n gevaar vir enige persoon of eiendom uitmaak nie; of
 - (ii) waarskynlik enige persoon kan beseer of skade aan enige eiendom veroorsaak nie;
 - (c) mag nie rommel in 'n mangat, stormwater afvoerpyp of ander plek wat nie vir die wegdoen van rommel bedoel is, stort nie;
 - (d) mag nie op 'n openbare pad, of openbare gerief of in 'n stormwater afvoerpyp, enige vet, olie of ghries wat in die uitvoering van sy of haar besigheid gebruik is, laat uitloop nie;
 - (e) mag nie toelaat dat rook, gasse, geraas, reuke of ander stof wat uit sy of haar aktiwiteit voortspruit, 'n oorlas of besoedeling van enige aard, veroorsaak nie;
 - (f) mag nie 'n struktuur oprig vir die doel van 'n skuiling nie, met uitsondering van 'n tydelike struktuur ten einde skuiling teen die weer te bied, in welke geval die skuiling aan die einde van die dag se sake verwyder moet word;
 - (g) mag nie sy of haar eiendom op die oppervlakte van 'n openbare pad of openbare gerief plaas nie;
 - (h) wat sy of haar sake vanuit 'n voertuig doen, mag nie die voertuig of sleepwa op so 'n manier parkeer dat voetganger- of voertuigverkeer versper word nie en moet toesien dat hy of sy aan die bepalings van die Nasionale Padverkeerswet, 1996, voldoen;
 - (i) mag nie sy of haar ware of ander eiendom op of in 'n gebou uitstal sonder die toestemming van die eienaar, wettige inwoner of persoon in beheer van sodanige gebou of eiendom nie;

- (j) mag nie 'n voorwerp op enige wyse aan 'n gebou, struktuur, sypaadjie, boom, parkeermeter, lamp, paal, elektriese paal, telefoonhokkie, posbus, verkeersteken, bank of enige ander straatmeublement in of op 'n openbare pad of openbare gerief heg nie;
 - (k) mag nie sy of haar sake op so 'n wyse bedryf dat dit –
 - (i) 'n oorlas skep ;
 - (ii) die oppervlakte van 'n openbare pad of openbare gerief of openbare of private eiendom beskadig of ontsier nie; of
 - (iii) 'n gevaar vir verkeer veroorsaak nie;
 - (l) mag nie 'n oop vuur wat 'n gesondheids- of omgewingsgevaar vir enige persoon of eiendom of vir straatmeublement inhou, maak nie;
 - (m) mag nie, anders as in 'n vullishouer goedgekeur en voorsien deur die munisipaliteit, enige rommel op –
 - (i) enige grond of perseel
 - (ii) enige openbare pad of openbare gerief; of
 - (iii) enige openbare of privaat eiendom, versamel, stort, berg of deponeer nie;
 - (n) mag nie sy of haar eiendom in 'n mangat, stormwater afvoerpyp, openbare toilet, bushalte, op die midiaan tussen verkeersbane of in 'n boom, bêre nie; en
 - (o) mag nie sodanige besigheid bedryf in 'n plek of gebied teenstrydig met enige verbod of beperking wat deur die munisipaliteit ingevolge artikel 6A(2)(a) van die Wet, goedgekeur is nie;
 - (p) mag nie handel dryf voor 'n formele besigheid met goedere wat soortgelyk is aan goedere wat deur sodanige formele handelaar te koop aangebied word nie;
 - (q) mag nie kinders onder die ouderdom van sestien toelaat om hom of haar te vergesel of namens hom of haar handel te dryf, waar langs 'n openbare pad handel gedryf word nie;
 - (r) mag nie van deur-tot-deur in enige sakesentrum soos in die munisipale soneringskema aangedui, handel dryf nie; en
 - (s) mag nie 'n oorlas veroorsaak deur aan te dring, te bedel of mense te intimideer om goedere te koop nie.
- (2) 'n Persoon wat 'n bepaling van sub-artikel (1) oortree, begaan 'n misdryf.

8. Verwydering en skut

- (1) 'n Beampte wat 'n redelike vermoede het dat eiendom gebruik word of beoog word vir die gebruik in, of in verband met, straathandel, hetsy die eiendom in besit is of onder beheer is van enige persoon al dan nie, onderhewig aan sub-artikel (2), mag die eiendom wat hy of sy vind by 'n plek waar straathandel beperk of verbied word, en wat 'n oortreding van enige sodanige beperking of verbod verteenwoordig, verwyder of skut.
- (2) 'n Beampte wat onder sub-artikel (1) optree moet, behalwe in die geval van goedere wat gelaat of agtergelaat is, 'n kwitansie aan die straathandelaar uitreik vir die eiendom wat op daardie wyse verwyder of geskut is en die kwitansie moet die volgende besonderhede bevat:
 - (a) die adres waar en die tydperk waarvoor die geskutte eiendom gehou sal word;
 - (b) die voorwaardes vir die aflossing van die geskutte goedere; en
 - (c) dat onopgeëiste eiendom by wyse van 'n openbare veiling verkoop sal word.
- (3) Indien enige geskutte eiendom verbind is tot onroerende goed of 'n struktuur, en die geskutte eiendom is skynbaar onder beheer van 'n persoon wat by die plek teenwoordig is, mag 'n beampte die persoon beveel om die geskutte eiendom te verwyder.
- (4) Wanneer 'n persoon versuim om te voldoen aan 'n bevel om geskutte eiendom te verwyder, mag 'n beampte sodanige stappe doen as wat nodig mag wees ten einde die geskutte eiendom te verwyder.
- (5) 'n Persoon wat 'n beampte in die uitvoering van sy of haar pligte onder hierdie artikel verhinder of belemmer, of wat weier of versuim om die voorwerp op bevel van 'n beampte te verwyder, begaan 'n misdryf.

9. Beslagleggingsregister

Die munisipaliteit moet –

- (1) 'n register byhou wat die inligting, beoog by Skedule 1, bevat en wat te alle redelike tye vir publieke insae beskikbaar moet wees; en
- (2) die beslagleggingsregister onmiddellik voltooi, met die aanvaarding van goedere by die plek van veiligheid of berging, wat vir hierdie doel daargestel is.

10. Wegdoening met geskutte goedere

- (1) Enige bederfbare eetware wat ingevolge artikel 8(1) verwyder en geskut is mag, onderhewig aan sub-artikel (2) verkoop of vernietig word of op 'n ander wyse mee weggedoen word kragtens enige beleid van die munisipaliteit binne 'n redelike tydperk nadat dit geskut is,

met dien verstande dat die eiendom op enige stadium voor wegdoening daarvan, aan die eenaar terugbesorg kan word, op versoek van en by voorlegging van bewys van eienaarskap deur die eenaar aan die munisipaliteit.

(2) Die munisipaliteit is geregtig daarop om enige bederfbare eetware wat deur die eenaar daarvan opgeëis word, te hou of daarmee weg te doen totdat alle redelike uitgawes deur hom aangegaan en boetes deur hom uitgereik, betaal is.

(3) Die eenaar van enige goedere uitgesonderd bederfbare eetware wat alreeds deur die munisipaliteit hanteer is ingevolge sub-artikel (1) en (2), wat dit wil terugeis moet, binne 'n tydperk van 14 dae vanaf datum dat dit geskut is, by die munisipaliteit aansoek doen en moet die kwitansie beoog by artikel 8(2)(a) toon, by versuim waarvan die goedere verkoop mag word, onderhewig aan artikel 11.

(4) In die geval dat die opbrengs van enige verkoping van goedere beoog onder hierdie artikel nie voldoende is om die uitgawes deur die munisipaliteit aangegaan te dek nie, sal die eenaar daarvan steeds, ingevolge artikel 8(3)(a), verantwoordelik wees vir die balans.

11. Verkoop van geskutte goedere

(1) Indien die eenaar van geskutte goedere, met uitsondering van bederfbare eetware, versuim om sodanige goedere op te eis, en die voorgeskrewe gelde soos deur die munisipaliteit van tyd tot tyd bepaal, te betaal, moet die munisipaliteit binne 14 dae van die skut van goedere –

- (a) by die hof aansoek doen vir magtiging om die goedere te verkoop; en
- (b) in die aansoek beoog by paragraaf (a), die Hof voorsien van bewyse dat 'n verklaring beoog by sub-artikel (2) deur die eenaar ingedien is.

(2) Die verklaring beoog by sub-artikel (1)(b) moet die gelde en kostes wat verskuldig is ingevolge hierdie verordening, insluit.

(3) Die Hof moet, ongeag of die bedrae in die verklaring beoog by sub-artikel (1)(b) betwis word of nie –

- (a) summier die saak ondersoek;
- (b) vasstel of die eenaar van goedere in kennis gestel is deur die munisipaliteit; en
- (c) sodanige bevel maak wat dit as reg en haalbaar beskou, insluitend 'n bevel –
 - (i) ten opsigte van koste; en
 - (ii) rakende die proses wat die munisipaliteit moet volg ten opsigte van die verkoping van goedere waarop beslag gelê is.

12. Munisipale werknemers en raadslede mag nie geskutte goedere koop nie

Werknemers en raadslede van die munisipaliteit, of 'n familielid, of nabye verbintenis van enige munisipale werknemer of raadslid, mag nie enige goedere wat te koop aangebied word kragtens hierdie verordening, hetsy persoonlik of deur enige ander persoon, direk of indirek, koop nie.

13. Koerantverkopers

(1) Enige uitgewer van 'n koerant wat sodanige koerant deur verkopers in of op 'n pad verkoop, moet 'n ooreenkoms met die munisipaliteit sluit ten opsigte van die gebiede waar en tye waartydens sodanige verkope onderneem mag word.

(2) Die munisipaliteit mag die ure bepaal waartydens die verkoop van koerante ingevolge sub-artikel (1) onderneem mag word.

(3) Die munisipaliteit mag 'n tarief hef vir die verkoop van koerante in of op 'n pad binne sy regsgebied.

(4) Enige uitgewer of verkoper wat die bepalings van hierdie artikel oortree, begaan 'n misdryf.

HOOFSTUK 2: ALLERLEI BEPALINGS

14. Boete

'n Persoon wat 'n misdryf ingevolge hierdie verordening begaan het, stel by skuldigbevinding, en onderhewig aan boetes voorgeskryf in enige ander wet, hom of haarself bloot aan 'n boete of by versuim om te betaal, tot tronkstraf, of tot sodanige tronkstraf sonder die opsie van 'n boete, of tot beide sodanige boete en sodanige tronkstraf, en in die geval van 'n daaropvolgende of voortgesette oortreding, tot 'n boete vir elke dag wat sodanige oortreding voortduur, of by versuim van betaling daarvan, tot tronkstraf.

15. Verantwoordelikheid van persone wat straathandelaars in diens neem

Wanneer 'n werknemer van 'n persoon 'n daad uitvoer wat strydig is met die bepalings van hierdie verordening, word die werkgewer self geag die oortreding te begaan het, tensy hy of sy kan bewys dat –

- (a) hy of sy nie sodanige daad toegelaat het nie;
- (b) hy of sy alle redelike stappe gedoen het om die uitvoering van die daad te voorkom; en
- (c) dit nie binne die bestek van die magtiging of die beloop van die werknemer se aanstelling was om 'n daad uit te voer wat strydig met hierdie verordening is nie.

16. Vrywaring

Die munisipaliteit sal nie aanspreeklik wees vir enige verlies of skade gelyk as gevolg van die skut van enige goedere ingevolge hierdie verordening nie.

17. Appèl

'n Persoon wie se regte beïnvloed word deur 'n besluit van die munisipaliteit mag teen so 'n besluit appelleer deur skriftelik kennis te gee van die appèl en die redes daarvoor ingevolge artikel 62 van die Plaaslike Regering: Munisipale Stelselwet, 2000 (Wet 32 van 2000) aan die munisipale bestuurder binne 21 dae vanaf datum van kennisgewing van die besluit.

18. Skakelforums binne die gemeenskap

- (1) Die munisipaliteit mag een of meer skakelforums binne 'n gemeenskap vestig vir die doeleindes van –
 - (a) die skepping van omstandighede vir 'n plaaslike gemeenskap om deel te neem aan die sake van die munisipaliteit; en
 - (b) bevordering van ekonomiese welvaart.
- (2) 'n Skakelforum mag bestaan uit –
 - (a) 'n lid of lede van 'n belangegroep, of geaffekteerde persoon;
 - (b) 'n lid of lede van 'n wykskomitee in wie se onmiddellike gebied straathandel plaasvind;
 - (c) 'n aangewese beampte of beamptes van die munisipaliteit; en
 - (d) 'n raadslid.
- (3)
 - (a) Die munisipaliteit mag, wanneer 'n aansoek vir goedkeuring, of 'n sertifikaat om vrystelling ingevolge hierdie verordening, oorweeg word, die insette van 'n skakelforum versoek.
 - (b) 'n Skakelforum of enige persoon of persone beoog by sub-artikel (2) mag, op eie inisiatief insette aan die munisipaliteit voorlê vir oorweging.

19. Herroeping van Verordeninge

Die bepalings van enige verordening wat voorheen deur die munisipaliteit of enige ontbinde munisipaliteite wat nou by hierdie munisipaliteit ingelyf, afgekondig is, word hiermee herroep vir soverre dit verband hou met sake in hierdie Verordening voorsien.

20. Kort tittle en inwerkingtreding

Hierdie verordening staan bekend as die Hessequa Munisipaliteit Verordening insake Straathandel en tree in werking op die datum van afkondiging daarvan in die Provinsiale Koerant.

SKEDULE 1
Beslagleggingsregister Inligting
(Artikel 9)

'n Beslagleggingsregister moet ten minste die volgende inligting bevat-

1. Plek waar goedere gehou word
2. Datum van ontvangs van goedere
3. Getal en beskrywing van goedere
4. Naam en adres van persoon wat op goedere beslag gelê het
5. Naam en adres van eienaar van goedere
6. Naam en adres of beskrywing van plek waar goedere gevind is
7. Afstand tussen plek waar goedere op beslag gelê is en die skut
8. Datum van verkoping van goedere
9. Opbrengs van verkoopte goedere
10. Naam en adres van koper
11. Oorskot bedrag (indien enige) aan die eienaar of munisipaliteit betaal
12. Kwitansie nommer

HESSEQUA MUNICIPALITY STORMWATER MANAGEMENT BY-LAWS

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996 the Hessequa Municipality, enacts as follows:-

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1. Definitions

In this by-law, unless the context otherwise indicates –

“**floodplain**” means land adjoining a watercourse which is predisposed to flooding up to the 100 year recurrence interval;

“**municipality**” means the Hessequa Municipality 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 or any employee 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;

“**owner**” also means lessee, occupier, resident or any person who obtains a benefit from the premises or is entitled thereto and also includes any insolvent estate, executor, administrator, trustee, liquidator judicial manager;

“**private stormwater system**” means a stormwater system which is owned, operated or maintained by a person and not the municipality;

“**pollute**” bears the meaning assigned to it in the National Water Act, 1998 (Act 36 of 1998);

“**stormwater**” means water resulting from natural rainfall or the accumulation thereof, and includes – (a) groundwater and spring water ordinarily conveyed by the stormwater system; and

(b) sea water within estuaries,

but excludes water in a drinking water or waste water reticulation system;

“**stormwater system**” means both the constructed and natural facilities, including roads, pipes, culverts, watercourses and their associated floodplains, whether over or under public or privately owned land, used or required for the management, collection, conveyance, temporary storage, control, monitoring, treatment, use or disposal of stormwater;

“**watercourse**” bears the meaning assigned to it in the National Water Act, 1998 (Act 36 of 1998);

“**organ of state**” bears the meaning assigned to it in section 239 of the Constitution.

2. Purpose of by-law

- (1) The purpose of this by-law is to regulate stormwater management and activities that may have an adverse impact on the development, operation and maintenance of the stormwater system.

(3) Application of by-law

This by-law binds an organ of state and applies to storm water systems in built-up areas.

4. Prohibited conduct

- (1) No person may, except with the written consent of the municipality-
- (a) discharge, place or permit to enter into the stormwater system –
 - (i) anything other than stormwater;
 - (ii) anything likely to damage the stormwater system or interfere with the operation thereof;
 - (iii) anything likely to pollute the water in the stormwater system;
 - (b) discharge from any place, or place onto any surface, any substance other than stormwater, where that substance could reasonably be expected to find its way into the stormwater system;
 - (c) undertake any action that is likely to destroy, damage, alter, endanger or interfere with the free flow of water or the stormwater system, or the operation thereof, which action includes, but is not limited to -
 - (i) obstructing or reducing the capacity of the stormwater system;
 - (ii) opening a pipe, culvert or canal which forms part of the stormwater system;
 - (iii) constructing or erecting any structure or thing over or in such a position or in such a manner as to destroy, damage, endanger or interfere with the stormwater system or the operation thereof;
 - (iv) draining, abstracting or diverting any water directly from the stormwater system;
 - (v) filling, excavating, shaping, landscaping, opening up or removing the ground above, within, under or immediately next to any part of the stormwater system;
 - (vi) changing the design or the use of, or otherwise modify any feature of the stormwater system which alone or in combination with other existing or potential land uses, may cause an increase in flood levels or create a potential flood risk; or
 - (vii) any activity which alone or in combination with other existing or future activities, may cause an increase in flood levels or create a potential flood risk.
- (2) When an incident contemplated in subsection (1) (a) or (b) occurs without the consent of the municipality-
- (a) if the incident is not the result of natural causes, the person responsible for the incident; or
 - (b) the owner of the property on which the event took place or is taking place, must immediately report the incident to the municipality, and take, at own cost, all reasonable measures to contain and minimise the effects of the incident, which measures include, but are not limited to, the undertaking of cleaning up operations including the rehabilitation of the environment.
- (3) A person who contravenes a provision of subsection (1) or (2) commits an offence.

5. Application and conditions which municipality may impose

- (1) A person who wishes to obtain the consent of the municipality as contemplated in section 4, must submit an application form obtainable from the municipality.
- (2) When considering an application the municipality may require the applicant to provide the municipality, at own cost, with impact studies such as, but not limited to, environmental impact studies or environmental impact investigations which are required by environmental legislation.
- (3) The municipality may also require the applicant to establish and provide documentation indicating flood lines.

6. Stormwater systems on private land

- (1) An owner of property on which a private stormwater system is located –
- (a) may not carry out any activity which may impair the effective functioning of the stormwater system or which could reasonably be expected to impair the effective functioning of the stormwater system; and

- (b) must, at own cost, keep the stormwater system functioning effectively, including undertaking, on written instruction by the municipality, the refurbishment and reconstruction thereof if the municipality has reasonable grounds for issuing such instruction.
- (2) Subsection (1)(b) does not apply where the municipality has accepted responsibility for any of the duties contained in a maintenance agreement or in terms of a condition of a servitude.
- (3) Should an owner fail or refuse to comply with an instruction by the municipality made in terms of subsection (1)(b), the municipality may undertake measures to refurbish or reconstruct the stormwater system, and the municipality may recover from the owner all reasonable costs incurred as a result of action taken.
- (4) An owner who contravenes a provision of subsection (1)(a) or who fails or refuses to comply with an instruction contemplated in subsection (1)(b) commits an offence.

7. Powers of municipality

- (1) The municipality may at all reasonable times enter upon any premises or any portion thereof with the aim of carrying out any inspection or test to determine the current status of a stormwater system, provided that such an owner received prior notice of such entry and that such employee carries an identification card issued by the municipality and produces it upon request of an owner.
- (2) The municipality may, for the purpose of providing and maintaining infrastructure for a stormwater system –
- (a) on any premises, construct, expand, alter, maintain or lay any drain, pipe or other structure related to the stormwater system on or under any immovable property, and may do any other thing necessary or desirable or incidental, supplementary or ancillary to such construction, expansion, alteration or maintenance;
 - (b) drain stormwater or discharge water from any municipal service works into any watercourse;
 - (c) repair and make good any damage done in or damage resulting from a contravention of section 4(1)(a)(ii) or 4(1)(c), such as, but not limited to –
 - (i) demolishing, altering or otherwise dealing with any building, structure or other thing constructed, erected or laid in contravention of section 4(1)(c)(iii);
 - (ii) filling in, removing and making good any ground excavated, removed or placed in contravention of section 4(1)(c)(v);
 - (d) remove anything –
 - (i) discharged or permitted to enter into the stormwater system or watercourse in contravention of section 4(1)(a) or (b);
 - (ii) damaging, obstructing or endangering or likely to obstruct, endanger or destroy any part of the stormwater system;
 - (e) seal off or block any point of discharge from any premises, irrespective of whether the point is used for lawful purposes;
 - (f) cancel any consent granted in terms of section 5 if any condition under which the consent was granted is not complied with;
 - (g) by written notice and after consultation with an owner, instruct any owner of property –
 - (i) to retain stormwater originating from his or her property on such property or to lay, at the cost of such owner, a stormwater drain pipe or gutter to a suitable place indicated by the municipality, irrespective of whether the course of the pipe or gutter will run over private property or not;
 - (ii) to allow the owner of a higher lying property to lay a stormwater drain pipe or gutter over his or her property for the draining of concentrated stormwater;
 - (h) discharge stormwater into any watercourse, whether on private land or not.
- (3) Should an owner of property fail to comply with an instruction contemplated in subsection (2)(g)(i), the municipality may undertake measures to retain such stormwater or to lay such stormwater drain pipe or gutter.
- (4) Where it seems that any action or neglect by a person or owner of property may lead to a contravention of a provision of this by-law, the municipality may notify, in writing, such person or owner to comply with such requirement as may be necessary to prevent the occurrence of such contravention.
- (5) The municipality may recover all reasonable costs incurred as a result of action taken –

- (a) in terms of subsection (2)(c) or (d), from the person who was responsible for a contravention of the provisions of this by-law or the owner of the property on which a contravention occurred; or
- (b) in terms of subsection (3), from the owner of the property.
- (6) Any drain, pipe or structure provided in terms of subsection (2)(a) vests in the municipality.
- (7) A person commits an offence if he or she –
 - (a) fails to comply with a notice contemplated in subsection (2)(g);
 - (b) threatens, resists, hinders, obstructs or otherwise interfere with, or who uses foul or abusive language towards or at an employee or contractor of the municipality in the exercise of any powers or performance of any duty or function in terms of this by-law; or
 - (c) impersonates an employee or contractor of the municipality.

8. Authentication and service of notices and other documents

- (1) A notice or other document requiring authentication by the municipality must be signed by the municipal manager and when issued by the municipality in terms of this by-law is deemed to be duly issued if it is signed by the municipal manager.
- (2) Any notice or other document that is served on a person in terms of this by-law is regarded as having been served –
 - (a) when it has been delivered to that person personally;
 - (b) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of 16 years;
 - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic, and an acknowledgment of the posting thereof from the postal service is obtained;
 - (d) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided by paragraphs (a), (b) or (c);
 - (e) if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the property or premises, if any, to which it relates;
 - (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; or
 - (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 must be authorised or served on the owner, occupier, or holder of any property, or right in any property, it is sufficient if that person is described in the notice or other document as the owner, occupier, or holder of the property or right in question, and it is not necessary to name that person.
- (5) Any legal process is effectively and sufficiently served on the municipality when it is delivered to the municipal manager or a person in attendance at the municipal manager's office.

9. Appeal

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

10. Exemptions

- (1) Any person may by means of a written application, in which the reasons are given in full, apply to the municipality for exemption from any provision of this by-law.
- (2) The municipality may –
 - (a) grant an exemption in writing and the conditions in terms of which, if any, and the period for which such exemption is granted must be stipulated therein;
 - (b) alter or cancel any exemption or condition in 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 conditions imposed by the municipality under subsection (2), however, if an activity is commenced before such undertaking has been submitted to the municipality, the exemption lapses.

(4) If any condition of an exemption is not complied with, the exemption lapses immediately.

11. 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.

12. 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.

13. Short title and commencement

This by-law may be cited as the Stormwater Management By-law, and commences on the date of publication thereof in the Provincial Gazette.

**HESSEQUA MUNISIPALITEIT:
VERORDENING INSAKE STORMWATERBESTUUR**

Kragtens die bepalings van artikel 156 van die Grondwet van die Republiek van Suid-Afrika, 1996, verorden die Hessequa Munisipaliteit as volg:-

Inhoudsopgawe

1. Woordomskrywing
2. Doel van verordeninge
3. Toepassing van verordeninge
4. Verbode gedrag
5. Toepassing en voorwaardes wat die munisipaliteit mag instel
6. Stormwaterstelsels op privaat grond
7. Bevoegdheide van munisipaliteit
8. Waarmarking en betekening van kennisgewings en ander dokumente
9. Appèl
10. Vrystellings
11. Boetes
12. Herroeping van verordeninge
13. Kort titel en inwerkingtreding

1. Woordomskrywing

In hierdie verordening, tensy dit uit die samehang anders blyk, het die volgende woorde die volgende betekenis:

“**beboude gebiede**” die gedeeltes of gebiede van die munisipaliteit deur fisiese opmeting in erwe verdeel is of wat deur opgemete erwe omring word en ingeslote die openbare paaie aangrensend daaraan;

“**besoedel**” die mening wat deur die Nasionale Waterwet, 1998 (Wet 36 van 1998) daaraan toegeskryf is;

“**munisipaliteit**” beteken die Hessequa Munisipaliteit wat ingevolge Artikel 12 van die Wet op Munisipale Strukture, daargestel is en sluit alle politieke strukture, politieke ampsdraers, raadslede, behoorlik gemagtigde agente of alle werknemers in wat ingevolge hierdie verordening optree uit hoofde van ‘n bevoegdheid wat by die munisipaliteit berus en aan sodanige politieke struktuur, politieke ampsdraer, raadslid, agent of werknemer gedelegeer of gesubdelegeer is;

“**privaat stormwaterstelsel**” ‘n stormwaterstelsel wat deur ‘n persoon wat nie die munisipaliteit is nie, besit, bedryf en in stand gehou word;

“**staatsorgaan**” die betekenis wat ingevolge Artikel 239 van die Grondwet daaraan toegeskryf word.

“**stormwater**” water afkomstig van natuurlike reënval of die opgaar daarvan, en sluit in:

(a) grondwater en fonteinwater wat normaalweg deur die stormwaterstelsel gevoer word; en

(b) seewater binne riviermondings,

maar sluit water in ‘n drinkwater- of afvalwaterretikulasiestelsel uit;

“**stormwaterstelsel**” sowel geboude as natuurlike fasiliteite, met inbegrip van pype, duikers, waterlope en die gepaardgaande vloedvlaktes, hetsy bo of onder openbare of privaat grond, wat gebruik word vir die bestuur, opgaar, afvoer, tydelike bewaring, beheer, monitering, behandeling, gebruik of wegdoening van stormwater;

“**vloedvlakte**” grond langs ‘n waterbron wat geneig is om herhalend in verskillende siklusse te oorstrom; en

“**waterloop**” die betekenis wat ingevolge die Nasionale Waterwet, 1998 (Wet 36 van 1998) daaraan toegeskryf word;

2. Doel van verordeninge

Die doel van hierdie verordening is om stormwaterbestuur en -aktiwiteite wat moontlik ‘n nadelige uitwerking op die ontwikkeling, bedryf en instandhouding van die stormwaterstelsel mag hê, te reguleer.

3. Toepassing van verordeninge

Hierdie verordening –

- (a) bind 'n staatsorgaan; en
- (b) is van toepassing op stormwaterstelsels in beboude gebiede.

4. Verbode gedrag

- (1) Niemand mag, sonder die skriftelike toestemming van die munisipaliteit –
 - (a) die volgende in die stormwaterstelsel laat afvoer, plaas of toelaat dat dit die stormwaterstelsel binnegaan nie –
 - (i) enigiets anders as stormwater;
 - (ii) enigiets wat die stormwaterstelsel waarskynlik sal beskadig of die werking daarvan sal beïnvloed;
 - (iii) enigiets wat die water in die stormwaterstelsel waarskynlik sal besoedel;
 - (b) enige materiaal wat nie stormwater is nie, van enige plek afvoer of op enige oppervlak plaas waar daardie materiaal redelikerwys in die stormwaterstelsel kan beland;
 - (c) enige stap doen wat die stormwaterstelsel of die werking daarvan waarskynlik sal vernietig, beskadig, in gevaar stel of daarmee inmeng nie, welke handeling die volgende insluit, maar nie daartoe beperk is nie –
 - (i) versperring of vermindering van die kapasiteit van die stormwaterstelsel;
 - (ii) oopmaak van 'n pyp, waterloop of kanaal wat deel van die stormwaterstelsel uitmaak;
 - (iii) versperring of oprigting van enige struktuur of ding oor of in so 'n posisie of op so 'n manier dat die stormwaterstelsel of die werking daarvan vernietig, beskadig, in gevaar gestel of daarmee ingemeng word;
 - (iv) die dreinerings, uittrekking of afleiding van enige water regstreeks uit die stormwaterstelsel;
 - (v) die opvul, uitgrawe, vorming, landskappering, oopmaak of verwydering van die grond bo, binne, onder of reg langs enige deel van die stormwaterstelsel;
 - (vi) verandering van die ontwerp of die gebruik van of andersins die wysiging van enige kenmerk van die stormwaterstelsel wat op sigself of in kombinasie met ander bestaande of potensiële grondgebruike die vloedvlakke kan laat styg of 'n potensiële vloedgevaar kan skep; of
 - (vii) enige aktiwiteit wat op sigself of in kombinasie met ander bestaande of toekomstige aktiwiteite 'n styging in vloedvlakke kan veroorsaak of 'n potensiële vloedrisiko kan skep.
- (2) Wanneer 'n insident beoog in subartikel (1)(a) of (b) sonder die toestemming van die munisipaliteit voorkom –
 - (a) indien die insident nie die gevolg van natuurlike oorsake is nie, moet die persoon wat vir die insident verantwoordelik is; of
 - (b) die eienaar van die eiendom waarop die gebeurtenis plaasgevind het of besig is om plaas te vind, die insident onmiddellik by die munisipaliteit aanmeld en op eie koste alle redelike maatreëls tref om die uitwerking van die insident te beperk, welke maatreëls die instel van opruimingsaksies met inbegrip van die rehabilitering van die omgewing, insluit maar nie daartoe beperk is nie.
- (3) 'n Persoon wat 'n bepaling van subartikel (1) of (2) oortree, pleeg 'n misdryf.

5. Aansoek en voorwaardes wat die munisipaliteit mag instel

- (1) 'n Persoon wat die toestemming van die munisipaliteit wil verkry, soos beoog in artikel 4, moet 'n aansoekvorm indien wat van die munisipaliteit verkrygbaar is.
- (2) By die oorweging van 'n aansoek kan die munisipaliteit die aansoeker vra om die munisipaliteit, op eie koste, te voorsien van impakstudies wat omgewingsimpakstudies of omgewingsimpakondersoeke wat ingevolge omgewingswetgewing vereis word kan insluit, maar nie daartoe beperk is nie.
- (3) Die munisipaliteit mag die aansoeker ook gelas om dokumentasie oor vloedlyne te vind en te voorsien.

6. Stormwaterstelsels op privaat grond

- (1) 'n Eienaar van eiendom waarop 'n privaat stormwaterstelsel geleë is –
- (a) mag geen aktiwiteit uitvoer wat afbreuk kan doen aan die doeltreffende funksionering van die stormwaterstelsel of wat redelikerwys verwag kan word om afbreuk te doen aan die doeltreffende funksionering van die stormwaterstelsel nie; en
 - (b) moet die stormwaterstelsel op eie koste doeltreffend aan die werk hou met inbegrip van, na 'n skriftelike opdrag van die munisipaliteit, die opknapping en herkonstruksie daarvan indien die munisipaliteit redelike gronde vir die uitreiking van sodanige opdrag het.
- (2) Subartikel (1)(b) is nie van toepassing indien die munisipaliteit verantwoordelikheid vir enigeen van die pligte vervat in 'n onderhoudsooreenkoms of ingevolge 'n voorwaarde van 'n serwituut aanvaar het nie.
- (3) Indien 'n eienaar versuim of weier om te voldoen aan 'n instruksie wat die munisipaliteit ingevolge subartikel (1)(b) uitreik, kan die munisipaliteit maatreëls instel om die stormwaterstelsel op te knap of te herbou, en die munisipaliteit kan alle redelike koste wat as gevolg van die stappe wat gedoen is, aangegaan is, van die eienaar verhaal.
- (4) 'n Eienaar wat 'n bepaling van subartikel (1)(a) oortree of wat versuim of weier om te voldoen aan 'n opdrag beoog in subartikel (1)(b), pleeg 'n misdryf.

7. Bevoegdhede van munisipaliteit

- (1) Die munisipaliteit mag enige perseel of enige gedeelte daarvan op alle redelike tye binnegaan met die doel om 'n inspeksie of toets uit te voer om die huidige status van 'n stormwaterstelsel te bepaal.
- (2) Die munisipaliteit mag, vir die doel om infrastruktuur vir 'n stormwaterstelsel te voorsien en in stand te hou –
- (a) enige drein, pyp of ander struktuur wat met die stormwaterstelsel verband hou, op of onder enige onroerende eiendom bou, uitbrei, wysig, instandhou of lê en mag enige ander stappe doen wat nodig of wenslik is of verband hou met, of aanvullend of bykomstig is tot sodanige konstruksie, uitbreiding, wysiging of instandhouding;
 - (b) stormwater of afvoerwater uit enige munisipale dienswerke in 'n waterbron dreineer;
 - (c) enige skade wat gedoen is of skade wat voortspruit uit 'n oortreding van artikel 4(1)(a)(ii) of 4(1)(c) soos die volgende, maar nie daartoe beperk nie, herstel en regmaak –
 - (i) slooping, wysiging of ander hantering van enige gebou, struktuur of ander ding wat in stryd met artikel 4(1)(c)(iii) gebou, opgerig of gelê is;
 - (ii) invul, verwydering en regstelling van enige grond wat in stryd met artikel 4(1)(c)(v) uitgegrawe, verwyder of geplaas is.
 - (d) enigets verwyder –
 - (i) wat in stryd met artikel 4(1)(a) of (b) in die stormwaterstelsel of waterloop afgevoer is of toegelaat is om dit binne te gaan;
 - (ii) wat enige deel van die stormwaterstelsel beskadig, versper of bedreig of dit waarskynlik sal versper, in gevaar stel of vernietig;
 - (e) enige afvoerpunt vanaf enige perseel, ongeag of die punt vir wettige doeleindes gebruik word al dan nie, afseël of blokkeer;
 - (f) enige toestemming wat ingevolge artikel 5 verleen is, kanselleer indien daar nie aan enige voorwaarde waarkragtens die toestemming verleen is, voldoen word nie;
 - (g) by wyse van skriftelike kennisgewing, opdrag aan enige eienaar van eiendom gee –
 - (i) om stormwater op sodanige eiendom te behou of om op die koste van sodanige eienaar 'n stormwaterdreineerpyp of afvoersloot na 'n geskikte plek wat deur die munisipaliteit aangedui word, te lê, ongeag of die pyp of afvoersloot oor privaat eiendom sal loop al dan nie;
 - (ii) om die eienaar van 'n hoërliggende eiendom toe te laat om 'n stormwaterdreineerpyp of afvoersloot oor sy of haar eiendom te lê ten einde gekonsentreerde stormwater te dreineer;
 - (h) stormwater in enige waterbron, hetsy dit op privaat grond is al dan nie, af te voer.
- (3) Indien 'n eienaar van eiendom versuim om te voldoen aan 'n opdrag beoog in subartikel (2)(g)(i), kan die munisipaliteit maatreëls tref om sodanige stormwater terug te hou of om 'n stormwaterdreineerpyp of afvoersloot te lê.

- (4) Waar dit voorkom asof enige optrede of versuim deur 'n persoon of die eienaar van 'n eiendom kan lei tot 'n oortreding van 'n bepaling van hierdie verordening, kan die munisipaliteit sodanige persoon of eienaar skriftelik gelas om te voldoen aan 'n vereiste ten einde te voorkom dat sodanige oortreding geskied.
- (5) Die munisipaliteit mag alle redelike koste wat aangegaan is as gevolg van optrede geneem –
- (a) ingevolge subartikel (2)(c) of (d), verhaal van die persoon wat verantwoordelik was vir die oortreding van die bepalings van hierdie verordening of die eienaar van die eiendom waarop 'n oortreding geskied het; of
 - (b) ingevolge subartikel (3), van die eienaar van die eiendom.
- (6) Enige drein, pyp of struktuur wat ingevolge subartikel (2)(a) voorsien is, word die eiendom van die munisipaliteit.
- (7) 'n Persoon pleeg 'n misdryf indien hy of sy –
- (a) versuim om te voldoen aan 'n kennisgewing beoog in subartikel (2)(g);
 - (b) 'n werknemer of kontrakteur van die munisipaliteit in die uitvoering van enige magte of die verrigting van enige funksie of plig ingevolge hierdie verordening dreig, teenstaan, hinder, belemmer of hom of haar andersins pla of vuiltaal of skeltaal teenoor hom of haar gebruik; of
 - (c) hom of haar as 'n werknemer of kontrakteur van die munisipaliteit voordoen.

8. Waarmerking en betekening van kennisgewings en ander dokumente

- (1) 'n Kennisgewing wat kragtens hierdie verordening deur die munisipaliteit bedien is, word geag na behore bedien te wees indien dit deur 'n beampte van die munisipaliteit geteken is.
- (2) Enige kennisgewing of ander dokument wat kragtens hierdie verordening op 'n persoon bedien word, word as behoorlik bedien geag –
- (a) indien dit aan die betrokke persoon persoonlik oorhandig is;
 - (b) indien dit by die betrokke persoon se woon- of besigheids adres binne die Republiek gelaat word, by 'n persoon wat na raming 16 jaar of ouer is;
 - (c) indien dit met geregistreerde of gesertifiseerde pos na die laaste bekende woon- of besigheidsadres in die Republiek, van die betrokke persoon gestuur is en 'n bewys daarvan van die posdiens verkry is;
 - (d) indien die persoon se adres in die Republiek onbekend is, dan wanneer dit op sy agent of verteenwoordiger in die Republiek, op die wyse voorsien onder paragrawe (a), (b) of (c), bedien is;
 - (e) indien die betrokke persoon se adres en agent of verteenwoordiger in die Republiek onbekend is, dan wanneer dit op 'n opsigtelike plek op die betrokke gronde of sakeperseel, bedien is;
 - (f) in geval van 'n beslote korporasie, dan wanneer dit by die geregistreerde kantoor van die sakeperseel van die beslote korporasie bedien is;
 - (g) indien, op versoek van die betrokke persoon, dit aan sy of haar e-pos adres gestuur is.
- (3) Bediening van 'n afskrif word geag die bediening van 'n oorspronklike te wees.
- (4) Wanneer ook al 'n kennisgewing of ander dokument op die eienaar, huurder/inwoner of houer van enige eiendom of reg in enige eiendom bestel word, is dit voldoende indien sodanige persoon as eienaar, huurder/inwoner of houer van enige eiendom of reg in sodanige eiendom beskryf word en is dit nie nodig om die persoon by name te noem nie.
- (5) Enige regsproses word geag effektief en behoorlik op die munisipaliteit beteken te wees wanneer dit aan die munisipale bestuurder of 'n persoon in sy of haar kantoor afgelewer is.

9. Appèl

'n Persoon wie se regte geraak word deur 'n besluit wat deur die munisipaliteit gedelegeer is, mag ingevolge Artikel 62 van die Wet op Plaaslike Regering : Munisipale Stelsels, Wet 32 van 2000 teen daardie besluit appèl aanteken deur binne 21 dae van die kennisgewing van die besluit skriftelike kennis van die appèl en die redes daarvoor aan die Munisipale Bestuurder te gee.

10. Vrystellings

- (1) Enigiemand mag by wyse van 'n skriftelike aansoek, waarin die redes volledig verstrekk word, by die munisipaliteit aansoek doen om vrystelling van enige bepaling van hierdie verordening.
- (2) Die munisipaliteit mag –
 - (a) skriftelik vrystelling verleen en die voorwaardes waarvolgens en die tydperk waarvoor sodanige vrystelling verleen word, moet in die vrystelling uiteengesit word;
 - (b) enige vrystelling of voorwaarde van 'n vrystelling verander of kanselleer; of
 - (c) weier om 'n vrystelling te verleen.
- (3) 'n Vrystelling tree nie in werking voordat die aansoeker skriftelik onderneem het om aan alle voorwaardes wat die Munisipaliteit ingevolge subartikel (2) opgelê het, te voldoen nie, en indien daar met 'n aktiwiteit begin word voordat sodanige onderneming aan die munisipaliteit voorgelê is, verstryk die vrystelling.
- (4) Indien daar nie aan enige voorwaarde van 'n vrystelling voldoen word nie, verval die vrystelling onmiddellik.

11. Boetes

Iemand wat 'n misdryf ingevolge hierdie verordening pleeg is by skuldigbevinding strafbaar met 'n boete of gevangenisstraf of sodanige gevangenisstraf sonder die keuse van 'n boete, of beide sodanige boete en sodanige gevangenisstraf, en in geval van 'n voortdurende misdryf 'n boete vir elke dag waarop sodanige misdryf voortduur of, by versuim om dit te betaal, gevangenisstraf.

12. Herroeping van verordeninge

Die bepalings van enige verordeninge wat voorheen deur die munisipaliteit of deur enigeen van die afgeskafte munisipaliteite wat nou in die munisipaliteit geïnkorporeer is, afgekondig is, word hiermee herroep insoverre hulle betrekking het op sake waarvoor daar in hierdie verordening voorsiening gemaak word.

13. Kort titel en inwerkingtreding

Hierdie verordening is die Verordening insake Stormwaterbestuur en tree in werking op die datum van publikasie in die Provinsiale Koerant.

HESSEQUA MUNICIPALITY: TARIFF BY-LAW

Table of Contents

1. Interpretation
2. Principles and Objectives
3. Adoption and implementation of tariff policy
4. Contents of tariff policy
5. Enforcement of tariff policy
6. Operative Date

1. Interpretation

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

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

“**Customer Care and Revenue Management By-Law**” means the municipality’s Customer Care and Revenue Management By-Law as required by sections 96(b), 97 and 98 of the Systems Act;

“**municipality**” means the Municipality of Hessequa, established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, councillor, duly authorized agent or any employee 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;

“**municipality’s tariff policy**” means a tariff policy adopted by the municipality in terms of this By-Law;

“**Systems Act**” means the Local Government: Municipal Systems Act, 32 of 2000;

“**tariff**” means fees, charges, or any other tariffs levied by the municipality in respect of any function or service provided by the municipality, excluding rates levied by the municipality in terms of the Local Government: Municipal Property Rates Act, 6 of 2004.

2. Principles and Objectives

- (1) Section 229(1) of the Constitution authorizes a municipality to impose:
 - (a) rates on property and surcharges on fees for services provided by or on behalf of the municipality; and
 - (b) if authorized by national legislation, other taxes, levies and duties.
- (2) In terms of section 75A of the Systems Act a municipality may:
 - (a) levy and recover fees, charges or tariffs in respect of any function or service of the municipality; and
 - (b) recover collection charges and interest on any outstanding amount.
- (3) In terms of section 74(1) of the Systems Act, a municipal council must adopt and implement a tariff policy on the levying of fees for a municipal service provided by the municipality or by way of service delivery agreements and which complies with the provisions of the Systems Act, the Local Government: Municipal Finance Management Act, 53 of 2003 and any other applicable legislation.
- (4) In terms of section 75(1) of the Systems Act, a municipal council must adopt by-laws to give effect to the implementation and enforcement of its tariff policy.
- (5) In terms of section 75(2) of the Systems Act, by-laws adopted in terms of subsection 75(1) may differentiate between different categories of users, debtors, service providers, services, service standards and geographical areas as long as such differentiation does not amount to unfair discrimination.

3. Adoption and implementation of tariff policy

- (1) The municipality shall adopt and implement a tariff policy on the levying of fees for a municipal service provided by the municipality or by way of service delivery agreements which complies with the provisions of the Systems Act, the Local Government: Municipal Finance Management Act, 53 of 2003 and any other applicable legislation.
- (2) The municipality shall not be entitled to impose tariffs other than in terms of a valid tariff policy.

4. **Contents of tariff policy**

The municipality tariff policy shall, *inter alia*:

- (1) apply to all tariffs imposed by the municipality pursuant to the adoption of the municipality's annual budget;
- (2) reflect the principles referred to in section 74(2) of the Systems Act and specify any further principles for the imposition of tariffs which the municipality may wish to adopt;
- (3) specify the manner in which the principles referred to in section 4(2) are to be implemented in terms of the tariff policy;
- (4) specify the basis of differentiation, if any, for tariff purposes between different categories of users, debtors, service providers, services, service standards and geographical areas as long as such differentiation does not amount to unfair discrimination;
- (5) include such further enforcement mechanisms, if any, as the municipality may wish to impose in addition to those contained in the Customer Care and Revenue Management By-Law.

5. **Enforcement of tariff policy**

The municipality's tariff policy shall be enforced through the Customer Care and Revenue Management By-Law and any further enforcement mechanisms stipulated in the municipality's tariff policy.

6. **Operative Date**

This By-Law shall take effect upon publication in the Provincial Gazette.

MUNISIPALITEIT VAN HESSUQUA: VERORDENING OP TARIWE

Inhoud

1. Uitleg
2. Beginsels en Doelwitte
3. Aanvaarding en inwerkingstelling van die tariefbeleid
4. Inhoud van die tariefbeleid
5. Toepassing van die tariefbeleid
6. Inwerktredingsdatum

1. Uitleg

In hierdie Verordening geld die Engelse teks en in die geval van enige teenstrydigheid met die Afrikaanse teks, en, tensy die konteks anders aandui, beteken:

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

“**munisipaliteit**” beteken die Hessequa Munisipaliteit, ingestel kragtens artikel 12 van die Munisipale Strukturewet, 117 van 1998, en sluit in enige politieke struktuur, politieke ampsdraer, raadslid, behoorlik gemagtigde agent of enige amptenaar wat ingevolge hierdie verordening handel kragtens ‘n bevoegdheid van die munisipaliteit wat gedelegeer is of gesubdelegeer is aan sodanige politieke struktuur, politieke ampsdraer, raadslid, agent of amptenaar;

“**munisipaliteit se tariefbeleid**” ‘n tariefbeleid wat deur die munisipaliteit ingevolge hierdie Verordening aanvaar is;

“**Tarief**” gelde, koste, of enige ander tariewe deur die munisipaliteit gehef word vir enige funksie of diens wat deur die munisipaliteit gelewer word met uitsondering van belastings wat deur die munisipaliteit ingevolge die Wet op Plaaslike Regering: Munisipale Eiendomsbelasting No. 6 van 2004 gehef word;

“**Verordening op Kliëntesorg en Inkomstebestuur**” die Stad se Verordening op Kliëntesorg en Inkomstebestuur ingevolge artikels 96(b), 97 en 98 van die Wet op Stelsels;

“**Wet op Stelsels**” die Wet op Plaaslike Regering: Munisipale Stelsels, 32 van 2000.

2. Beginsels en Doelwitte

- (1) Artikel 229(1) van die Grondwet magtig ‘n munisipaliteit:
 - (a) om eiendomsbelasting en bobelasting op gelde vir dienste deur of namens die munisipaliteit verskaf, op te lê; en
 - (b) indien deur nasionale wetgewing daartoe gemagtig, om ander belastings, heffings en regte op te lê.
- (2) Ingevolge artikel 75A van die Wet op Stelsels mag ‘n munisipaliteit:
 - (a) gelde, koste en tariewe ten opsigte van enige funksies of diens van die munisipaliteit hef en verhaal; en
 - (b) insamelingskoste en rente op enige uitstaande bedrag verhaal.
- (3) Ingevolge artikel 74(1) van die Wet op Stelsels moet ‘n munisipale raad ‘n tariefbeleid oor die heffing van gelde vir ‘n munisipale diens wat deur die munisipaliteit gelewer word, aanvaar en in werking stel of deur middel van diensleweringsooreenkomste wat aan die bepalings van die Wet op Stelsels, die Wet op Plaaslike Regering: Bestuur van Munisipale Finansies No. 53 van 2003 en enige ander toepaslike wetgewing voldoen.
- (4) Ingevolge artikel 75(1) van die Wet op Stelsels moet ‘n munisipale raad verordeninge aanvaar om uitwerking te gee aan die inwerkingstelling en toepassing van sy tariefbeleid.
- (5) Ingevolge artikel 75(2) van die Wet op Stelsels mag verordeninge wat aanvaar word ingevolge subartikel 75(1) tussen verskillende kategorieë gebruikers, debiteure, diensverskaffers, dienste, diensstandaarde en geografiese gebiede onderskei mits sodanige differensiering nie op onbillike diskriminasie neerkom nie.

3. **Aanvaarding en inwerkingstelling van die tariefbeleid**

- (1) Die munisipaliteit moet 'n tariefbeleid oor die heffing van gelde vir 'n munisipale diens wat deur die munisipaliteit gelewer word, aanvaar en in werking stel of deur middel van diensleweringsooreenkomste wat aan die bepalings van die Wet op Stelsels, die Wet op Plaaslike Regering: Bestuur van Munisipale Finansies (MFMA) No. 53 van 2003 en enige ander toepaslike wetgewing voldoen.
- (2) Die munisipaliteit is nie geregtig om tariewe op te lê behalwe ingevolge 'n geldige tariefbeleid nie.

4. **Inhoud van die tariefbeleid**

Die munisipaliteit se tariefbeleid moet onder meer:

- (1) van toepassing wees op alle tariewe deur die munisipaliteit opgelê nadat die munisipaliteit se jaarlikse begroting aanvaar is;
- (2) die beginsels ingevolge artikel 74(2) van die Wet op Stelsels weerspieël en enige verdere beginsels vir die oplegging van tariewe wat die munisipaliteit mag wens om te aanvaar, spesifiseer;
- (3) die wyse spesifiseer waarop die beginsels waarna in artikel 4(2) verwys word ingevolge die tariefbeleid in werking gestel moet word;
- (4) die grondslag vir differensiëring, indien enige, vir tariefdoeleindes tussen die verskillende kategorieë gebruikers, debiteure, diensverskaffers, dienste, diensstandaarde en geografiese gebiede gespesifiseer mits sodanige differensiëring nie op onbillike diskriminasie neerkom nie;
- (5) sodanige verdere toepassingmeganismes, indien enige, wat die munisipaliteit mag wens om op te lê bykomend tot daardie vervat in die Verordening op Kliëntesorg en Inkomstebestuur, insluit.

5. **Toepassing van die tariefbeleid**

Die munisipaliteit se tariefbeleid moet deur middel van die Verordening op Kliëntesorg en Inkomstebestuur en enige verdere toepassingmeganismes ingevolge die munisipaliteit se tariefbeleid toegepas word.

6. **Inwerktredingsdatum**

Hierdie tree in werking op die datum van publikasie daarvan in die Provinsiale Koerant.

HESSEQUA MUNICIPALITY**BY-LAW RELATING TO WATER SUPPLY, SANITATION SERVICES
AND INDUSTRIAL EFFLUENT**

In terms of the provisions of section 156 of the Constitution of the Republic of South Africa, 1996, the Hessequa Municipality hereby enacts as follows:

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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 shall prevail in the event of an inconsistency between the different texts, and, unless the context otherwise indicates:–

“accommodation unit” in relation to any premises, means a building or section of a building occupied or used or intended for occupation or use for any purpose;

“Act” means the Water Services Act, 1997 (Act No. 108 of 1997), as amended from time to time;

“approved” means approved by the municipality;

“authorised agent” means a person authorised by the municipality to perform any act, function or duty in terms of, or exercise any power under, this by-law;

“best practicable environmental option” means the option that provides the most benefit or 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;

“borehole” Includes a well, excavation or any artificially constructed or improved underground cavity which can be used for the purpose of –

- (a) intercepting, collecting or storing water in or removing water from an aquifer;
- (b) observing and collecting data and information on water in an aquifer; or
- (c) recharging an aquifer;

"Building Regulations" means the National Building Regulations made in terms of the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977);

"communal water services work" means a consumer connection through which water services are supplied to more than one person; the service is operated and maintained jointly by the users thereof and can include water supply and drainage systems.

"connection pipe" means a pipe, including the water meter and stop valve, the ownership of which is vested in the municipality and installed by it for the purpose of conveying water from a main to a water installation, and includes a "communication pipe" referred to in SANS 0252 Part I;

"connecting point" means the connecting manhole or approved similar installation point at which the drainage installation joins the connecting sewer;

"connecting sewer" means a pipe owned by the municipality and installed by it for the purpose of conveying sewage from a drainage installation on a premises to a sewer beyond the boundary of those premises or within a servitude area or within an area covered by a way leave or by agreement;

"consumer" means –

- (a) any occupier of any premises to which or on which the municipality has agreed to provide water services or is actually providing water services, or if there be no occupier, then any person who has entered into a current agreement with the municipality for the provision of water services to or on such premises, or, if there be no such person, then the owner of the premises; provided that where water services is provided through a single connection to a number of occupiers, it shall mean the occupier, or person, to whom the municipality has agreed to provide water services; or
- (b) a person that obtains access to water services provided through a communal water services work;

"drain" means that portion of the drainage installation that conveys sewage within any premises;

"drainage installation" means a system, located on any premises and vested in the owner thereof, up stream of the connection point at the municipal main sewer, including the connecting manhole, and is used for or intended to be used for or in connection with the reception, storage, treatment or conveyance of sewage on that premises to the connecting point and includes drains, fittings, appliances, septic tanks, conservancy tanks, pit latrines and private pumping installations forming part of or ancillary to such systems;

"drainage work" includes any drain, sanitary fitting, water supplying apparatus, waste or other pipe or any work connected with the discharge of liquid or solid matter into any drain or sewer or otherwise connected with the drainage of any premises;

"duly qualified sampler" means a person who takes samples for analysis from the sewage disposal and storm water disposal systems and from public waters and who has been certified to do so by an authorised agent;

"effluent" means any liquid whether or not containing matter in solution or suspension;

"emergency" means any situation that poses a risk or potential risk to life, health, the environment or property;

"environmental cost" means the full cost of all measures necessary to restore the environment to its condition prior to the damaging incident;

"fire hydrant" means an installation that conveys water for fire fighting purposes only;

"fixed quantity water delivery system" means a water installation, which delivers a fixed quantity of water to a consumer in any single day;

"flood level (1 in 50 years)" means that level reached by flood waters resulting from a storm of a frequency of 1 in 50 years;

"flood plain (1 in 50 years)" means the area subject to inundation by flood waters from a storm of a frequency of 1 in 50 years;

"high-strength sewage" means sewage with a strength or quality greater than standard domestic effluent;

"industrial effluent" means effluent emanating from industrial use of water, including for the purposes of this by-law, any effluent other than standard domestic effluent or storm water;

"installation work" means work in respect of the construction of, or carried out on a water installation;

"mains" means a pipe, other than a connection pipe, vesting in the municipality and used by it for the purpose of conveying water to a consumer;

“measuring device” means any method, procedure, process or device, apparatus, installation that enables the quantity of water services provided to be quantified and includes a method, procedure or process whereby quantity is estimated or assumed;

“meter” means a water meter as defined by the Regulations published in terms of the Trade Metrology Act, 1973 (Act No. 77 of 1973), or, in the case of water meters of size greater than 100 mm, a device which measures the quantity of water passing through it;

“municipality” means the Municipality of Hessequa established in terms of Section 12 of the Local Government: Municipal Structures Act, 117 of 1998, Provincial Notice 488 dated 22 September 2000 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;

“occupier” means a person who occupies any premises or part thereof, without regard to the title under which he occupies;

“on-site sanitation service” means a bucket system, septic tank, chemical toilet, urine diversion system, “VIP” or related systems;

“owner” means –

- (a) the person in whom from time to time is vested the legal title to premises;
- (b) in a case where the person in whom the legal title to premises is vested is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;
- (c) in any case where the municipality is unable to determine the identity of such person, a person who is entitled to the benefit of the use of such premises or a building or buildings thereon;
- (d) in the case of premises for which a lease agreement of 30 years or longer has been entered into, the lessee thereof;
- (e) in relation to –
 - (i) a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act No. 95 of 1986), the developer or the body corporate in respect of the common property, or
 - (ii) a section as defined in the Sectional Titles Act, 1986 (Act No. 95 of 1986), the person in whose name such section is registered under a sectional title deed and includes the lawfully appointed agent of such a person;

“person” means any natural person, local government body or like authority, a company incorporated under any law, a body of persons whether incorporated or not, a statutory body, public utility body, voluntary association or trust;

“pollution” means the introduction of any substance into public water, (eg river, stream or dam) a storm water system, the water supply system, a water installation or a water resource that may directly or indirectly alter the physical, chemical or biological properties of the water found therein so as to make it –

- (a) less fit for any beneficial purpose for which it may reasonably be expected to be used; or
- (b) harmful or potentially harmful –
 - (i) to the welfare, health or safety of human beings;
 - (ii) to any aquatic or non-aquatic organism;
 - (iii) to the natural environment. (eg ground water, vegetation or land);

“premises” means any piece of land, the external surface boundaries of which are delineated on –

- (a) a general plan or diagram registered in terms of the Land Survey Act, 1927 (Act No. 9 of 1927), or in terms of the Deeds Registries Act, 1937 (Act No. 47 of 1937); or
- (b) a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act No. 95 of 1986);
- (c) a register held by a tribal authority;

“prescribed tariff or charge” means a charge prescribed by the municipality;

“private combined water service” means a private consumer connection and water services system, serving more than one consumer or property; the service is operated and maintained by all the consumers thereof collectively, and may include water supply, foul sewer and septic tank systems;

“public notice” means notice to the public in a manner determined by the council;

"public water" means any river, dam, watercourse, bay, estuary, the sea and any other water to which the public has the right of use or to which the public has the right of access;

"sanitation services" has the same meaning assigned to it in terms of the Act and includes for purposes of this by-law water for industrial purposes and the disposal of industrial effluent;

"service pipe" means a pipe which is part of a water installation provided and installed on any premises by the owner or occupier and which is connected or to be connected to a connection pipe to serve the water installation on the premises;

"sewage" means waste water, industrial effluent, standard domestic effluent and other liquid waste, either separately or in combination, but shall not include storm water;

"sewage disposal system" means the structures, pipes, valves, pumps, meters or other appurtenances used in the conveyance through the sewer reticulation system and treatment at the sewage treatment plant under the control of the municipality and which may be used by it in connection with the disposal of sewage.

"sewer" means any pipe or conduit which is the property of or is vested in the municipality and which may be used for the conveyance of sewage from the connecting sewer and shall not include a drain as defined;

"standard domestic effluent" means domestic effluent with prescribed strength characteristics in respect of chemical oxygen demand and settleable solids as being appropriate to sewage discharges from domestic premises within the jurisdiction of the municipality, but shall not include industrial effluent;

"stop-valve" valve for the connection or disconnection of water supply; the stop-valve between the municipal main and the water meter is known as the municipal stop-valve, for exclusive control over and use by the municipality; the consumer's stop-valve is situated downstream of the water meter and is for exclusive use by the consumer except when the municipality has to do maintenance on the water installation;

"storm water" means water resulting from natural precipitation or accumulation and includes rainwater, subsoil water or spring water, but excludes swimming pool backwash and sewage;

"terminal water fitting" means a water fitting at an outlet of a water installation that controls the discharge of water from a water installation;

"trade premises" means premises upon which industrial effluent is produced;

"water fitting" means a component of a water installation, other than a pipe, through which water passes or in which it is stored;

"water installation" means the pipes and water fittings which are situated on any premises and vested in the owner thereof and used or intended to be used in connection with the use of water on such premises, and includes a pipe and water fitting situated outside the boundary of the premises, which either connects to the connection pipe relating to such premises or is otherwise laid with the permission of the municipality;

"water services" has the same meaning assigned to it in terms of the Act and includes for purposes of this by-law water for industrial purposes and the disposal of industrial effluent;

"water services intermediary" means any person who provides water services to another, where the obligation to provide water is incidental to the main object of the contract between them;

"water supply services" has the same meaning assigned to it in terms of the Act and includes for purposes of this by-law water for industrial purposes and the disposal of industrial effluent;

"water supply system" means the structures, aqueducts, pipes, valves, pumps, meters or other apparatus relating thereto which are vested in the municipality and are used or intended to be used by it in connection with the supply of water, and includes any part of the system;

"wet industry" means an operation which discharges industrial effluent and/or which annually uses an average of more than 100 kilolitres of water on its premises per day;

"working day" means a day other than a Saturday, Sunday or public holiday.

CHAPTER I: GENERAL PROVISIONS

2. Application for water services

(1) No person shall gain access to water services from the water supply system, sewage disposal system or through any other sanitation services unless he has applied to the municipality on the prescribed form for such services for a specific purpose and to which such application has been agreed.

- (2) Where a premises or consumer are provided with water services, it shall be deemed that an agreement in terms of subsection (1) exists.
- (3) The municipality must on application for the provision of water services by a consumer inform that consumer of the different levels of services available and the tariffs and/or charges associated with each level of services.
- (4) A consumer must elect the available level of services to be provided to him or it, e.g. the size of the water connection, to a maximum of 25mm(nominal) for household use; provided that the municipality will in its discretion decide upon the size of the connection and the use of pressure- and flow control where necessary on a water connection.
- (5) A consumer may at any time apply to alter the level of services elected in terms of the agreement entered into, provided that such services are available and that any costs and expenditure associated with altering the level of services will be payable by the consumer.
- (6) An application agreed to by the municipality shall constitute an agreement between the municipality and the applicant, and such agreement shall take effect on the date referred to or stipulated in such agreement.
- (7) A consumer shall be liable for all the prescribed tariffs and/or charges in respect of water services rendered to him or her until the agreement has been terminated in accordance with this by-law or until such time as any arrears have been paid.
- (8) In preparing an application form for water services the municipality will ensure that the document and the process of interaction with the owner, consumer or any other person making application are understood by that owner, consumer or other person. In the case of illiterate or similarly disadvantaged persons, the municipality will take reasonable steps to ensure that the person is aware of and understands the contents of the application form.
- (9) An application form will require at least the following minimum information –
- (a) certification by an authorised agent that the applicant is aware of and understands the contents of the form;
 - (b) acceptance by the consumer of the provisions of the by-law and acceptance of liability for the cost of water services rendered until the agreement is terminated or until such time as any arrears have been paid;
 - (c) Name of consumer;
 - (d) address or stand number of premises to or on which water services are to be rendered or the communal water services work where water services will be used;
 - (e) address where accounts will be sent;
 - (f) name and address of the applicant's employer, where appropriate;
 - (g) if water will be supplied, the purpose for which the water is to be used; and
 - (h) the agreed date on which the provision of water services will commence.
- (10) Water services rendered to a consumer are subject to the provisions of this by-law and the conditions contained in the relevant agreement.
- (11) If the municipality refuses an application for the provision of water services, is unable to render such water services on the date requested for such provision of water services to commence or is unable to render the water services, the municipality will inform the consumer of such refusal and/or inability, the reasons therefor and, if applicable, when the municipality will be able to provide such water services.
- (12) The consumer shall be responsible for the registration of a servitude if his water service has to be installed from the connection point over or across the property of another private owner to reach his own property.

3. Special agreements for water services

The municipality may enter into a special agreement for the provision of water services to –

- (a) an applicant inside its area of jurisdiction, if the services applied for necessitates the imposition of conditions not contained in the prescribed form; and
- (b) an applicant outside its area of jurisdiction, if such application has been approved by the municipality having jurisdiction in the area in which the premises are situated.

4. Prescribed tariffs and charges for water services

All tariffs and or charges payable in respect of water services rendered by the municipality in terms of this by-law, including but not limited to the payment of connection charges, fixed charges or any additional charges or interest in respect of failure to pay such tariffs or charges

on the specified date will be set by the municipality by a resolution passed by the Council in accordance with:

- (i) its tariff policy;
- (ii) any by-law in respect thereof; and
- (iii) any regulations in terms of section 10 of the Act.

5. Fixed charges for water services

(1) The municipality may, in addition to the tariffs or charges prescribed for water services actually provided, levy a monthly fixed charge, annual fixed charge or once-off fixed charge in respect of the provision of water services in accordance with –

- (a) its tariff policy;
- (b) any by-law in respect thereof; and
- (c) any regulations in terms of Section (10) of the Act.

(2) Where a fixed charge is levied in terms of Subsection (1), it shall be payable by every owner or consumer in respect of water services provided by the municipality to him, her or it, whether or not water services are used by him, her or it.

6. Payment of deposit

(1) Every consumer must on application for the provision of water services and before such water services will be provided by the municipality, deposit with the municipality a sum of money as determined in terms of the municipality's credit control policy except in the case of a pre-payment measuring device being used by the municipality.

(2) The municipality may require a consumer to whom services are provided and who was not previously required to pay a deposit, for whatever reason, to pay a deposit on request, within a specified period.

(3) No interest shall be payable by the municipality on the amount of a deposit held by it in terms of this section.

(4) An agreement for the provision of water services may contain a condition that a deposit shall be forfeited to the municipality if it has not been claimed within twelve months of the termination of the agreement.

7. Payment for water services provided

(1) Water services provided by the municipality to a consumer shall be paid for by the consumer at the prescribed tariff or charge set in accordance with sections 4 and 5, for the particular category of water services provided.

(2) A consumer shall be responsible for payment for all water services provided to the consumer from the date of installation of the service in the event of a new installation, or from the date of conclusion of the agreement in the event of an existing connection, until termination of the agreement between him or her and the municipality.

(3) The municipality may estimate the quantity of water services provided in respect of a period or periods within the interval between successive measurements and may render an account to a consumer for the services so estimated.

(4) A consumer's deposit shall be payable in terms of the municipality's Credit Control or Tariff Policy. The deposit can be increased if in the opinion of the municipality the consumption is considerably higher than calculated or declared initially, or if the consumer is in default of payment for water services.

8. Accounts

(1) Monthly accounts will be rendered to consumers for the amount due and payable, at the address last recorded with the municipality.

(2) Failure by the municipality to render an account does not relieve a consumer of the obligation to pay any amount due and payable.

9. Termination of agreement for the provision of water services

(1) A consumer may terminate an agreement for the provision of water services by giving to the municipality notice in writing of his intention to do so. The municipality shall be entitled to recover from the consumer the applicable tariff for removal of the measuring device.

(2) The municipality may, by giving 24 hours written notice, advise a consumer of the termination of his, her or its agreement for the provision of water services if –

- (a) he, she or it has not used the water services during the preceding six months and has not made arrangements to the satisfaction of the municipality for the continuation of the agreement;
 - (b) he, she or it has failed to comply with the provisions of this bylaw and has failed to rectify such failure to comply on notice in terms of section 18.
 - (c) in terms of an arrangement made by it with another water services institution to provide water services to the consumer.
- (3) The municipality may, within 24 hours after having given notice, terminate an agreement for services.

10. Limitation and/or discontinuation of water services provided

- (1) The municipality may limit or discontinue water services provided in terms of this bylaw –
- (a) on failure to pay the prescribed tariffs or charges on the date specified in the municipality's by-law relating to credit control.
 - (b) on failure to comply with any other provisions of this by-law, after notice in terms of section 18 was given;
 - (c) at the written request of a consumer;
 - (d) if the agreement for the provision of services has been terminated in terms of section 9 and it has not received an application for subsequent services to the premises within a period of 90 (ninety) days of such termination;
 - (e) the building on the premises to which services were provided has been demolished;
 - (f) if the consumer has interfered with a limited or discontinued service; or
 - (g) in an emergency, e.g. emergency maintenance on the municipal reticulation system;
 - (h) where the connecting pipe or measuring device has been tampered with.
- (2) The municipality will not be liable for any damages or claims that may arise from the limitation or discontinuation of water services provided in terms of subsection (1).

11. Responsibility for compliance with this by-law

- (1) The owner of premises is responsible for ensuring compliance with this by-law in respect of all or any matters relating to any installation.
- (2) The consumer is responsible for compliance with this by-law in respect of matters relating to the use of any installation.
- (3) No clearance for transfer shall be issued in respect of new developments or subdivisions unless the water supply, sanitation and storm water installations have been completed to the satisfaction of the municipality and the conditions of approval have been complied with.

12. Exemption

- (1) The municipality may, in writing exempt an owner, consumer, any other person or category of owners, consumers or other persons from complying with a provision of this by-law, subject to any conditions it may impose, if it is of the opinion that the application or operation of that provision would be unreasonable, provided that the municipality shall not grant exemption from any section of this by-law that may result in –
- (a) the wastage or excessive consumption of water;
 - (b) the evasion or avoidance of water restrictions;
 - (c) significant negative effects on public health, safety or the environment;
 - (d) the non-payment for services;
 - (e) the installation of pipes and fittings which are not approved in terms of this by-law; and
 - (f) the Act, or any regulations made in terms thereof, is not complied with.
 - (g) tampering with the connecting pipe or measuring device.
- (2) The municipality may at any time after giving written notice of at least thirty days, withdraw any exemption given in terms of subsection (1).

13. Unauthorised use of water services

- (1) No person may, temporarily or permanently, gain access to water services from the water supply system, sewage disposal system or any other sanitation services unless an agreement has been entered into with the municipality for the rendering of those services.
- (2) The municipality may, irrespective of any other action it may take against such person in terms of this by-law, by written notice order a person who has gained access to water services from the water supply system, sewage disposal system or any other sanitation services without an agreement with the municipality for the rendering of those services,
 - (a) to apply for such services in terms of sections 2 or 3; and
 - (b) to undertake such work as may be necessary to ensure that the consumer installation through which access was gained complies with the provisions of these by-law.
 - (c) to pay a penalty as determined by the municipality from time to time.
- (3) The provisions of section 18 shall apply to a notice in terms of subsection (2) above.

14. Change in purpose for which water services are used

Where the purpose or extent for which water services are used is changed, the consumer must enter into a new agreement with the municipality.

15. Interference with water supply system or any sanitation services

- (1) No person other than the municipality shall manage, operate or maintain the water supply system or any sanitation system including the dumping or releasing of any substances into the sewer disposal system unless authorised by this by-law or an authorised agent.
- (2) No person may connect any temporary toilet device to the municipal sewer disposal system by the installation thereof directly on top of a manhole.
- (3) No person other than the municipality shall effect a connection or meter to the water supply system or sewage disposal system or render any other sanitation services. Connections to the sewage disposal system may be undertaken by a developer or owner in exceptional cases, at the discretion of the municipality and subject to any conditions imposed by the municipality in which event an inspection fee shall be payable to the municipality.

16. Obstruction of access and reparation of defects to water supply system or any sanitation services

- (1) No person shall prevent or restrict physical access to the water supply system or sewage disposal system.
- (2) If a person contravenes subsection (1), the municipality may -
 - (a) by written notice require such person to restore access at his own expense within a specified period; or
 - (b) if it is of the opinion that the situation is a matter of urgency, without prior notice restore access and recover the cost from such person, and/or
 - (c) impose a fine as determined by the municipality from time to time.

17. Water services intermediaries and people living on farms

- (1) A water services intermediary must have a contract with the consumer (for example an employment or property lease contract) of which the main purpose is not the provision of water services.
- (2) Farm owners are regarded as employers and as such responsible for housing and related services to their employees living on the farms. Farm owners are therefore water services intermediaries in terms of the Water Services Act and the Strategic Framework for Water Services (Clause 3.5.2) and are responsible for the provision of at least basic water services to people living on the farm.
- (3) The standard and tariff for water supplied by intermediaries must comply with sections 9 and 10 of the Water Services Act and any associated regulations, and water quality must comply with the standards for human consumption as specified in SANS 0241.

18. Notices and documents

- (1) A notice or document issued by the municipality in terms of this by-law must be deemed to be duly authorised if the authorised agent signs it.

- (2) If a notice or document is to be served on an owner, consumer or any other person in terms of this by-law such service shall be effected by –
- (a) delivering it to him or her personally or to his duly authorised agent;
 - (b) delivering it at his residence, village or place of business or employment to a person not less than sixteen years of age and apparently residing or employed there;
 - (c) if he has nominated an address for legal purposes, delivering it to such an address;
 - (d) if he has not nominated an address for legal purposes, delivering it to the address given by him or her in his application for the provision of water services, for the reception of an account for the provision of water services;
 - (e) sending by pre-paid registered or certified post addressed to his last known address;
 - (f) in the case of a legal person, by delivering it at the registered office or business premises of such legal person; or
 - (g) if service cannot be effected in terms of subsections (a) to (f), by affixing it to a principal door of entry to the premises concerned.
- (3) In the case where compliance with a notice is required within a specified number of working days, such period shall be deemed to commence on the date of issue of such notice.

19. Power to serve and compliance with notices

- (1) The municipality may, by written notice, order an owner, consumer or any other person who fails, by act or omission, to comply with the provisions of this by-law or of any condition imposed there under to remedy such breach within a period specified in the notice.
- (2) If a person fails to comply with a written notice served on him or her by the municipality in terms of this by-law within the specified period, it may take such action that in its opinion is necessary to ensure compliance, including –
- (a) undertaking the work necessary itself and recovering the cost of such action or work from that owner, consumer or other person;
 - (b) limiting or discontinuing the provision of services; and
 - (c) instituting legal proceedings, and/or
 - (d) the imposition of a fine.
- (3) A notice in terms of subsection (1) will –
- (a) give details of the provision of the by-law not complied with;
 - (b) give the owner, consumer or other person a reasonable opportunity to make representations and state his case, in writing, to the municipality within a specified period, unless the owner, consumer or other person was given such an opportunity before the notice was issued;
 - (c) specify the steps that the owner, consumer or other person must take to rectify the failure to comply;
 - (d) specify the period within which the owner, consumer or other person must take the steps specified to rectify such failure; and
 - (e) indicate that the municipality –
 - (i) may undertake or allow to be undertaken such work necessary to rectify the failure to comply if the notice is not complied with and that any costs associated with such work may be recovered from the owner, consumer or other person; and
 - (ii) may take any other action it deems necessary to ensure compliance.
- (4) In the event of an emergency the municipality may without prior notice undertake the work required by subsection (3)(e)(i) and recover the costs from such person.
- (5) The costs recoverable by the municipality in terms of subsections (3) and (4) is the full cost associated with that work and includes, but is not limited to, any exploratory investigation, surveys, plans, specifications, schedules of quantities, supervision, administration charge, the use of tools, the expenditure of labour involved in disturbing or rehabilitation of any part of a street or ground affected by the work and the environmental cost and/or a fine where applicable.

20. General Powers

- (1) The municipality may enter and inspect any premises –
 - (a) for the purposes set out in and in accordance with the provisions of section 80 of the Act;
 - (b) for any purpose connected with the implementation or enforcement of this by-law, at all reasonable times, after having given reasonable written notice of the intention to do so, unless it is an emergency situation, or
 - (c) when a possible offence is suspected.
- (2) The municipality has the right to install water and sanitation services across, over, on or through any fixed property and to operate, maintain and remove such installation at its discretion when necessary without compensation to any owner of such immovable property. The municipality shall give at least seven days notice to such property owner of the intention to undertake such work.

21. False statements or information

No person shall make a false statement or furnish false information to the municipality or falsify a document issued in terms of this by-law.

22. Offences

- (1) No person may –
 - (a) unlawfully and intentionally or negligently interfere or tamper with any water services works of the municipality;
 - (b) refuse or neglect to provide information or provide false information reasonably requested by the municipality;
 - (c) refuse to give access required by the municipality in terms of Section 20;
 - (d) obstruct or hinder the municipality in the exercise of his powers or performance of his functions or duties under this by-law;
 - (e) contravene or fail to comply with a provision of this by-law;
 - (f) contravene or fail to comply with a condition or prohibition imposed in terms of this by-law;
 - (g) ignore any temporary or permanent water restrictions without written exemption or relaxation of such restrictions by the municipality.
 - (h) render, install or change a water service which has been connected without permission of the municipality to the municipal water supply system directly or indirectly.
 - (i) contravene or fail to comply with any conditions imposed upon the granting of any application, consent, approval, concession, exemption or authority in terms of this by-law; or
 - (j) fail to comply with the terms of a notice served upon him or her in terms of this by-law;
- (2) Any person who contravenes any of the provisions of subsection 1 shall be guilty of an offence and liable on conviction to:
 - (a) a fine or imprisonment or to such imprisonment without the option of a fine or to both such fine and such imprisonment and,
 - (b) in the case of a continuing offence, to 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,
 - (c) a further amount equal to any costs and expenses found by the court to have been incurred by the municipality result of such contravention or failure.
- (3) In addition to any penalty imposed in terms of sub section 2 (a) to (c) the municipality may terminate the water service to such a person.

CHAPTER II: WATER SUPPLY SERVICES**23. Provision of connection pipe**

- (1) If an agreement for water supply services in respect of premises has been concluded and no connection pipe exists in respect of the premises, the owner shall make application on the prescribed form and pay the prescribed charge for the installation of such a pipe.

(2) If an application is made for water supply services which are of such an extent or so situated that it is necessary to extend, modify or upgrade the water supply system in order to supply water to the premises, the municipality may agree to the extension subject to such conditions as it may impose.

24. Location of connection pipe

- (1) A connection pipe provided and installed by the municipality shall –
- (a) be located in a position not further than one metre inside the erf boundary, or on the erf boundary where a boundary wall exists, or at the beginning of a servitude where applicable as agreed to between the owner and the municipality. The connection pipe shall be of a suitable size, to a maximum of 25mm(nominal) for household use, as determined by the municipality;
 - (b) terminate at –
 - (i) the outlet of the water meter where it is situated on the premises; or
 - (ii) a point before the isolating valve of the consumer if it is situated on the premises.
- (2) In reaching agreement with an owner concerning the location of a connection pipe, the municipality shall ensure that the owner is aware of:
- (a) practical restrictions that may exist regarding the location of a connection pipe;
 - (b) the cost implications of the various possible locations of the connection pipe;
 - (c) his responsibility for the protection of the measuring equipment and associated installations and thus for any damage to or loss of the measuring equipment and associated installations.
- (3) The municipality may at the request of any person agree, subject to such conditions as he may impose, to a connection to a main other than that which is most readily available for the provision of water supply to the premises; provided that the applicant shall be responsible for the full cost of any extension of the water installation to the connecting point designated by the municipality and for obtaining at his cost, such servitudes over other premises as may be necessary.
- (4) An owner must pay the prescribed connection charge in advance.

25. Provision of single water connection for supply to several consumers on same premises

- (1) Notwithstanding the provisions of section 23 only one connection pipe to the water supply system may be provided for the supply of water to any newly zoned single residential premises, irrespective of the number of accommodation units, business units or consumers located on such premises. The municipality shall at its discretion, and depending on the capacity of the water supply system in the specific area, determine whether additional connections will be allowed in any other type of zoning.
- (2) Where the owner, or the person having the charge or management of any premises on which several accommodation units are situated, requires the supply of water to such premises for the purpose of supply to the different accommodation units, the municipality shall, in its discretion, require the following: –
- (a) installation of a bulk meter by the municipality at the owners cost in respect of the premises as a whole or any number of such accommodation units; or
 - (b) a separate measuring device (sub-meter) installed by the owner, who remains responsible for the said meter, including meter readings, for each accommodation unit or any number thereof;
 - (c) that the owners or consumers take joint liability for the maintenance of the water supply system down stream of the bulk meter as well as the account for water supplied through the bulk meter at the applicable rate levied by the municipality.
 - (d) that the water supply system down stream of the bulk meter be regarded as a private combined water supply system.
- (3) Where the municipality has installed a bulk meter as contemplated in subsection (2)(a), the owner or the person having the charge or management of the premises, as the case may be, –
- (a) shall install and maintain on each branch pipe extending from the connection pipe to the different accommodation units –
 - (i) a separate measuring device (sub-meter); and

- (ii) an isolating valve; and
- (b) shall be liable to the municipality for the tariffs and charges for all water supplied to the premises through such bulk meter, irrespective of the different quantities consumed by the different consumers (sub-meters) served by such measuring device.
- (c) the owners or consumers shall remain responsible for the protection, maintenance and operation of the sub-meters.

26. Interconnection between premises or water installations

An owner of premises shall ensure that no interconnection exists between the water installation on his premises and the water installation on other premises.

27. Disconnection of water installation from connection pipe

The municipality may disconnect a water installation from the connection pipe and remove the connection pipe if –

- (a) the agreement for supply has been terminated in terms of section 9 and it has not received an application for a subsequent supply of water to the premises served by the pipe within a period of 90 days of such termination; or
- (b) the building on the premises concerned has been demolished.
- (c) requested to do so by the owner and upon payment of the prescribed fee;
- (d) services in respect of the said premises are not paid for and the disconnection is required in terms of the approved Credit Control and Debt Recovery Policy of the municipality.
- (e) the water supply system has unlawfully been interfered with or where a connection or measuring device has been tampered with.

28. Water supplied from a hydrant

- (1) The municipality may authorise a temporary supply of water to be taken from one or more fire hydrants specified by it, subject to such conditions and period as may be prescribed by it.
- (2) A person who desires a temporary supply of water referred to in subsection (1) must apply for such water services in terms of sections 2 and 3.
- (3) The supply of water in terms of subsection (1) must be measured.
- (4) The municipality shall for purposes of measuring provide a portable water meter to be returned to the municipality on termination of the temporary supply, which portable meter and all other fittings and apparatus used for the connection of the portable water meter to a hydrant, shall remain the property of the municipality and will be provided subject any conditions imposed by the municipality including the payment of a consumers deposit.
- (5) The consumer is responsible for the leased installation for the lease period and thus for any damage or loss in respect thereof and is further responsible for damage to fire hydrants used.

29. Quantity, quality and pressure

Water supply services provided by the municipality will comply as far as reasonably possible with the minimum standards set for the provision of water supply services in terms of section 9 of the Act.

30. General conditions of supply

- (1) The municipality may specify the maximum height to which water will be supplied from the water supply system. Where a consumer requires water to be supplied at a greater height or pressure, the consumer will be responsible therefore. No booster pump may be connected directly or indirectly to the municipal main pipe or connection point or pipe. The consumer shall be responsible for the supply and installation of a booster pump system with storage tank or reservoir as well as the protection and maintenance thereof.
- (2) The municipality may, in an emergency, or where water losses occur, interrupt the supply of water to any premises without prior notice.
- (3) If in the opinion of the municipality the consumption of water by a consumer adversely affects the supply of water to another consumer, it may apply such restrictions as it may deem fit to the supply of water to the first mentioned consumer in order to ensure a reasonable supply of water to the other consumer and will inform that consumer of such restrictions.

31. Measuring of quantity of water supplied

- (1) The municipality will measure the quantity of water supplied at regular intervals.
- (2) Any measuring device through which water is supplied to a consumer by the municipality and its associated apparatus shall be provided and installed by the municipality, shall remain its property, and may be changed and maintained by the municipality when deemed necessary by it.
- (3) The municipality may install a measuring device, and its associated apparatus, on premises at any point on the service pipe.
- (4) The consumer is responsible for the protection of the measuring device and shall bear the cost of damage thereto or loss thereof.
- (5) The consumer shall at all times ensure reasonable access to the measuring device by municipal staff.
- (6) If the municipality installs a measuring device on a service pipe in terms of subsection (3), it may install a section of pipe and associated fittings between the end of its connection pipe and the meter, and such section shall be deemed to form part of the water supply system.
- (7) If the municipality installs a measuring device together with its associated apparatus on a service pipe in terms of subsection (3), the owner shall –
 - (a) provide a place on the premises satisfactory to the municipality in which to install it;
 - (b) ensure that unrestricted access is available to it at all times;
 - (c) be responsible for its protection and be liable for the costs arising from damage thereto or loss thereof, excluding damage arising from normal fair wear and tear. The owner may at own cost install a metre box.
 - (d) ensure that no connection is made to the pipe in which the measuring device is installed, between the measuring device and the connection pipe serving the installation; and
 - (e) make provision for the drainage of water which may be discharged, from the pipe in which the measuring device is installed, in the course of work done by the municipality on the measuring device.
- (8) No person other than an authorised agent of the municipality shall –
 - (a) disconnect a measuring device and its associated apparatus from the pipe in which they are installed;
 - (b) break a seal which the municipality has placed on a meter; or
 - (c) in any other way interfere with a measuring device and its associated apparatus.
- (9) If the municipality considers that, in the event of the measuring device being a meter, that the size of a meter is unsuitable by reason of the quantity of water supplied to premises, it may install a meter of such size as it may deem necessary, and may recover from the owner of the premises concerned the prescribed charge for the installation of the meter.
- (10) The municipality may require the installation, at the owner's expense, of a measuring device to each dwelling unit, in separate occupancy, on any premises, for use in determining quantity of water supplied to each such unit; provided that where fixed quantity water delivery systems are used, a single measuring device may be used to supply more than one unit.

32. Quantity of water supplied to consumer

- (1) For purposes of assessing the quantity of water measured by a measuring device installed by the municipality on the premises of a consumer or, where applicable, estimated or determined by the municipality in terms of any provision of this by-law, it will, for the purposes of this by-law, be deemed, unless the contrary can be proved, that –
 - (a) the quantity is represented by the difference between measurements taken at the beginning and end of such period;
 - (b) the measuring device was accurate during such period;
 - (c) the entries in the records of the municipality were correctly made; and
 - (d) if water was supplied to, or taken by a consumer without the measuring device being read at the end of the period, the estimate by the municipality of the quantity of such water was correct.
- (2) Where water supplied by the municipality to any premises is in any way taken by the consumer without such water passing through any measuring device provided by the municipality, the municipality may for the purpose of rendering an account estimate, in accordance with subsection (3), the quantity of water supplied to the consumer during the

period from the last previous positive reading of the water meter until the date it is discovered that water is so taken by the consumer.

(3) For the purposes of subsection (2), an estimate of the quantity of water supplied to a consumer shall be based on, as the municipality may decide -

- (a) the average monthly consumption of water on the premises during any three consecutive measuring periods during the twelve months' period prior to the date on which the taking of water in the manner mentioned in subsection (2) was discovered; or
- (b) the average monthly consumption on the premises registered over three succeeding measuring periods after the date referred to in subsection (3)(a).

(4) Nothing in this by-law shall be construed as imposing on the municipality an obligation to cause any measuring device installed by the municipality on any premises to be measured at the end of every month or any other fixed period, and the municipality may estimate the quantity of water supplied over any period during the interval between successive measurements of the measuring device and render an account to a consumer for the quantity of water so estimated.

(5) The municipality must, on receipt from the consumer of written notice of not less than 7 (seven) days and subject to payment of the prescribed charge, measure the quantity of water supplied to consumer at a time or on a day other than that upon which it would normally be measured.

(6) If a contravention of section 31(8) occurs, the consumer shall pay to the municipality the cost of such quantity of water as in the municipality's opinion was supplied to him or her as well as the replacement cost of the measuring device, including labour, transport and materials.

(7) Until such time that a measuring device has been installed in respect of water supplied to a consumer, the estimated or assumed consumption of that consumer must be based on the average consumption of water supplied to the specific zone within which the consumer's premises is situated, during a specific period.

(8) Where in the opinion of the municipality it is not reasonably possible or cost effective to measure water supplied to each consumer within a determined zone, the municipality may in terms of its tariff policy determine a basic tariff or charge to be paid by each consumer within that zone irrespective of actual consumption.

33. Defective measurement

If a consumer has reason to believe that a measuring device, used for measuring water, which was supplied to him or her by the municipality is defective he may take steps to have the measuring device tested. Upon payment in advance of the testing fee, the consumer applies to have the measuring device tested. The device shall be tested on an SANS approved testing bench to determine deviations in respect of the prescribed tolerance in the Trade Metrology and Standards Act, 1973. If the tolerance is more than 2%, the testing fee will be refunded and the consumer's account adjusted in terms of policy with regard thereto.

34. Special measurement

(1) If the municipality wishes, for purposes other than charging for water consumed, to ascertain the quantity of water which is used in a part of a water installation, it may by written notice advise the owner concerned of its intention to install a measuring device at such point in the water installation as it may specify.

(2) The installation of a measuring device referred to in subsection (1), its removal, and the restoration of the water installation after such removal shall be carried out at the expense of the municipality. In case of a connection without a meter, the consumer shall be held liable for the cost of installation of a measuring device.

(3) The provisions of sections 32(5) and 32(6) shall apply insofar as they may be applicable in respect of a measuring device installed in terms of subsection (1).

35. No reduction of amount payable for water wasted

A consumer shall not be entitled to a reduction of the amount payable for water wasted or water losses in a water installation unless he can render proof of the reparation of a leakage on his premises during such period, after which his account can be adjusted in terms of policy with regard thereto. If the latter is not possible, the owner must at own cost register a servitude.

36. Approval of installation work

- (1) If an owner wishes to have installation work done, he must first obtain the municipality's written approval; provided that approval shall not be required in the case of water installations in dwelling units or installations where no fire installation is required in terms of SANS Code 0400 or for the repair or replacement of an existing pipe or water fitting other than a fixed water heater and its associated protective devices.
- (2) Application for the approval referred to in subsection (1) shall be made on the prescribed form and shall be accompanied by -
- (a) the prescribed charge, if applicable;
 - (b) copies of the drawings as prescribed by the municipality, giving information in the form required by clause 4.1.1 of SANS Code 0252 : Part I; and
 - (c) a certificate certifying that the installation has been designed in accordance with SANS Code 0252 : Part I or has been designed on a rational basis.
- (3) The provisions of subsections (1) and (2) shall not apply to a qualified plumber who replaces a fixed water heater or its associated protective devices.
- (4) Authority given in terms of subsection (1) shall lapse at the expiry of a period of twenty-four months after the first day of the month succeeding the month in which the authority is given.
- (5) A complete set of approved drawings of installation work shall be available at the site of the work at all times until such work has been completed, where approval was required in terms of subsection 1.
- (6) If installation work has been done in contravention of subsection (1) or (2), the municipality may by written notice require the owner of the premises concerned to -
- (a) comply with that regulation within a specified period;
 - (b) if work is in progress, to cease the work; and
 - (c) to remove all such work which does not comply with these by-law.

37. Provision and maintenance of water installations

- (1) An owner must provide and maintain his water installation at his own cost and, where permitted in terms of subsection (2), must ensure that the installation is situated within the boundary of his premises.
- (2) Before doing work in connection with the maintenance of a portion of his water installation which is situated outside the boundary of his premises, an owner shall obtain the written consent of the municipality or the owner of the land on which such portion is situated, as the case may be.

38. Owner to prevent pollution of water

- (1) An owner shall provide and maintain approved measures to prevent the entry of a substance, which may be a danger to health or the environment or adversely affect the potability of water or affect its fitness for use, into -
- (a) the water supply system;
 - (b) any part of the water services installation on his premises;
 - (c) any storm water system;
 - (d) any sewage disposal system; and
 - (e) the environment.
- (2) Swimming pool backwash may not be deposited in to any storm water system or natural stream. It must be deposited into the sewage disposal system.

39. Water restrictions

- (1) The municipality may by public notice to prevent the wasteful use of water in terms of section 41 or in the event of a water shortage, drought or flood -
- (a) prohibit or restrict the consumption of water in the whole or part of its area of jurisdiction in general or for -
 - (i) specified purposes;
 - (ii) during specified hours of the day or on specified days; and
 - (iii) in a specified manner; and
 - (b) determine and impose -
 - (i) limits on the quantity of water that may be consumed over a specified period;

- (ii) charges additional to those prescribed in respect of the supply of water in excess of a limit contemplated in subsection (1)(b)(i); and
 - (iii) a general surcharge on the prescribed charges in respect of the supply of water; and
 - (c) impose restrictions or prohibitions on the use or manner of use or disposition of an appliance by means of which water is used or consumed, or on the connection of such appliances to the water installation.
- (2) The municipality may limit the application of the provisions of a notice contemplated by subsection (1) to specified areas and categories of consumers, premises and activities, and may permit deviations and exemptions from, and the relaxation of, any of the provisions on reasonable grounds.
- (3) The municipality may -
- (a) take, or by written notice require a consumer at his own expense to take, such measures, including the installation of measurement devices, pressure reduction devices and devices for restricting the flow of water, as may in its opinion be necessary to ensure compliance with a notice published in terms of subsection (1); or
 - (b) discontinue or, for such period as it may deem fit, limit or suspend the supply of water to any premises in the event of a contravention on such premises or failure to comply with the terms of a notice published in terms of subsection (1), subject to notice in terms of section 18;
 - (c) impose a fine for non-compliance with a notice in terms of subsection (1).
- (4) The provisions of this section shall also apply in respect of water supplied directly by the municipality to consumers outside its area of jurisdiction, notwithstanding anything to the contrary in the conditions governing such supply, unless otherwise specified in the notice published in terms of subsection (1).

40. Waste of water unlawful

- (1) No consumer shall permit -
- (a) the purposeless or wasteful discharge of water from terminal water fittings;
 - (b) pipes or water fittings to leak;
 - (c) the use of maladjusted or defective water fittings;
 - (d) an overflow of water to persist; or
 - (e) an inefficient use of water to persist;
- (2) An owner shall without delay repair or replace any part of his water installation which is in such a state of disrepair that it is either causing or is likely to cause an occurrence listed in subsection (1).
- (3) If an owner fails to take measures as contemplated in subsection (2), the municipality shall, by written notice in terms of section 18, require the owner to comply with the provisions of subsection (1).
- (4) A consumer shall ensure that any equipment or plant connected to his water installation uses water in an efficient manner.
- (5) The municipality may, by written notice, prohibit the use by a consumer of any equipment in a water installation if, in its opinion, its use of water is inefficient. Such equipment shall not be returned to use until its efficiency has been restored and a written application to do so has been approved by the municipality.
- (6) Should the consumer fail to give effect to the stipulations of a notice issued in terms of subsection (5), the municipality may replace or repair the equipment and recover the full cost from the consumer.
- (7) If a condition contemplated in subsection (1) occurs and the situation is a matter of urgency, the municipality may without prior notice, take the steps necessary to gain access and to remedy the defect and recover the cost from the consumer.

41. Notification of boreholes

- (1) The municipality may, by public notice, require -
- (a) the owner of any premises within the area of jurisdiction of the municipality upon which a borehole exists or, if the owner is not in occupation of such premises, the occupier thereof, to notify it on the prescribed form of the existence of a borehole on such premises, and provide it with such information in respect thereof as it may require; and

- (b) the owner or occupier of any premises who intends to sink a borehole on such premises to notify it on the prescribed form of such intention before work in connection therewith is commenced.
- (2) The municipality may require the owner or occupier of any premises who intends to sink a borehole to undertake an environmental impact assessment for such intended borehole, to the satisfaction of the municipality, before sinking the borehole.
- (3) Boreholes are subject to any requirements of the National Water Act, 1998 (Act No. 36 of 1998).
- (4) The municipality may by notice to an owner or occupier or by public notice require owners and occupiers who have existing boreholes used for water services to –
 - (a) obtain approval from it for the use of a borehole for water services in accordance with sections 6, 7 and 22 of the Act; and
 - (b) adhere to conditions imposed by it in respect of the use of a borehole for water services.
- (5) Water supply from a borehole may under no circumstances be connected to a water installation which is connected to the water supply system of the municipality.
- (6) The owner of premises on which water supply from a borehole is used for human consumption, must ensure that the water quality complies with SANS0241 standards at all times.

42. Sampling of water

- (1) The municipality may take samples of water obtained from a source, authorised in terms of sections 6 or 7 of the Act, other than the water supply system for domestic purposes and cause the samples to be tested for compliance with any national standards prescribed in terms of section 9 of the Act.
- (2) The prescribed charge for the taking and testing of the samples referred to in subsection (1) shall be paid by the person to whom approval to use the water for potable water was granted in terms of section 6(1) of the Act.

43. Supply of non-potable water by municipality

- (1) The municipality may on application in terms of section (3) agree to supply non-potable water to a consumer, subject to such terms and conditions as the municipality may impose.
- (2) Any supply of water agreed to in terms of subsection (1) shall not be used for domestic or any other purposes, which, in the opinion of the municipality, may give rise to a health risk.
- (3) No warranty, expressed or implied, shall apply to the purity of any non-potable water supplied by the municipality or its suitability for the purpose for which the supply was granted.
- (4) The supply of non-potable water shall, both as to condition and use, be entirely at the risk of the consumer, who shall be liable for any consequential damage or loss arising to himself, herself or others arising directly or indirectly there from, including the consequences of any bona fide fault of the municipality or the malfunction of a treatment plant.

44. Testing of pressure in water supply systems

The municipality may, on application by an owner and on payment of the prescribed charge, measure and furnish the owner with the value of the pressure in the water supply system relating to his premises over such period as the owner may request.

45. Pipes in streets or public places

- (1) No person shall for the purpose of conveying water derived from whatever source, lay or construct a pipe or associated component on, in or under a street, public place or other land owned by, vested in, or under the control of any municipality, except with the prior written permission of that municipality and subject to such conditions as it may impose and the prior approval of a plan by the municipality.
- (2) No other parallel service (e.g. Telkom, electricity, etc.) may be installed closer than 500mm from an existing municipal water service pipe, and under no circumstances on top of such water pipe.

46. Use of grey water

No person shall use grey water or permit such water to be used without the prior written permission of the municipality. The said permission may be subject to the conditions determined by the municipality from time to time.

CHAPTER III: SANITATION SERVICES**47. Standards for sanitation services**

Sanitation services provided by the municipality will comply as far as reasonably possible with the minimum standards set for the provision of sanitation services in terms of the section 9 of the Act.

48. Objectionable discharge to sewage disposal system

(1) No person shall discharge, or permit the discharge or entry into the sewage disposal system of any sewage or other substance -

- (a) which does not comply with the standards and criteria prescribed in section 62 below;
- (b) which contains any substance in such concentration as will produce or be likely to produce in the effluent produced for discharge at any sewage treatment plant or sea outfalls discharge point or in any public water any offensive, or otherwise undesirable taste, colour, odour, temperature or any foam;
- (c) which may prejudice the re-use of treated sewage or adversely affect any of the processes whereby sewage is purified for re-use, or treated to produce sludge for disposal;
- (d) which contains any substance or thing of whatsoever nature which is not amenable to treatment to a satisfactory degree at a sewage treatment plant or which causes or is likely to cause a breakdown or inhibition of the processes in use at such plant;
- (e) which contains any substance or thing of whatsoever nature which is of such strength, or which is amenable to treatment only to a degree as will result in effluent from the sewage treatment plant not complying with standards prescribed under the National Water Act, 1998 (Act No. 36 of 1998);
- (f) which may cause danger to the health or safety of any person or may be injurious to the structure or materials of the sewage disposal system or may prejudice the use of any ground used by the municipality for the sewage disposal system, other than in compliance with the permissions issued in terms of this by-law;
- (g) which may inhibit the unrestricted conveyance of sewage through the sewage disposal system; and
- (h) a temperature of more than 30°C when discharged.

(2) No person shall cause or permit any storm water or rain water to enter the sewage disposal system.

(3) The inception of nuisances, e.g. odours, pollution or visual offensiveness, as a result of a defective drainage installation shall not be allowed. The municipality shall give the owner or occupier of such premises 24 hours notice to remove such nuisance, failing which the municipality shall remove such nuisance or cause it to be done at the expense of such owner or occupier. In addition the matter shall be pursued by the municipality as an offence in terms of this by-law.

(4) The municipality may, by written notice, order the owner or occupier to conduct, at his cost, periodic expert inspections of the premises in order to identify precautionary measures such as grease traps, sand traps or oil separators which would ensure compliance with this by-law and to report such findings to an authorised agent.

(5) If any person contravenes any provision of subsection (1) or subsection (2) he shall within twelve hours, or earlier if required to do so, advise the municipality of the details of the contravention and the reasons for it.

49. Application for infrastructure

(1) If an agreement for on-site sanitation and associated services in accordance with section 2 exists and no infrastructure in connection therewith exists on the premises, the owner must immediately make application on the approved form and with the approval by the

municipality install the connecting sewer or on-site sanitation services in accordance with the specifications of the municipality.

(2) The municipality may specify the type of on-site sanitation services to be installed.

50. Services associated with on-site sanitation services

(1) The removal or collection of conservancy tank contents, night soil or the emptying of pits will be undertaken by the municipality subject to availability of capacity in accordance with a removal and collection schedule determined by the municipality.

(2) Copies of the collection and removal schedule will be available on request.

51. Charges in respect of services associated with on-site sanitation services

(1) Charges in respect of the removal or collection of conservancy tank contents, night soil or the emptying of pits will cover all the operating and maintenance costs in the removal of the pit contents, transportation to a disposal site, the treatment of the contents to achieve a sanitary condition and the final disposal of any solid residues.

(2) Charges shall be payable in terms of the municipality's tariff policy when the service is rendered.

52. Provision of a connecting sewer

(1) If an agreement for the use of the sewage disposal system in accordance with section 2 exists and no connecting sewer exists in respect of the premises, the owner must immediately make application on the approved form and –

(a) pay the prescribed charge for the installation of such a connecting sewer; or

(b) with the approval by the municipality, install the connecting sewer in accordance with any specifications of the municipality.

(2) If an application is made for use of the sewage disposal system to a premises which is so situated that it is necessary to extend the sewer in order to connect the sewage disposal system to the premises, the municipality may agree to the extension subject to such conditions as it may impose and at cost of the owner.

(3) The maintenance and operation of the sewerage installation, including all manholes, rodding eyes, catch pits, grease traps, sand traps, pipe work and related devices, is the responsibility of the owner of the premises.

53. Location of connecting sewer

(1) A connecting sewer provided and installed by the municipality or owner in terms of section 52 shall –

(a) be located in a position agreed to between the owner and the municipality and be of a size determined by an authorised officer;

(b) terminate at a connection point approximately 1 meter inside the premises or servitude from the boundary of the land owned by or vested in the municipality or over which it has a servitude or other right or when subsection (3) applies, at the connecting point designated in terms of that subsection;

(2) A connecting sewer may only be installed after approval of a building plan by the municipality.

(3) In reaching agreement with an owner concerning the location of a connecting sewer, the municipality shall ensure that the owner is aware of –

(a) practical restrictions that may exist regarding the location of a connecting sewer pipe;

(b) the cost implications of the various possible locations of the connecting sewer;

(c) whether or not the municipality requires the owner to fix the location of the connecting sewer by providing a portion of his sewer installation at or outside the boundary of his premises, or such agreed position inside or outside his premises where the connection is required, for the municipality to connect to such installation.

(d) his responsibility to provide a water proof connecting manhole at own cost at the connection point.

(e) his responsibility to carry the costs for the removal by the municipality of any obstruction from the connecting sewer, excluded where such obstruction is the result of wear and tear or deteriorated infrastructure.

- (4) An owner must pay the prescribed connection charge in advance.
- (5) Where an owner is required to provide a sewage lift as provided for in terms of the Building Regulations the rate and time of discharge into the sewer shall be subject to the approval of the municipality.

54. Provision of one connecting sewer for several consumers on same premises

- (1) Notwithstanding the provisions of section 53, only one connecting sewer to the sewage disposal system may be provided for the disposal of sewage from any premises, irrespective of the number of accommodation units of consumers located on such premises.
- (2) Where the owner, or the person having the charge or management of any premises on which several accommodation units are situated, requires the disposal of sewage from such premises for the purpose of disposal from the different accommodation units, the municipality may, in its discretion, provide and install either –
 - (a) a single connecting sewer in respect of the premises as a whole or any number of such accommodation units; or
 - (b) a separate connecting sewer for each accommodation unit or any number thereof.
- (3) Where the municipality has installed a single connecting sewer as contemplated in subsection (2)(a), the owners or the persons having charge or management of the premises, as the case may be –
 - (a) must, if the municipality so requires, install and maintain on each branch pipe extending from the connecting sewer to the different accommodation units –
 - (i) a separate connecting sewer; and
 - (ii) a connecting manhole at the connection point;
 - (iii) a rodding eye at all branching points;
 - (b) will be liable to the municipality for the tariffs and charges for all sewage disposed from the premises through such a single connecting sewer, irrespective of the different quantities disposed by the different consumers served by such connecting sewer.
 - (c) will be liable jointly for the maintenance of a private combined sewer system from the connection point on the municipal main sewer and including the connecting manhole.
- (4) Notwithstanding subsection (1), the municipality may authorise that more than one connecting sewer be provided on the sewage disposal system for the disposal of sewage from any premises comprising sectional title units or if, in the opinion of the municipality, undue hardship or inconvenience would be caused to any consumer on such premises by the provision of only one connecting sewer.
- (5) Where the provision of more than one connecting sewer is authorised by the municipality under subsection (4), the tariffs and charges for the provision of a connecting sewer is payable in respect of each sewage connection so provided.

55. Interconnection between premises

An owner of premises shall ensure that no interconnection exists between the drainage installation on his premises and the drainage installation on other premises.

56. Disconnection of draining installation from connecting sewer

- The municipality may disconnect a drainage installation from the connecting sewer and remove the connecting sewer if –
- (a) the agreement for provision has been terminated in terms of section 12 and it has not received an application for subsequent provision to the premises served by the sewer within a period of 90 days of such termination; or
 - (b) the building on the premises concerned has been demolished.

57. Acceptance of sewage delivered by road haulage

The municipality may, at its discretion, and subject to such conditions as it may specify, accept sewage for disposal delivered to the municipality's sewage treatment plants by road haulage.

58. Written permission for delivery of sewage by road haulage

- (1) No person shall discharge sewage into the municipality's sewage treatment plants by road haulage except with the written permission of the municipality and upon payment of the prescribed charges and subject to such period and any conditions that may be imposed terms of the written permission.
- (2) The charges for any sewage delivered for disposal to the municipality's sewage treatment plants shall be assessed by the municipality in accordance with the prescribed tariffs or charges.
- (3) Where use is made of the municipality's suction tanker truck, the service shall be rendered subject to the conditions, policy and charges determined from time to time.

59. Conditions for delivery of sewage by road haulage

- (1) When sewage is delivered by road haulage-
 - (a) the time of delivery shall be arranged with the municipality; and
 - (b) the nature and composition of the sewage shall be established to the satisfaction of the municipality prior to the discharge thereof and no person shall deliver sewage that does not comply with the standards laid down in terms of these by-law.

60. Withdrawal of permission for delivery of sewage by road haulage

The municipality may withdraw any permission, after giving written notice if its intention to a person permitted to discharge sewage by road haul if the person –

- (a) fails to ensure that the sewage so delivered conforms to the standards prescribed in Schedule "A" or in the written permission; or
- (b) fails or refuses to comply with any notice lawfully served on him or her in terms of this by-law or contravenes any provisions of this by-law or any condition imposed on him or her in terms of any permission granted to him or her; and
- (c) fails to pay the assessed charges in respect of any sewage delivered.

CHAPTER IV: DISPOSAL OF INDUSTRIAL EFFLUENT**61. Application for disposal of industrial effluent**

- (1) A person must apply, in the format prescribed by the municipality, for permission to discharge industrial effluent into the sewage disposal system of the municipality.
- (2) The municipality shall not be obliged to receive any industrial effluent into its sewage disposal system, in which case the reasons for refusal to accept such effluent must be conveyed to the applicant.
- (3) Upon approval of an application contemplated in subsection (1), the applicant must enter into a written agreement, to be furnished by the municipality, and the subsequent discharge of industrial effluent shall be subject to the conditions stipulated in the agreement.

62. Norms and standards for industrial effluent

- (1) The municipality may determine and publish norms, standards and guidelines which describe appropriate measures that can be taken to prevent the discharge of substances into the sewage disposal system that-
 - (a) are dangerous to the health of a person employed for the maintenance or operation of sewage systems;
 - (b) may be harmful to the sewage disposal system; or
 - (c) may have a harmful effect on any of the processes normally applied to treat sewage or on the re-use of treated sewage effluent or the disposal of solid substances which emanate from the treatment process.
- (2) The norms, standards and guidelines contemplated in sub-section (1) may differentiate between communities, geographical areas and different kinds of premises.
- (3) A person to whom approval has been granted in terms of section 61(3) must ensure that industrial effluent discharged into the municipality's sewage disposal system by him or her complies with the norms and standards contemplated in subsection (1).

CHAPTER V: CONSTRUCTION OR INSTALLATION OF DRAINAGE INSTALLATIONS

63. Construction or installation of drainage installations

- (1) Any drainage installation constructed or installed must comply with any applicable specifications in terms of the Building Regulations and any standards prescribed in terms of the Act.
- (2) (a) Where the draining installation is a pit latrine it must be of the ventilated improved pit latrine type or equivalent having –
 - (i) a pit with a minimum capacity of 2 m³;
 - (ii) lining as required;
 - (iii) a slab designed to support the superimposed loading; and
 - (iv) protection preventing children from falling into the pit;
- (b) The ventilated improved pit latrine must conform to the following specifications –
 - (i) the pit must be ventilated by means of a pipe, sealed at the upper end with durable insect proof screening fixed firmly in place.
 - (ii) the ventilation pipe must project not less than 0.5 m above the nearest roof, must be of at least 150 mm in diameter, and must be installed vertically with no bend;
 - (iii) the interior of the closet must be finished smooth so that it can be kept in a clean and hygienic condition. The superstructure must be well-ventilated in order to allow the free flow of air into the pit to be vented through the pipe;
 - (iv) the opening through the slab must be of adequate size as to prevent fouling. The rim must be raised so that liquids used for washing the floor do not flow into the pit. It shall be equipped with a lid to prevent the egress of flies and other insects when the toilet is not in use;
 - (v) must be sited in a position that is independent of the residential structure;
 - (vi) must be sited in positions that are accessible to road vehicles having a width of 3.0 m in order to facilitate the emptying of the pit;
 - (vii) in situations where there is the danger of polluting an aquifer due to the permeability of the soil, the pit must be lined with an impermeable material that is durable and will not crack under stress;
 - (viii) in situations where the ground in which the pit is to be excavated is unstable, suitable support is to be given to prevent the collapse of the soil;
 - (ix) the latrine must have access to water for washing hands.
- (3) Only chemical toilets may be erected on building sites. Alternatively, water closets for employees may only be erected at the site connection point.
- (4) No toilet, temporary or permanent, may be erected directly on top of a municipal or private manhole.
- (5) No new bucket sewer system shall be allowed within the municipal area.

64. Drains in streets or public places

No person shall for the purpose of conveying sewage derived from whatever source, lay or construct a drain on, in or under a street, public place or other land owned by, vested in, or under the control of the municipality, except with the prior written permission of the municipality and subject to such conditions as it may impose and only after the prior approval of a building plan.

65. Servitudes

A servitude shall be registered at the cost of the owner where a drain is installed across the property of another party. The municipality may also require the registration of a servitude where necessary.

66. Construction by municipality

The municipality may agree with the owner of any premises that any drainage work which such owner desires, or is required to construct in terms of this by-law or the Building

Regulations, will be constructed by the municipality against payment, in advance or on demand, of all costs associated with such construction. The maintenance of any communal system is the responsibility of the owners.

67. Maintenance of drainage installation

- (1) The owner or occupier of any premises must maintain any drainage installation and any sewer connection on such premises or in the servitude applicable thereto.
- (2) Any person who requests the municipality to clear a drainage installation will be liable to pay the prescribed tariff.
- (3) The municipality may, on the written application of the owner or occupier of any premises, inspect and test the drainage installation of such premises or any section thereof and recover from the owner or occupier the cost of such inspection and test, calculated at the rate specified in the prescribed tariff or charges.

68. Installation of pre-treatment facility

The municipality may require that any new premises must be provided with a minimum pre-treatment facility of a type specified by it prior to that premises being connected to the sewage disposal system. In addition the municipality may, at the cost of the owner, require the installation of samplers and monitoring equipment for effluent water quality and volume which samplers and monitoring equipment must be linked to the municipality's telemetry system, before such premises can be connected to a municipal sewer disposal system.

69. Protection from ingress of floodwaters

Where a premises is situated in the 1 in 50 years flood plain the top level of service access holes, inspection chambers and gullies is to be above the 1 in 50 years flood level, except, in the case of service access holes and inspection chambers, where the cover is secured in place by approved means.

CHAPTER VI: REPEAL AND COMMENCEMENT

70. 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, and insofar as it has been made applicable to the municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Local Government: Municipal Structures Act, Act 117 of 1998.

71. Short title and commencement

This by-law shall be known as the By-law Relating to Water Supply, Sanitation and Industrial Effluent and shall come into operation on the date of publication thereof in the Provincial Gazette.

HESSEQUA MUNISIPALITEIT
VERORDENING INSAKE WATER- EN SANITASIEDIENSTE

Kragtens die bepalings van artikel 156 van die Grondwet van Suid-Afrika, 1996, verorden die Hessequa Munisipaliteit hiermee soos volg:

Inhoudsopgawe

1. Woordomskrywing

HOOFSTUK 1: ALGEMENE BEPALINGS

2. Aansoek om waterdienste
3. Spesiale ooreenkomste vir waterdienste
4. Voorgeskrewe tariewe en heffings vir waterdienste
5. Vastgestelde heffings vir waterdienste
6. Betaling van deposito
7. Betaling vir gelewerde waterdienste
8. Rekeninge
9. Beëindiging van ooreenkoms vir die voorsiening van waterdienste
10. Inkorting en/of staking van gelewerde waterdienste
11. Verantwoordelikheid vir die nakoming van hierdie verordening
12. Vrystelling
13. Ongemagtigde gebruik van waterdienste
14. Verandering van doel waarvoor waterdienste gebruik word
15. Inmenging met watervoorsieningstelsel of enige sanitêre dienste
16. Versperring van toegang tot en herstel van defekte op watervoorsieningstelsel of enige sanitêre dienste
17. Waterdienstetussengangers en bewoners van plase
18. Kennisgewings en dokumente
19. Bevoegdheid om kennisgewings te beteken en nakoming van kennisgewings
20. Algemene Bevoegdhede
21. Vals verklarings of inligting
22. Misdrywe

HOOFSTUK II: WATERVOORSIENINGSDIENSTE

23. Voorsiening van aansluitingspyp
24. Plasing van aansluitingspyp
25. Voorsiening van enkelwata aansluiting vir lewering aan verskeie verbruikers op dieselfde perseel
26. Interaansluiting tussen persele en waterinstallasies
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28. Water vanaf brandkraan voorsien
29. Hoeveelheid, gehalte en druk
30. Algemene voorwaardes van voorsiening
31. Meting van hoeveelheid water verskaf
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44. Toetsing van druk in watervoorsieningstelsels
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HOOFSTUK III: SANITASIEDIENSTE

47. Standaard vir sanitasiedienste
48. Aanstootlike loslaat na rioolvuilwegdoeningstelsel
49. Aansoek om infrastruktuur
50. Dienste verwant aan *in situ*-sanitasiedienste
51. Heffings ten opsigte van dienste verwant aan *in situ*-sanitasiedienste
52. Voorsiening van 'n aansluitingsriool
53. Plasing van aansluitingsriool
54. Voorsiening van enkelaansluitingsriool vir verskeie verbruikers op dieselfde perseel (privaat-gekombineerde rioolstelsel)
55. Tussenaansluiting tussen persele
56. Diskonnektering van perseelrioleringsinstallasie van aansluitingsriool
57. Aanvaarding van aflewering van rioolvuil deur middel van padvervoer
58. Skriftelike toestemming vir aflewering van rioolvuil deur middel van padvervoer
59. Voorwaardes vir die aflewering van rioolvuil deur middel van padvervoer
60. Terugtrekking van toestemming vir aflewering van rioolvuil deur middel van padvervoer

HOOFSTUK IV : WEGDOEN VAN NYWERHEIDSUITVLOEISEL

61. Aansoek om wegdoening van nywerheidsuitvloei
62. Norme en standaard vir nywerheidsuitvloei

HOOFSTUK V: BOU OF INSTALLERING VAN PERSEELRIOLERINGSINSTALLASIES

63. Bou of installering van perseelrioleringsinstallasies
64. Perseelriool in strate of openbare plekke
65. Serwitute
66. Bouwerk deur munisipaliteit
67. Instandhouding van perseelrioleringsinstallasie
68. Installering van voorbehandelingsfasiliteit
69. Beskerming teen instroming van vloedwater

HOOFSTUK VI: HERROEPING EN INWERKINGSTREDE

70. Herroeping van Verordeninge
71. Kort titel en inwerkingstrede

1. Woordomskrywing

In hierdie verordening, tensy dit uit die samehang anders blyk, beteken:–

“**aansluitingspunt**” die aansluitingsmangot of goedgekeurde soortgelyke installasie waar die perseelrioleringsinstallasie en die aansluitingsriool by mekaar aansluit;

“**aansluitingspyp**” ’n pyp waarvan die eiendom in die munisipaliteit setel, insluitend die watermeter en die munisipale stopkraan, wat deur die munisipaliteit geïnstalleer is met die doel om water vanaf ’n hooftoevoer na ’n waterinstallasie te voer, en sluit dit ’n “kommunikasiepyp” waarna in SANS 0252 Deel 1 verwys word, in;

“aansluitingsriool” ’n pyp wat deur die munisipaliteit besit en geïnstalleer is met die doel om rioolvuil vanaf ’n perseelrioleringsinstallasie op ’n perseel weg te voer na ’n perseelriool buite die grense van daardie perseel of binne ’n serwituutgebied of binne ’n gebied wat aan ’n toegangsverlof of ’n ooreenkoms onderhewig is;

“afsluitklep” ’n klep vir die aan- of afsluit van watertoevoer; die afsluitklep tussen die munisipale hooftoevoerpyp en die watermeter staan bekend as die munisipale afsluitklep, vir uitsluitlike gebruik en beheer deur die munisipaliteit; die verbruikersafsluitklep is stroomaf van die watermeter geleë, en vir die uitsluitlike gebruik deur die verbruiker, behalwe wanneer die munisipaliteit onderhoud aan die waterinstallasie moet verrig;

“behoorlik gekwalifiseerde toetsers” ’n persoon wat monsters vir ontleding uit die rioolvuil-, stormwater-wegdoenstelsels en openbare water haal en wat sertifisering vir sodanige werksaamheid van ’n gevolmagtigde het;

“besoedeling” die inbring van enige stof in die watervoorsieningstelsel, openbare water (d.w.s. rivier, stroom of dam), ’n stormwaterstelsel, ’n waterinstallasie of ’n waterbron wat regstreeks of onregstreeks die fisieke, chemiese of biologiese eienskappe van die water daarin aangetref, sodanig kan verander dat dit –

- (a) minder geskik is vir die doel waarvoor dit redelikerwys verwag is om gebruik te word; of
- (b) skadelik of potensieel skadelik is –
 - (i) vir die welsyn, gesondheid of veiligheid van mense;
 - (ii) vir enige waterlewendende of ander organisme;
 - (iii) die natuurlike omgewing bv. grondwater, plante en grond;

“beste uitvoerbare omgewingsopsie” die opsie wat op die lang- sowel as die korttermyn en teen koste wat vir die samelewing aanvaarbaar is, die grootste voordeel vir of die minste skade aan die omgewing as ’n geheel inhou;

“boorgat” ook ’n put, uitgraving of enige kunsmatig opgerigte of verbeterde ondergrondse holte wat gebruik kan word vir die doeleindes van –

- (a) die onderskepping, versameling of opgaar van water in of die verwydering van water uit ’n waterdraer;
- (b) die waarneming en versameling van gegewens en inligting oor water in ’n waterdraer; of
- (c) die hervulling van ’n waterdraer;

“Bouregulasies” die Nasionale Bouregulasies uitgevaardig ingevolge die Wet op Nasionale Bouregulasies en Boustandaarde, 1977 (Wet Nr 103 van 1977);

“brandkraan” ’n installasie waaruit water slegs vir brandbestrydingdoeleindes geneem mag word;

“dienspyp” ’n pyp wat deel uitmaak van ’n waterinstallasie wat op enige perseel deur die eienaar of okkupeerder van die perseel voorsien en geïnstalleer is en verbind is of verbind staan te word met ’n aansluitingspyp om die waterinstallasie op die perseel te bedien;

“eienaar”

- (a) die persoon in wie die eiendomsreg ten opsigte van die perseel van tyd tot tyd setel;
- (b) in ’n geval waar die eiendomsreg in ’n persoon setel wat insolvent of oorlede is, of wat hoegenaamd onder enige aard van regsonbevoegdheid verkeer, die persoon by wie die bevoegdheid as kurator, trustee, eksekuteur, administreerder, geregtelike bestuurder, likwidateur of ander regsvertegenwoordiger vir die administrasie en beheer van die perseel berus;
- (c) in enige geval waar die munisipaliteit nie in staat is om die identiteit van so ’n persoon vas te stel nie, ’n persoon wat op die voordeel van die gebruik van sodanige perseel, of ’n gebou of geboue daarop, geregtig is;
- (d) in die geval van ’n perseel waarvoor ’n huurooreenkoms van 30 jaar of langer gesluit is, die huurder daarvan;

- (e) met betrekking tot –
- (i) 'n stuk grond afgebaken op 'n deelplan wat ingevolge die Wet op Deeltitels, 1986 (Wet Nr 95 van 1986) geregistreer is, die ontwikkelaar of die regspersoon ten opsigte van die gemeenskaplike eiendom, of
- (ii) 'n gedeelte soos omskryf in die Wet op Deeltitels, 1986 (Wet Nr 95 van 1986), die persoon in wie se naam sodanige gedeelte ingevolge 'n deeltitelakte geregistreer is, en sluit dit die regmatig aangestelde verteenwoordiger van sodanige persoon in;
- “eindpuntklep”** klep by 'n uitloop van 'n waterinstallasie wat die loslaat van water uit 'n waterinstallasie beheer;
- “gevolmagtigde”** 'n persoon deur die munisipaliteit gemagtig om enige handeling, werksaamheid of plig uit te voer ingevolge, of enige bevoegdheid te verrig kragtens, hierdie verordening;
- “goedgekeurde”** goedgekeur deur die munisipaliteit;
- “grys water”** afvalwater afkomstig van die gebruik van huishoudelike water, maar sluit nie menslike ekskreta in nie;
- “handelsperseel”** 'n perseel waarop nywerheidsuitvloeiende gegenerer word;
- “hoëkonsentrasie rioolvuil”** rioolvuil met 'n konsentrasie of gehalte wat hoër is as standaard huishoudelike uitvloeiende;
- “hooftoevoerpyp”** enige pyp, uitgesonderd 'n aansluitingspyp, wat in die munisipaliteit setel en deur die munisipaliteit gebruik word vir die vervoer van water na 'n verbruiker;
- “in situ-sanitasiediens”** 'n emmerstelsel, septiese tenk, chemiese toilet, urineverdelingstelsel, “VIP”, en verwante stelsels;
- “installasiewerk”** werk ten opsigte van die konstruksie van of uitgevoer in 'n waterinstallasie;
- “meettoestel”** enige metode, prosedure, proses, instrument, apparaat of installasie wat die kwantifisering van gelewerde waterdienste moontlik maak en sluit dit 'n metode, prosedure of proses in waarvolgens hoeveelheid geskat of vermoed word;
- “meter”** 'n watermeter soos omskryf in die Regulasies uitgereik ingevolge die Wet op Handelsmetologie, 1973 (Wet Nr 77 van 1973), of, in die geval van watermeters meer as 100 mm in grootte, 'n toestel wat die hoeveelheid water wat deur dit loop, meet;
- “munisipaliteit”** die Hessequa munisipaliteit gestig ingevolge artikel 12 van die Wet op Plaaslike Regering: Munisipale Strukture, 117 van 1998, Provinsiale en sluit in enige politieke struktuur, politieke ampsbekleider, raadslid, behoorlik gevolmagtigde agent daarvan of enige werknemer daarvan handelende ingevolge hierdie verordening uit hoofde van 'n bevoegdheid van die munisipaliteit wat gedelegeer of gesubdelegeer is aan gemelde politieke struktuur, politieke ampsbekleider, raadslid, agent of werknemer;
- “nathedryf”** 'n bedryf wat bedryfsuitvloeiende loslaat en/of 'n bedryf wat jaarliks gemiddeld meer as 100 kiloliter water per dag op die perseel verbruik;
- “nywerheidsuitvloeiende”** uitvloeiende wat uit die nywerheidsgebruik van water vooruitspruit, wat vir doeleindes van hierdie verordening alle uitvloeisels, met uitsondering van standaard- huishoudelike uitvloeiende en stormwater, insluit;
- “noodgeval”** enige situasie wat 'n risiko of potensiële risiko vir lewe, gesondheid, die omgewing of eiendom inhou;
- “okkupeerder”** 'n persoon wat enige perseel of gedeelte daarvan okkupeer, sonder inagneming van die reg ingevolge waarvan hy of sy die perseel okkupeer;
- “omgewingskoste”** die volle omvang van die nodige koste om die omgewing te herstel na dieselfde toestand waarin dit voor die skadelike voorval was;
- “openbare kennisgewing”** kennisgewing aan die publiek op 'n wyse soos deur die raad bepaal;
- “openbare water”** enige rivier, waterloop, baai, riviermonding, die see en enige ander water ten opsigte waarvan die publiek 'n gebruiksreg of 'n toegangsreg geniet;

“perseel” enige stuk grond waarop die buitenste oppervlaktgrense aangedui is op –

- (a) ’n algemene plan of diagram wat ingevolge die Opmetingswet, 1927 (Wet Nr 9 van 1927) of die Registrasie van Aktes Wet, 1937 (Wet Nr 47 van 1937) geregistreer is; of
- (b) ’n deelplan geregistreer ingevolge die Wet op Deeltitels, 1986 (Wet Nr 95 van 1986);
- (c) ’n register wat deur ’n stamowerheid gehou word;

“perseelrioleringsinstallasie” ’n stelsel op enige terrein geleë stroomop van die aansluitingspunt by die munisipale hooflyn, insluitend die aansluitingsmangat, waarvan die eiendom in die terreineienaar setel en wat gebruik word of beoog is om gebruik staan te word vir of in verband met die opvang, opgaring, behandeling of vervoer van rioolvuil op daardie terrein na die aansluitingspunt, en sluit dit perseelriole, bybehoorsels, toestelle, septiese tenks, riooltenks, putlatrines en private pompinstallasies in wat deel uitmaak van of bykomstig is tot sodanige stelsel;

“perseelrioleringswerk” die insluiting van enige perseelriool, sanitêre toestel, watervoorsieningsapparaat, vuilwater- of ander pyp of enige werk wat in verband staan met die loslaat van vloeistof of vaste stof in enige perseelriool of riool of wat andersins in verband staan met die riolering van enige terrein;

“perseelriool” daardie gedeelte van die perseelrioleringsinstallasie wat rioolvuil op enige terrein vervoer;

“persoon” ’n natuurlike persoon, plaaslike regeringsliggaam of soortgelyke owerheid, ’n maatskappy wat ingevolge enige wet ingelyf is, ’n groep persone, afgesien daarvan of hulle ingelyf is of nie, ’n statutêre liggaam, openbare nutsliggaam of ’n vrywillige vereniging of trust;

“privaat gekombineerde waterdienswerk” ’n private verbruikersaansluiting waardeur waterdienste aan meer as een persoon of eiendom verskaf word; die diens word gesamentlik deur al die verbruikers daarvan bedryf en onderhou, en kan watervoorsiening-, vuilrioolstelsels en septiese tenks insluit;

“riool” enige pyp of leipyp wat die eindom is van of setel in die munisipaliteit of sy gevolmagtigde en wat gebruik kan word vir die vervoer van riool van die aansluitingsriool, uitgesluit ’n perseelriool, soos omskryf;

“rioolvuil” enige vuilwaterafvoer, nywerheidsuitvloeisel, standaard- huishoudelike uitvloeisel, en ander vloeibare afval, hetsy afsonderlik, of gesamentlik, maar uitgesluit stormwater;

“rioolvuilwegdoenstelsel” die strukture, pype, kleppe, pompe, meters of ander toebehoorsels wat in die vervoer van riool deur die rioolnetwerkstelsel gebruik word en behandeling by die verwerkingsaanleg onder beheer van die munisipaliteit en wat ook deur die munisipaliteit in verband met die wegdoen van rioolvuil gebruik kan word;

“sanitêre dienste” dieselfde as wat ingevolge die Wet daaraan geheg word en sluit dit vir doeleindes van hierdie verordening water vir nywerheidsdoeleindes en die wegdoen van nywerheidsafvloeisel in;

“standaard- huishoudelike uitvloeisel” huishoudelike uitvloeisel met voorgeskrewe konsentrasie-eienskappe ten opsigte van chemiese suurstofvereistes en afsakbare vaste stowwe as synde geskik vir die loslaat van rioolvuil vanaf huishoudelike persele binne die regsgebied van die munisipaliteit, maar uitgesluit nywerheidsuitvloeisel;

“stormwater” water wat die gevolg van natuurlike neerslag of versameling is, insluitend reënwater, ondergrondse water of fonteinwater, maar uitgesluit swembad-terugspoelwater en rioolwater;

“uitvloeisel” enige vloeistof, hetsy dit opgeloste stowwe of stowwe in suspensie bevat;

“verbruiker”

- (a) enige okkupeerder van enige perseel waartoe of waarop die munisipaliteit onderneem het om waterdienste te verskaf, of reeds verskaf, of, waar daar geen okkupeerder is nie, enige persoon met wie die munisipaliteit ’n tans-geldende ooreenkoms aangegaan het vir die voorsiening van waterdienste na of op sodanige perseel, of, indien daar geen sodanige persoon is nie, die eienaar van die perseel; met dien verstande, waar waterdienste deur middel van ’n enkelaansluiting aan ’n aantal okkupeerders voorsien word, dan die okkupeerder of persoon waarmee die munisipaliteit ooreengekom het om waterdienste te verskaf; of
- (b) ’n persoon wat toegang tot waterdienste verkry wat deur middel van ’n privaat gekombineerde waterdienswerk voorsien word;

“vloedhoogterand (1 in 50 jaar)” daardie hoogte wat deur vloedwater weens ’n storm met ’n frekwensie van 1 in 50 jaar bereik is;

“vloedvlakte (1 in 50 jaar)” die area onderhewig aan oorstroming deur vloedwater weens ’n storm met ’n frekwensie van 1 in 50 jaar;

“voorgeskrewe tarief of heffing” ’n heffing deur die munisipaliteit voorgeskryf;

“waterdienste” dieselfde as wat ingevolge die Wet daaraan geheg word en sluit dit vir doeleindes van hierdie verordening water vir nywerheidsdoeleindes en die wegdoen van nywerheidsuitvloei in;

“waterdienstetussenganger” ’n persoon wat waterdienste aan ’n ander persoon verskaf waar die verskaffing van die waterdienste bykomend is tot die hoofdoel van die kontrak tussen die persone;

“waterinstallasie” die pype en watertoerusting wat op enige perseel geleë is en in die eienaar van die perseel setel en wat gebruik word of bedoel is om gebruik te word in verband met die gebruik van water op sodanige perseel, insluitend ’n pyp en watertoerusting buite die grense van die perseel geleë, wat óf verbind is aan die aansluitingspyp met betrekking tot sodanige perseel óf andersins met die toestemming van die munisipaliteit gelê is;

“waterlewingstelsel vir ‘n vasgestelde hoeveelheid’ ’n waterinstallasie wat ’n vasgestelde hoeveelheid water op enige enkele dag aan ’n verbruiker verskaf;

“watertoerusting” ’n onderdeel van ’n waterinstallasie, uitgesluit ’n pyp, waardeur water beweeg of waarin dit geberg word;

“watervoorsieningsdienste” dieselfde as wat ingevolge die Wet daaraan geheg word en sluit dit vir die doeleindes van hierdie verordening water vir nywerheidsdoeleindes en die wegdoen van nywerheidsafvloei in;

“watervoorsieningstelsel” die strukture, brugkanale, pype, kleppe, pompe, meters of ander bybehoorsels wat daarmee in verband staan, wat in die munisipaliteit setel en deur die munisipaliteit gebruik word of bedoel is om gebruik te word in verband met die voorsiening van water, en sluit dit enige gedeelte van die stelsel in;

“werkdag” ’n dag uitgesonderd ’n Saterdag, Sondag of openbare vakansiedag;

“Wet” die Wet op Waterdienste, 1997 (Wet Nr 108 van 1997), soos van tyd tot tyd gewysig; en

“wooneenheid” met betrekking tot enige perseel, ’n gebou of gedeelte van ’n gebou, bewoon of gebruik of bedoel vir die bewoning of gebruik vir enige doeleinde.

HOOFSTUK 1: ALGEMENE BEPALINGS

2. Aansoek om waterdienste

(1) Geen persoon bekom toegang tot waterdienste vanuit die watervoorsieningstelsel, rioolvuilwegdoenstelsel of deur middel van enige ander sanitêre dienste nie, tensy hy of sy by die munisipaliteit op die voorgeskrewe vorm om sodanige dienste vir ’n spesifieke doel aansoek gedoen het en daarop ooreengekom is.

(2) Nadat ’n perseel of verbruiker van waterdienste voorsien is, word dit geag dat ’n ooreenkoms soos in subartikel (1) beoog, tot stand gekom het.

(3) By ontvangs van ’n verbruiker se aansoek om voorsiening van waterdienste moet die munisipaliteit daardie verbruiker in kennis stel van die verskillende beskikbare diensvlakke, asook die tariewe en/of heffings van toepassing op elke vlak.

(4) Die verbruiker moet sy/haar keuse uitoefen ten opsigte van die beskikbare diensvlak wat aan hom/haar verskaf moet word, d.i. die grootte van die aansluiting, tot ’n maksimum van 25 mm (nominaal) vir ’n huishoudelike watervoorsieningsaansluiting; met dien verstande dat die munisipaliteit na sy goedgee oordeel oor die grootte van die aansluiting en die gebruik van druk- of vloei-beheerders, waar nodig, op ’n watervoorsieningsaansluiting, kan besluit.

(5) ’n Verbruiker kan te eniger tyd aansoek doen om die wysiging van die vlak wat aanvanklik verkies is ingevolge die ooreenkoms aangegaan, mits sodanige dienste beskikbaar is en met dien verstande dat die verbruiker alle koste en uitgawes verbonde aan so ’n verandering van diensvlak sal betaal.

(6) ’n Aansoek waartoe die munisipaliteit of sy gevolmagtigde ingestem het, het ’n ooreenkoms tussen die munisipaliteit en die verbruiker tot gevolg, en sodanige ooreenkoms tree in werking op ’n datum waarna daar in die ooreenkoms verwys of wat in die ooreenkoms bepaal word.

- (7) 'n Verbruiker is aanspreeklik vir alle voorgeskrewe tariewe en/of heffings ten aansien van waterdienste aan hom voorsien, tot en met beëindiging van die ooreenkoms ingevolge hierdie verordening of tot tyd en wyl enige agterstallige rekening betaal is.
- (8) By voltooiing van 'n aansoekvorm vir waterdienste moet die munisipaliteit toesien dat die eienaar, verbruiker of enige ander aansoeker die dokument en die proses van interaksie verstaan. In die geval van ongeletterde of soortgelyk benadeelde persone moet die munisipaliteit redelike stappe doen ten einde te verseker dat die persoon bewus is van die inhoud van die aansoekvorm en dat hy of sy dit verstaan.
- (9) Minstens die volgende inligting moet op die aansoekvorm aangebring word:
- (a) sertifisering deur 'n gemagtigde verteenwoordiger dat die aansoeker bewus is van en die inhoud van die vorm verstaan;
 - (b) aanvaarding deur die verbruiker van die bepalings van die verordening en aanvaarding van aanspreeklikheid vir die koste verbonde aan gelewerde waterdienste tot en met beëindiging van die ooreenkoms of tot tyd en wyl enige agterstallige rekening betaal is;
 - (c) die naam van die verbruiker;
 - (d) die adres of erfnummer van die perseel waarheen of waarop waterdienste gelewer moet word of die privaat gekombineerde waterdiensstelsel waar waterdienste gebruik sal word;
 - (e) die adres waarheen rekenings gestuur moet word;
 - (f) indien van toepassing, die naam en adres van die aansoeker se werkgewer;
 - (g) indien water voorsien sou word, die doel waarvoor die water aangewend sal word; en
 - (h) die ooreengekome datum waarop die verskaffing van waterdienste 'n aanvang sal neem.
- (10) Waterdienste wat aan 'n verbruiker verskaf word, is onderhewig aan die bepalings van hierdie verordening en die tersaaklike ooreenkoms.
- (11) Indien die munisipaliteit 'n aansoek om die voorsiening van waterdienste weier, of nie in staat is om sodanige waterdienste op die aangevraagde datum vir die aanvang van sodanige dienste te verskaf nie, of nie in staat is om die waterdienste te verskaf nie, moet die munisipaliteit die verbruiker in kennis stel van sodanige weiering en/of onvermoë en, indien van toepassing, wanneer die munisipaliteit in staat sal wees om sodanige waterdiens te lewer.
- (12) Die verbruiker is verantwoordelik vir die registrasie van 'n serwituut indien sy waterdiens vanaf die aansluiting oor of deur 'n ander privaat persoon se eiendom gelê moet word om sy eiendom te bereik.

3. Spesiale ooreenkomste vir waterdienste

Die munisipaliteit mag 'n spesiale ooreenkoms sluit vir die voorsiening van waterdienste aan –

- (a) 'n aansoeker binne sy regsgebied indien die dienste waarom aansoek gedoen is, die oplegging van voorwaardes noodsaak wat nie in die voorgeskrewe vorm vervat is nie; en
- (b) 'n aansoeker buite sy regsgebied indien sodanige aansoek goedgekeur is deur die munisipaliteit met jurisdiksie in die gebied waarin die perseel geleë is.

4. Voorgeskrewe tariewe en heffings vir waterdienste

Alle tariewe en heffings betaalbaar ten opsigte van waterdienste wat die munisipaliteit ingevolge hierdie verordening lewer, insluitend, maar nie daartoe beperk nie, die betaling van aansluitingsfooie, vasgestelde tariewe of enige bykomende tariewe of rente ten aansien van die nie-betaling van sodanige tariewe of heffings teen die voorafbepaalde datum, word deur die munisipaliteit bepaal word by wyse van 'n besluit deur die Raad goedgekeur in ooreenstemming met –

- (a) sy tariefbeleid;
- (b) enige verordening ten opsigte daarvan; en
- (c) enige regulasies ingevolge artikel 10 van die Wet.

5. Vasgestelde heffings vir waterdienste

(1) Benewens die voorgeskrewe tariewe of heffings vir werklik gelewerde waterdienste, kan die munisipaliteit 'n vasgestelde maandelikse heffing, 'n vasgestelde jaarlikse heffing of 'n vasgestelde eenmalige heffing ten aansien van waterdienste voorskryf, in ooreenstemming met –

- (a) sy tariefbeleid;
- (b) enige verordening ten opsigte daarvan; en
- (c) enige regulasies ingevolge artikel 10 van die Wet.

(2) Waar 'n vasgestelde heffing ingevolge subartikel (1) voorgeskryf word, is dit deur elke eienaar of verbruiker betaalbaar ten opsigte van waterdienste wat die munisipaliteit aan hom voorsien het, ongeag of sodanige waterdienste deur hom gebruik is, al dan nie.

6. Betaling van deposito

(1) Tydens aansoek om die voorsiening van waterdienste en voordat die munisipaliteit sodanige waterdienste voorsien, moet elke verbruiker 'n som geld, bepaal ingevolge die munisipaliteit se kredietbeheerbeleid, by die munisipaliteit deponeer, behalwe wanneer die munisipaliteit 'n vooruitbetaalmeettoestel gebruik.

(2) Die munisipaliteit kan van 'n verbruiker aan wie waterdienste voorsien is en wat nie vantevore, om watter rede ook al, om betaling van 'n deposito gevra is nie, vereis om op versoek binne 'n redelike tydperk 'n deposito te betaal.

(3) Die munisipaliteit of sy gevolmagtigde betaal geen rente op die depositoheffings wat dit ingevolge hierdie artikel hou nie.

(4) 'n Ooreenkoms vir die voorsiening van waterdienste mag 'n bepaling bevat waarvolgens 'n deposito aan die munisipaliteit verbeur word indien dit nie binne twaalf maande na beëindiging van die ooreenkoms opgeëis word nie.

7. Betaling vir gelewerde waterdienste

(1) 'n Verbruiker betaal vir waterdienste wat deur die munisipaliteit aan hom voorsien word, teen die voorgeskrewe tarief of heffing wat in ooreenstemming met artikel 4 en 5 vir die bepaalde kategorie waterdiens voorgeskryf is.

(2) Die verbruiker is verantwoordelik vir die betaling van alle waterdienste wat vanaf die datum van installasie daarvan in die geval van 'n nuwe aansluiting, of die datum van sluiting van ooreenkoms in die geval van 'n bestaande aansluiting, tot die datum van beëindiging van die ooreenkoms tussen hom en die munisipaliteit, aan hom gelewer is.

(3) Die munisipaliteit mag die hoeveelheid waterdienste wat in 'n bepaalde periode of periodes binne die tydvak tussen agtereenvolgende metings voorsien is, beraam, en mag 'n rekening aan 'n verbruiker lewer vir die dienste waarvan die hoeveelheid aldus beraam is.

(4) 'n Verbruikersdeposito is betaalbaar ooreenkomstig die munisipaliteit se Kredietbeheer- en/of Tariefbeleid. Die deposito kan opwaarts aangepas word indien waterverbruik volgens die munisipaliteit se mening aansienlik hoër is as wat aanvanklik verklaar of bereken is, of indien die verbruiker sy verpligtinge rakende die betaling vir waterdienste versuim.

8. Rekeninge

(1) Maandelikse rekeninge vir die bedrag uitstaande en betaalbaar moet aan verbruikers gelewer word by die laaste adres wat in die munisipaliteit se rekords aangeteken is.

(2) Versuim deur die munisipaliteit om 'n rekening te lewer, onthef die verbruiker nie van sy verpligting om enige bedrag uitstaande en betaalbaar te betaal nie.

9. Beëindiging van ooreenkoms vir die voorsiening van waterdienste

- (1) 'n Verbruiker kan 'n ooreenkoms vir die voorsiening van waterdienste beëindig deur skriftelik kennis van sy voorneme om dit te doen, aan die munisipaliteit te gee. By sodanige kennisgewing kan die munisipaliteit die toepaslike tarief vir die verwydering van die meterinstallasie van die verbruiker verhaal.
- (2) Die munisipaliteit kan 'n verbruiker van die beëindiging van sy ooreenkoms vir die voorsiening van waterdienste in kennis stel deur middel van 'n 24-uur skriftelike kennisgewing indien –
- (a) hy of sy nie die waterdienste tydens die voorafgaande ses maande gebruik het nie, en geen bevredigende reëlings met die munisipaliteit getref het vir die voortbestaan van die ooreenkoms nie;
 - (b) hy of sy versuim het om 'n bepaling van hierdie verordening na te kom en in gebreke gebly het om sodanige versuim in ooreenstemming met 'n kennisgewing ingevolge artikel 18 te herstel;
 - (c) 'n reëling met 'n ander waterdiensteliggaam aangegaan is om waterdienste aan daardie verbruiker te lewer.
- (3) Die munisipaliteit kan binne 24 uur nadat kennis gegee is, 'n ooreenkoms vir die voorsiening van waterdienste beëindig.

10. Inkorting en/of staking van gelewerde waterdienste

- (1) Die munisipaliteit kan die waterdienste wat ingevolge hierdie verordening voorsien word, inkort of staak –
- (a) by versuim om die voorgeskrewe tariewe of heffings voor of op die datum in die munisipaliteit se verordening rakende kredietbeheer bepaal, te betaal;
 - (b) by versuim om aan enige ander bepalings van hierdie verordening te voldoen nadat kennis ingevolge artikel 18 gegee is;
 - (c) op die skriftelike versoek van 'n verbruiker;
 - (d) indien die ooreenkoms vir die lewering van waterdienste ingevolge artikel 9 beëindig is en die munisipaliteit binne 90 (negentig) dae na sodanige beëindiging nie 'n aansoek vir latere dienste na die perseel ontvang het nie;
 - (e) die gebou op die perseel waarheen dienste voorsien is, gesloop is;
 - (f) indien die verbruiker met 'n ingekorte of gestaakte diens ingemeng het;
 - (g) in 'n noodgeval, byvoorbeeld noodherstelwerk op die munisipale retikulasiestelsel;
 - (h) indien daar met die aansluitingspyp of meettoestel ingemeng of gepeuter is.
- (2) Die munisipaliteit is nie aanspreeklik vir enige skade of eise wat moontlik uit die inkorting of staking van waterdienste soos bepaal in subartikel (1), mag voortspruit.

11. Verantwoordelikheid vir die nakoming van hierdie verordening

- (1) Die eienaar van 'n perseel is daarvoor verantwoordelik om die nakoming van hierdie verordening ten opsigte van alle of enige aangeleenthede met betrekking tot enige installasie te verseker.
- (2) Die verbruiker is verantwoordelik vir die nakoming van hierdie verordening ten opsigte van aangeleenthede met betrekking tot die gebruik van enige installasie.
- (3) In geval van nuwe ontwikkelings of onderverdelings word geen uitklarings vir oordrag gegee alvorens die watervoorsiening-, sanitasie-, en stormwaterdienste nie tot bevrediging van die munisipaliteit geïnstalleer is nie en die voorwaardes van goedkeuring nie nagekom is nie.

12. Vrystelling

- (1) Die munisipaliteit kan 'n eienaar, verbruiker, enige ander persoon of kategorie eienaars, verbruikers of ander persone skriftelik vrystel van die nakoming van 'n bepaling van hierdie verordening, onderhewig aan sodanige voorwaardes as wat dit mag voorskryf, indien dit daarvan oortuig is dat die afdwinging of werking van daardie bepaling onredelik sou wees; met dien verstande dat die munisipaliteit nie vrystelling van enige artikel van hierdie verordening verleen nie indien dit kan aanleiding gee tot –
- (a) die verkwisting of buitensporige verbruik van water;
 - (b) die ontwyking of ontduiking van waterbeperkings;

- (c) betekenisvolle negatiewe uitwerkings op openbare gesondheid, veiligheid of die omgewing;
 - (d) die nie-betaling vir dienste;
 - (e) die installering van pype en bybehoorsels wat nie ingevolge hierdie verordening goedgekeur is nie;
 - (f) nie-nakoming van die Wet of enige regulasies uitgevaardig ingevolge daarvan; en
 - (g) inmenging met die aansluitingspyp of watermeterinstallasie.
- (2) Die munisipaliteit kan te eniger tyd na skriftelike kennisgewing van minstens dertig dae enige vrystelling wat ingevolge subartikel (1) verleen is, terugtrek.

13. Ongemagtigde gebruik van waterdienste

- (1) Geen persoon mag toegang, tydelik of permanent, tot waterdienste vanuit die watervoorsieningstelsel, rioolvuilwegdoeningstelsel of enige ander sanitêre dienste bekom nie, tensy hy of sy 'n ooreenkoms met die munisipaliteit vir die voorsiening van daardie dienste aangeaan het.
- (2) Afgesien van die instel van enige ander stappe ingevolge hierdie verordening teen 'n persoon wat sonder 'n ooreenkoms met die munisipaliteit vir die lewering van waterdienste, sodanige dienste vanuit die watervoorsieningstelsel, rioolvuilwegdoeningstelsel of enige ander sanitêre dienste bekom het, kan die munisipaliteit so 'n persoon by wyse van skriftelike kennisgewing aansê –
- (a) om ingevolge artikel 2 en 3 aansoek te doen om sodanige dienste;
 - (b) om sodanige werk te onderneem as wat nodig mag wees om die verbruikersinstallasie waardeur toegang bekom is, aan die voorskrifte van hierdie verordening te laat voldoen;
 - (c) om 'n boete te betaal soos van tyd tot tyd deur die munisipaliteit vasgestel.
- (3) Die bepalinge van artikel 18 geld ten opsigte van 'n kennisgewing ingevolge subartikel (2) hierbo.

14. Verandering van doel waarvoor waterdienste gebruik word

Wanneer die doel of omvang waarvoor waterdienste gebruik word, verander, moet die verbruiker 'n nuwe ooreenkoms met die munisipaliteit aangaan.

15. Inmenging met watervoorsieningstelsel of enige sanitêre dienste

- (1) Niemand, behalwe die munisipaliteit, mag die watervoorsieningstelsel of enige sanitêre stelsel bestuur, bedien of onderhou sonder magtiging uit hoofde van hierdie verordening of deur 'n gevolmagtigde nie, insluitend die storting of uitpomp van enige stowwe in die munisipale rioolvuilwegdoeningstelsel.
- (2) Niemand mag 'n tydelike toilettoestel aan 'n munisipale vuilrioolstelsel koppel deur dit direk bo-op 'n mangat te installeer nie.
- (3) Niemand behalwe die munisipaliteit mag 'n aansluiting of 'n watermeter aan die watervoorsieningstelsel of rioolvuilwegdoeningstelsel aanbring, of enige ander sanitêre dienste verrig nie. Aansluitings by die rioolvuilwegdoeningstelsel mag wel by uitsondering, na goeddunke van die munisipaliteit, en op die voorwaardes neergelê deur die munisipaliteit, deur die ontwikkelaar of eienaar self onderneem word. In so 'n geval is 'n inspeksiefooi betaalbaar aan die munisipaliteit.

16. Versperring van toegang tot en herstel van defekte op watervoorsieningstelsel of enige sanitêre dienste

- (1) Niemand mag fisieke toegang tot die watervoorsieningstelsel of rioolvuilwegdoeningstelsel voorkom of beperk nie.
- (2) By die nie-nakoming van subartikel (1) kan die munisipaliteit –
- (a) sodanige persoon deur middel van skriftelike kennisgewing aansê om op sy eie onkoste binne 'n bepaalde tydperk toegang te herstel;
 - (b) indien hy van mening is dat die aangeleentheid 'n saak van dringendheid is, sonder vooraf kennisgewing die toegang herstel en die koste van sodanige persoon verhaal; en/of
 - (c) 'n boete oplê soos van tyd tot tyd deur die munisipaliteit vasgestel.

17. Waterdienstetussengangers en bewoners van plase

- (1) Waterdienstetussengangers moet 'n kontrak met die verbruiker hê, waarvan die hoofdoel nie die verskaffing van waterdienste is nie, byvoorbeeld 'n diens- of huurkontrak.
- (2) Plaaseienaars word beskou as werkgewers, en is as sodanig verantwoordelik vir die verskaffing van behuising en verwante dienste aan hulle werknemers en ander inwoners van die plaas. Plaaseienaars is dus ook waterdienste-tussengangers ingevolge die Waterdienstewet en die Strategiese Raamwerk vir Waterdienste (Klousule 3.5.2), en verantwoordelik vir die verskaffing van minstens basiese waterdienste aan bewoners van die plaas.
- (3) Die standaard van en tarief vir waterdienste wat deur waterdienstetussengangers verskaf word, moet voldoen aan artikel 9 en 10 van die Waterdienstewet en enige gepaardgaande regulasies, en waterkwaliteit moet voldoen aan die standarde vir menslike gebruik soos vervat in die SANS0241-spesifikasie.

18. Kennisgewings en dokumente

- (1) Enige kennisgewing of dokument wat ingevolge hierdie verordening deur die munisipaliteit uitgereik word, en deur die gevolmagtigde onderteken is, word geag behoorlik gemagtig te wees.
- (2) Indien 'n kennisgewing of dokument ingevolge hierdie verordening op 'n eenaar, verbruiker of enige ander persoon beteken moet word, word sodanige betekening uitgevoer–
 - (a) deur dit persoonlik aan hom of sy gevolmagtigde te lewer;
 - (b) deur dit by sy woonplek, dorp of sakeperseel of werkplek aan 'n persoon te lewer wat nie jonger as sestien jaar oud is nie en wat oënskynlik daar woon of werk;
 - (c) indien hy of sy 'n adres vir regsdoeleindes aangewys het, die aflewering daarvan by so 'n adres;
 - (d) indien hy of sy nie 'n adres vir regsdoeleindes aangewys het nie, die aflewering daarvan by die adres wat hy of sy in sy aansoek vir die voorsiening van waterdienste aangewys het as die adres vir die ontvangs van rekenings vir die voorsiening van waterdienste;
 - (e) deur dit per vooruitbetaalde geregistreerde of gesertifiseerde pos na sy laaste bekende adres te versend;
 - (f) in die geval van 'n regspersoon, deur die aflewering daarvan by die geregistreerde kantoor of sakeperseel van sodanige regspersoon; of
 - (g) indien betekening nie ingevolge subparagraaf (a) tot (f) uitgevoer kan word nie, deur dit op die hooftoegangsdeur van die betrokke perseel aan te heg.
- (3) Wanneer nakoming van 'n kennisgewing binne 'n bepaalde aantal werkdade geverg word, word die tydperk geag 'n aanvang te neem op die datum van uitreiking van sodanige kennisgewing.

19. Bevoegdheid om kennisgewings te beteken en nakoming van kennisgewings

- (1) Die munisipaliteit kan by wyse van skriftelike kennisgewing 'n eenaar, verbruiker of enige ander persoon wat deur sy optrede of late versuim om te voldoen aan die bepalings van hierdie verordening of aan enige voorwaarde ingevolge daarvan opgelê, gelas om sodanige versuim of nie-nakoming aan te suiwer of te herstel binne 'n tydperk in die kennisgewing vermeld.
- (2) Indien 'n persoon versuim om binne die voorgeskrewe tydperk aan 'n kennisgewing van die munisipaliteit ingevolge hierdie verordening te voldoen, kan die munisipaliteit sodanige stappe doen as wat dit nodig ag om nakoming te verseker, insluitend –
 - (a) om self die nodige werk te verrig en die koste verbonde aan sodanige werk of optrede van daardie eenaar, verbruiker of ander persoon te verhaal;
 - (b) die inkorting of staking van die lewering van dienste; en
 - (c) die instel van regsaksie; en/of
 - (d) die oplê van 'n boete.
- (3) 'n Kennisgewing ingevolge subartikel (1) moet –
 - (a) besonderhede verskaf van die verordening waaraan nie voldoen is nie;
 - (b) die eenaar, verbruiker of ander persoon 'n redelike geleentheid bied om verhoër te rig en sy saak binne 'n voorgeskrewe tydperk skriftelik aan die munisipaliteit te stel, tensy

- sodanige geleentheid voor die uitreiking van die kennisgewing aan die eienaar, verbruiker of ander persoon gegun was;
- (c) die stappe wat die eienaar, verbruiker of ander persoon te doen staan ten einde die versuim te herstel, voorskryf;
 - (d) die tydperk waarbinne die eienaar, verbruiker of ander persoon die voorgeskrewe stappe moet uitvoer ten einde sodanige versuim te herstel, spesifiseer; en
 - (e) aandui dat die munisipaliteit –
 - (i) sodanige werk as wat nodig mag wees om die versuim te herstel, self mag onderneem of laat onderneem indien daar nie aan die kennisgewing voldoen word nie en dat enige koste wat met sodanige werk gepaard mag gaan, van die eienaar, verbruiker of ander persoon verhaal mag word; en
 - (ii) enige ander stappe wat dit goed dink, mag instel ten einde nakoming te verseker.
- (4) In 'n noodgeval mag die munisipaliteit of sy gevolmagtigde sonder voorafkennisgewing enige werk wat ingevolge subartikel (3)(e)(i) vereis word, self onderneem en die koste daaraan verbonde van sodanige persoon verhaal.
- (5) Die koste wat ingevolge subartikel (3) en (4) deur die munisipaliteit verhaalbaar is, is die volle omvang van die koste wat met sodanige werk gepaard gaan, insluitend, maar sonder om daartoe beperk te wees, van enige opsporingsondersoek, opnames, planne, spesifikasies, bylaes van hoeveelhede, toesig, administratiewe heffings, die gebruik van gereedskap, die arbeidskoste verbonde aan die versteuring of herstel van enige gedeelte van 'n straat of terrein wat deur die werksaamheid geraak word, sowel as die omgewingskoste en/of 'n boete waar toepaslik.

20. Algemene Bevoegdhede

- (1) Die munisipaliteit of sy gevolmagtigde mag enige perseel betree en inspekteer –
 - (a) vir die doeleindes uiteengesit in en ingevolge die bepalings van artikel 80 van die Wet;
 - (b) te alle redelike tye, vir enige oogmerk wat in verband staan met die uitoefening of afdwinging van hierdie verordening, na die lewering van skriftelike kennisgewing van die voorneme om aldus op te tree, tensy dit 'n noodgeval is, en
 - (c) indien 'n moontlike misdryf vermoed word.
- (2) Die munisipaliteit het die reg om water- en sanitêre dienste dwarsoor, op, oor of deur enige onroerende eiendom te installeer, te bedryf en te onderhou en volgens diskresie te verwyder indien omstandighede dit noodsaak, sonder vergoeding aan die eienaar van sodanige onroerende eiendom. Die munisipaliteit gee aan sodanige eienaar minstens sewe dae kennis van die voorneme om sodanige werk te verrig.

21. Vals verkларings of inligting

Niemand mag 'n vals verklaring maak of vals inligting verskaf aan die munisipaliteit nie, of 'n dokument ingevolge hierdie verordening uitgereik, vervals nie.

22. Misdrywe

- (1) Niemand mag –
 - (a) wederregtelik en opsetlik of nalatig met enige waterdienstewerke van die munisipaliteit inneng of dit belemmer nie;
 - (b) vals inligting verskaf, of weier of versuim om inligting te voorsien, wat redelikerwys deur die munisipaliteit aangevra word nie;
 - (c) weier om toegang ingevolge artikel 20 aan die munisipaliteit te verleen nie;
 - (d) die munisipaliteit in die uitoefening van sy magte, werksaamhede of pligte ingevolge hierdie verordening belemmer of hinder nie;
 - (e) 'n voorskrif van hierdie verordening oortree of versuim om daaraan te voldoen nie;
 - (f) 'n voorwaarde of verbod opgelê ingevolge hierdie verordening oortree of versuim om daaraan te voldoen nie;
 - (g) enige tydelike of permanente waterbeperkings verontagsaam sonder die skriftelike vrystelling of verslapping van sodanige waterbeperkings deur die munisipaliteit nie;

- (h) 'n waterdiens lewer, installeer of verander wat sonder die toestemming van die munisipaliteit direk of indirek aan die watervoorsieningstelsel gekoppel is nie;
 - (i) enige voorwaardes voorgeskryf by die verlening van enige aansoek, instemming, goedkeuring, toewyding, vrywaring of magtiging ingevolge hierdie verordening oortree of versuim om daaraan te voldoen nie; of
 - (j) versuim om aan die bepalings van 'n kennisgewing wat ingevolge hierdie verordening op hom beteken is, te voldoen nie.
- (2) Enige persoon wat enige van die bepalings van subartikel (1) oortree, is skuldig aan 'n misdryf en by skuldigbevinding strafbaar met –
- (a) 'n boete of gevangenisstraf, of sodanige gevangenisstraf sonder die opsie van 'n boete, of beide sodanige boete en sodanige gevangenisstraf;
 - (b) in die geval van 'n voortdurende misdryf, met 'n addisionele boete, of 'n addisionele tydperk van gevangenisstraf, of sodanige addisionele gevangenisstraf sonder die opsie van 'n boete, of beide sodanige addisionele boete en gevangenisstraf vir elke dag wat sodanige misdryf voortduur; en
 - (c) 'n verdere bedrag gelykstaande aan enige koste en uitgawes wat na bevinding van die hof deur die munisipaliteit aangegaan is as gevolg van sodanige oortreding of versuim.
- (3) Benewens enige straf opgelê ingevolge artikel 2 (a) tot (c), kan die munisipaliteit die waterdiens wat aan sodanige persoon gelewer word, staak.

HOOFSTUK II: WATERVOORSIENINGSDIENSTE

23. Voorsiening van aansluitingspyp

- (1) Indien 'n ooreenkoms vir watervoorsieningsdienste ten aansien van 'n perseel gesluit is en geen aansluitingspyp ten aansien van daardie perseel bestaan nie, moet die eienaar op die voorgeskrewe vorm aansoek doen en die voorgeskrewe heffing betaal vir die installering van sodanige pyp.
- (2) Indien aansoek gedoen is vir watervoorsieningsdienste wat van so 'n aard of ligging is dat dit nodig is om die watervoorsieningstelsel te verleng, aan te pas, of op te gradeer ten einde water aan die perseel te verskaf, kan die munisipaliteit op sodanige voorwaardes as wat dit mag goëddink, tot die verlenging instem.

24. Plasing van aansluitingspyp

- (1) 'n Aansluitingspyp wat deur die munisipaliteit voorsien en geïnstalleer is, moet –
- (a) geplaas word op 'n plek nie verder nie as een meter binne die erfrens, of by die begin van 'n serwituut nie meer as een meter binne grens waar van toepassing, en waaroor tussen die munisipaliteit en die eienaar ooreengekom is, welke aansluiting van 'n toepaslike grootte tot 'n maksimum van 25 mm (nominaal) vir huishoudelike verbruikers sal wees, soos bepaal deur die munisipaliteit;
 - (b) eindig by –
 - (i) die loslaat van die watermeter waar dit op die perseel geleë is; of
 - (ii) 'n punt voor die verbruiker se isolasieklep waar dit op die perseel geleë is.
- (2) By die aangaan van die ooreenkoms met die eienaar rakende die plasing van 'n aansluitingspyp moet die munisipaliteit toesien dat die eienaar bewus is van –
- (a) praktiese beperkings wat met betrekking tot die plasing van 'n aansluitingspyp mag bestaan;
 - (b) die koste-implikasies van die verskillende moontlike plasinge van die aansluitingspyp;
 - (c) sy verantwoordelikheid vir die beskerming van die meettoestel en gepaardgaande installasies en dus vir enige skade aan of verlies met betrekking tot gemelde meettoestel en gepaardgaande installasies.
- (3) Die munisipaliteit mag, onderhewig aan sodanige voorwaardes as wat dit mag goëddink, op versoek van enige persoon instem om 'n aansluiting aan 'n ander hooftoevoerpyp te maak as die hooftoevoerpyp wat mees geredelik beskikbaar is vir die voorsiening van water aan die perseel; met dien verstande dat die eienaar verantwoordelik sal wees vir die volle koste van die verlenging van die

waterinstallasie na die aansluitingspunt deur die munisipaliteit aangewys, sowel as vir die verkryging, op eie koste, van sodanige serwitute oor ander persele as wat nodig mag wees.

(4) 'n Eienaar moet vooraf die voorgeskrewe aansluitingsheffing betaal.

25. Voorsiening van enkelwateraansluiting vir lewering aan verskeie verbruikers op dieselfde perseel

(1) Ondanks die bepalings van artikel 23 mag slegs een aansluitingspyp na die watervoorsieningstelsel voorsien word vir die lewering van water na enige perseel.

(2) Waar die eienaar, of die persoon in beheer of aan die bestuur van enige perseel waarop verskeie wooneenhede geleë is, die voorsiening van water na sodanige perseel verlang met die oog op die voorsiening daarvan aan die verskeie wooneenhede, vereis die munisipaliteit na sy goeë dunde die volgende –

- (a) die installering deur die munisipaliteit van 'n grootmaatmeter ten aansien van die perseel as 'n geheel, op die eienaar se koste;
 - (b) 'n afsonderlike meettoestel (submeter) vir elke wooneenheid, wat op eie koste deur die eienaar geïnstalleer word, en sy verantwoordelikheid bly, insluitend die lesings;
 - (c) dat die eienaars of verbruikers gesamentlik verantwoordelik sal wees vir die onderhoud van die watervoorsieningstelsel stroomaf van die grootmaat-watermeter, asook vir die rekening vir water gelewer deur die grootmaat-watermeter, teen die munisipaliteit se toepaslike tarief;
 - (d) dat die watervoorsieningstelsel stroomaf van die grootmaatwatermeter as 'n privaat gekombineerde watervoorsieningstelsel geag word.
- (3) Waar die munisipaliteit 'n grootmaatmeter soos in subartikel (2)(a) beoog, geïnstalleer het, moet die eienaar, of die persoon aan die bestuur of in beheer van die perseel, na gelang van die geval –
- (a) op elke takpyp wat vanaf die aansluitingspyp tot by die verskillende wooneenhede strek, die volgende installeer en onderhou –
 - (i) 'n afsonderlike meettoestel (submeter); en
 - (ii) 'n isolasieklep; en
 - (b) teenoor die munisipaliteit aanspreeklik wees vir die tariewe en heffings vir alle water wat aan die perseel deur sodanige grootmaatmeter verskaf is, ongeag die verskillende hoeveelhede wat deur die verskillende verbruikers (submeters) wat deur sodanige meettoestel bedien word, verbruik is;
 - (c) die eienaars of verbruikers verantwoordelik wees vir die beskerming, instandhouding en bedryf van die afsonderlike meettoestelle (submeters).

26. Interaansluiting tussen persele en waterinstallasies

'n Eienaar van 'n perseel moet verseker dat geen tussenaansluiting tussen die waterinstallasie op sy perseel en die waterinstallasie op ander persele plaasvind nie.

27. Diskonnektering van waterinstallasie vanaf aansluitingspyp

Die munisipaliteit mag 'n waterinstallasie vanaf die aansluitingspyp diskonnekteer en die aansluitingspyp verwyder indien –

- (a) Die voorsieningsooreenkoms ingevolge artikel 9 beëindig is en geen aansoek binne 90 dae na sodanige beëindiging vir 'n verdere voorsiening van water na die perseel wat deur die pyp bedien is, deur die munisipaliteit of sy gevolmagtigde ontvang is nie; of
- (b) die gebou op die perseel gesloop is;
- (c) indien die eienaar van die perseel dit versoek en die toepaslike fooie betaal is;
- (d) die goedgekeurde Kredietbeheer- en Skuldinvorderingsbeleid van die munisipaliteit dit vereis as gevolg van wanbetaling vir dienste;
- (e) daar wederregtelik met die waterdienstestelsel ingemeng is of met 'n aansluiting of 'n watermeterinstallasie gepeuter is.

28. Water vanaf brandkraan voorsien

- (1) Die munisipaliteit mag tydelike watervoorsiening van een of meer brandkrane wat deur die munisipaliteit aangewys is, magtig, onderhewig aan sodanige voorwaardes as wat hy mag goeddink.
- (2) 'n Persoon wat tydelike watervoorsiening waarna in subartikel (1) verwys word, verlang, moet ingevolge artikel 2 en 3 aansoek doen om sodanige waterdienste.
- (3) Die verskaffing van waterdienste ingevolge subartikel (1) moet gemeet word.
- (4) Vir doeleindes van meting moet die munisipaliteit 'n draagbare watermeter voorsien wat by beëindiging van die tydelike voorsiening aan die munisipaliteit terugbesorg moet word, welke draagbare watermeter en alle ander toerusting en bybehoorsels wat vir die aansluiting gebruik is, die eiendom van die munisipaliteit bly en wat slegs voorsien word onderhewig aan enige voorwaardes wat deur die munisipaliteit opgelê mag word, insluitend die betaling van 'n verbruikersdeposito.
- (5) Die gebruiker is verantwoordelik vir die volledige gehuurde installasie vir die huurtydperk en dus vir enige verlies of skade, en is hy of sy ook verantwoordelik vir skade aan die brandkraan wat vir sodanige tydelike installasie gebruik is.

29. Hoeveelheid, gehalte en druk

Watervoorsieningsdienste wat deur die munisipaliteit verskaf word, sal sover redelik moontlik aan die minimum standaardte voldoen wat ingevolge artikel 9 van die Wet bepaal is.

30. Algemene voorwaardes van voorsiening

- (1) Die munisipaliteit kan die maksimum hoogte aanwys waarteen water vanuit die watervoorsieningstelsel voorsien sal word. Waar 'n verbruiker verlang dat water teen 'n groter hoogte of druk voorsien word, is die verbruiker daarvoor verantwoordelik. Geen aanjaerpomp mag direk aan die munisipale hooflyn, aansluitingspunt of pyp gekoppel word nie. Die verbruiker is self verantwoordelik vir die voorsiening en installering van 'n aanjaerpompstelsel met opgaartenk of reservoir en vir die instandhouding en beskerming daarvan teen enige skade.
- (2) In 'n noodgeval, of waar waterverlies voorkom, mag die munisipaliteit sonder voorafkennisgewing die watervoorsiening na enige perseel onderbreek.
- (3) Indien die munisipaliteit van mening is dat die waterverbruik van 'n bepaalde verbruiker die watervoorsiening na 'n ander verbruiker benadeel, mag die munisipaliteit sodanige beperkings op die watervoorsiening na die eerste verbruiker plaas as wat dit mag goeddink ten einde die lewering van 'n redelike hoeveelheid water na die ander verbruiker te verseker, en sal daardie verbruiker van sodanige beperkings in kennis gestel word.

31. Meting van hoeveelheid water verskaf

- (1) Die munisipaliteit sal die hoeveelheid water wat verskaf is, by gereelde tussenposes meet.
- (2) Enige meettoestel waardeur water deur die munisipaliteit aan 'n verbruiker verskaf word, sowel as die verwante toerusting, word deur die munisipaliteit voorsien en geïnstalleer, bly die eiendom van die munisipaliteit, en mag slegs deur die munisipaliteit verander of onderhou word wanneer hy dit nodig ag.
- (3) Die munisipaliteit kan 'n meettoestel, en die toestel se verwante toerusting, by enige punt aan die dienspyp op die perseel installeer.
- (4) Die verbruiker is verantwoordelik vir die beskerming van die watermeterinstallasie en is verantwoordelik vir enige koste van verlies of skade.
- (5) Die verbruiker moet te alle tye verseker dat munisipale personeel redelike toegang tot die watermeterinstallasie het.
- (6) Wanneer die munisipaliteit ingevolge subartikel (3) 'n meettoestel aan 'n dienspyp installeer, mag dit 'n pypseksie en verwante bybehoorsels tussen die eindpunt van sy aansluitingspyp en die meter installeer, en sodanige seksie word geag deel uit te maak van die watervoorsieningstelsel.
- (7) Indien die munisipaliteit 'n meettoestel en sy verwante toerusting ingevolge subartikel (3) aan 'n dienspyp installeer, moet die eienaar –
 - (a) 'n plek tot bevrediging van die munisipaliteit binne die perseel voorsien waarbinne dit geïnstalleer kan word;
 - (b) toesien dat onbelemmerde toegang daartoe te alle tye beskikbaar is;

- (c) met uitsluiting van redelike slytasie, verantwoordelikheid vir die beskerming daarvan en aanspreeklikheid vir die koste voortspruitend uit enige skade of verlies daaraan, aanvaar, en kan op eie koste 'n meterkas installeer;
 - (d) toesien dat geen aansluiting na die pyp waarin die meettoestel gehuisves is, tussen die meettoestel en die aansluitingspyp wat die installasie dien, gemaak word nie; en
 - (e) voorsiening maak vir die dreinerings van water wat vanaf die pyp waarin die meettoestel gehuisves is, in die uitoefening van werk deur die munisipaliteit op die meettoestel uitgevoer, losgelaat mag word.
- (8) Niemand behalwe 'n gevolmagtigde van die munisipaliteit mag –
- (a) 'n meettoestel en sy verwante toerusting van die pyp waarin dit geïnstalleer is, diskonnekteer nie;
 - (b) 'n seël wat die munisipaliteit op 'n meter aangebring het, breek nie;
 - (c) op enige ander wyse met 'n meettoestel en sy verwante toerusting inmeng nie.
- (9) Indien die munisipaliteit in 'n geval waar die meettoestel 'n meter is, van mening is dat die meter van onvoldoende grootte vir die hoeveelheid water is wat aan die perseel voorsien word, kan hy 'n meter van sodanige grootte as wat hy nodig ag, installeer en van die betrokke eienaar van die perseel die voorgeskrewe heffing vir die installering van die meter verhaal.
- (10) Die munisipaliteit kan, op rekening van die eienaar, aandrang op die installering van 'n meettoestel vir elke wooneenheid in afsonderlike bewoning op enige perseel, vir gebruik by die vasstelling van die hoeveelheid water wat aan elkeen sodanige eenheid verskaf word; met dien verstande dat waar vaste-hoeveelheid-watervoorsieningstelsels gebruik word, 'n enkelmeettoestel gebruik mag word om meer as een eenheid te voorsien.

32. Hoeveelheid water aan gebruiker verskaf

- (1) Vir doeleindes van die vasstelling van die hoeveelheid water wat deur 'n meettoestel wat deur die munisipaliteit op die perseel van 'n verbruiker geïnstalleer is, gemeet is, of, waar van toepassing, deur die munisipaliteit ingevolge enige bepaling van hierdie verordening geskat of bepaal is, sal dit vir die doeleindes van hierdie verordening, tensy die teendeel bewys kan word, geag word dat –
- (a) die hoeveelheid verteenwoordig word deur die verskil in metings wat aan die begin en einde van enige bepaalde tydperk geneem is;
 - (b) die meettoestel akkuraat was tydens sodanige tydperk;
 - (c) die inskrywings in die rekords van die munisipaliteit korrek gedoen is; en
 - (d) dat die skatting deur die munisipaliteit van die hoeveelheid water wat aan 'n verbruiker voorsien of deur 'n verbruiker ontvang is, sonder dat die meettoestel aan die einde van die periode gelees is, korrek is.
- (2) Waar water wat deur die munisipaliteit voorsien is, op enige wyse deur 'n verbruiker bekom word sonder dat daardie water deur enige meettoestel beweeg wat deur die munisipaliteit voorsien is, kan die munisipaliteit, vir doeleindes van die lewering van 'n rekening, 'n beraming ingevolge subartikel (3) doen van die hoeveelheid water wat aan die verbruiker voorsien is vanaf die laaste vorige positiewe lesing van die watermeter tot by die datum waarop dit ontdek is dat die verbruiker water op hierdie manier bekom.
- (3) Afhangende van die munisipaliteit se besluit word 'n beraming van die hoeveelheid water wat vir die doeleindes van subartikel (2) aan 'n verbruiker verskaf is, op een van die volgende gegrond –
- (a) die gemiddelde maandelikse waterverbruik op die perseel tydens enige drie agtereenvolgende metingsperiodes tydens die tydperk van 12 maande onmiddellik voorafgaande die ontdekking dat water soos in subartikel (2) vermeld, bekom word; of
 - (b) die gemiddelde maandelikse verbruik op die perseel wat oor drie agtereenvolgende metingsperiodes na die datum waarna daar in subartikel 3(a) verwys word, geregistreer is.
- (4) Niks in hierdie verordening sal só geïnterpreteer word dat dit 'n verpligting op die munisipaliteit plaas om toe te sien dat enige meettoestel wat op enige perseel deur die munisipaliteit geïnstalleer is, aan die einde van elke maand of ander bepaalde tydperk gemeet sal word nie, en die munisipaliteit mag die hoeveelheid water skat wat oor enige tydperk tydens die pouse tussen twee agtereenvolgende metings van die meettoestel verskaf is en 'n rekening aan die verbruiker lewer vir die hoeveelheid water wat aldus geskat is.

(5) By ontvangs van minstens 7 (dae) skriftelike kennisgewing van 'n verbruiker, en onderhewig aan betaling van die voorgeskrewe heffing, moet die munisipaliteit die hoeveelheid water wat aan die verbruiker verskaf is, op 'n ander tyd of dag meet as dit waarop die meting gewoonlik gedoen sou word.

(6) By 'n oortreding van artikel 31(8) betaal die verbruiker die koste van die hoeveelheid water wat na die mening van die munisipaliteit aan hom gelewer is, aan die munisipaliteit asook die vervangingskoste, insluitend arbeid, vervoer en materiaal, van die watermeter.

(7) Tot tyd en wyl 'n meettoestel ten aansien van water aan 'n verbruiker gelewer, geïnstalleer is, moet die geskatte of veronderstelde verbruik van daardie verbruiker gebaseer word op die gemiddelde gebruik van gelewerde water tydens 'n bepaalde tydperk aan die sone waarbinne die verbruiker se perseel geleë is.

(8) Waar dit na die mening van die munisipaliteit nie redelikerwys moontlik of kostedoeltreffend is om die watervoorsiening aan elke verbruiker in 'n bepaalde sone te meet nie, kan die munisipaliteit ingevolge sy tariefbeleid 'n basiese tarief of heffing vasstel wat deur elke verbruiker in daardie sone betaal moet word, afgesien van die hoeveelheid water wat werklik verbruik is.

33. Foutiewe meting

Indien 'n verbruiker rede het om te vermoed dat 'n meettoestel wat vir die meet van water gebruik word en deur die munisipaliteit aan hom voorsien is, foutief is, is hy of sy geregtig om die meettoestel te laat toets. Die verbruiker doen aansoek om die meettoestel te laat toets deur voorafbetaling van die toetsfooï soos van tyd tot tyd deur die munisipaliteit bepaal. Die meettoestel sal getoets word op 'n SANS goedgekeurde toetsbank ten einde afwykings ingevolge die voorgeskrewe toleransies in die Wet op Handelsmetrologie en Standaarde, 1977, te bepaal. Indien die meettoestel meer as 2% oorregistreer, sal die toetsfooï terugbetaal word en die verbruiker se rekening aangepas word volgens die munisipaliteit se beleid in dié verband.

34. Spesiale meting

(1) Indien die munisipaliteit weens ander redes as om die heffing vir waterverbruik te bepaal, die hoeveelheid water wat in 'n gedeelte van 'n waterinstallasie gebruik word, wil meet, kan hy die betrokke eienaar skriftelik in kennis stel van sy voorneme om 'n meettoestel by sodanige punt in die waterinstallasie as wat dit mag aanwys, te installeer.

(2) Die installing van 'n meettoestel bedoel in subartikel (1), die verwydering daarvan en die herstel van die waterinstallasie na sodanige verwydering, sal op koste van die munisipaliteit uitgevoer word. In die geval van 'n ongemeterde aansluiting sal die verbruiker verantwoordelik gehou word vir die koste om 'n meettoestel te installeer.

(3) Die bepalings van artikel 32(5) en 32(6) is van toepassing vir soverre dit van toepassing mag wees ten aansien van die meettoestel wat ingevolge subartikel (1) geïnstalleer is.

35. Geen afslag op bedrag betaalbaar vir verkwiste water

'n Verbruiker is nie geregtig op enige afslag op die bedrag betaalbaar vir verkwiste water of waterverliese in 'n waterinstallasie nie, tensy hy of sy bewys kan lewer van herstel van 'n lekkasie op sy perseel in sodanige tydperk, waarna sy rekening aangepas kan word volgens die beleid in dié verband.

36. Goedkeuring van installasiewerk

(1) Indien 'n eienaar waterinstallasiewerk wil laat doen, moet hy of sy eers die munisipaliteit se skriftelike toestemming verkry; met dien verstande dat toestemming nie vereis sal word in die geval van waterinstallasies in wooneenhede of installasies waar geen brandinstallasie ingevolge SANS Kode 0400 vereis word nie, of vir die vervanging of herstel van 'n bestaande pyp of waterbybehoorsel wat nie 'n vaste-waterverwarmer en die bybehorende beskermingstoestelle daarvan is nie.

(2) Aansoek om die toestemming waarna in subartikel (1) verwys word, moet op die voorgeskrewe vorm gedoen word en vergesel wees van –

- (a) die voorgeskrewe heffing, indien dit van toepassing sou wees;
- (b) afskrifte van die sketse soos deur die munisipaliteit voorgeskryf, waardeur inligting in die formaat deur klousule 4.1.1 van SANS Kode 0252: Deel 1 voorgeskryf, verskaf word; en
- (c) 'n sertifikaat dat die installasie in ooreenstemming met SANS Kode 0252: Deel 1 ontwerp is, of dat dit op 'n rasionele basis ontwerp is.

- (3) Die bepalings van subartikel (1) en (2) sal nie op 'n gekwalifiseerde loodgieter van toepassing wees wat 'n vaste-waterverwarmer of die bybehorende beskermingstoestelle daarvan vervang nie.
- (4) Toestemming wat ingevolge subartikel (1) verleen is, verval na verloop van vier-en-twintig maande na die eerste dag van die maand volgend op die maand waarin die toestemming verleen is.
- (5) Waar toestemming ingevolge subartikel (1) vereis is, moet 'n volledige stel goedgekeurde sketse van die installasiewerk te alle tye tot die voltooiing van die werk by die werkaanleg beskikbaar wees.
- (6) Indien installasiewerk strydig met subartikel (1) of (2) gedoen is, kan die munisipaliteit die betrokke eienaar by wyse van skriftelike kennisgewing gelas om –
- (a) binne 'n bepaalde tydperk aan daardie regulasie te voldoen;
 - (b) indien werk onder hande is, werk te staak; en
 - (c) om al sodanige werk as wat nie aan hierdie verordening voldoen nie, te verwyder.

37. Voorsiening en instandhouding van waterinstallasies

- (1) 'n Eienaar moet sy waterinstallasie op eie koste voorsien en in stand hou en waar toestemming ingevolge subartikel (2) verleen is, toesien dat die installasie binne die grense van sy eiendom gesetel is. Indien laasgenoemde nie moontlik is nie, moet gemelde eienaar op eie koste 'n serwituut registreer.
- (2) Voordat enige werk in verband met die instandhouding van sodanige gedeelte van 'n eienaar se waterinstallasie as wat buite die grense van sy eiendom gesetel is, gedoen word, moet die eienaar, na gelang van die geval, die skriftelike toestemming van die munisipaliteit, of die eienaar van die grond waarop sodanige gedeelte gesetel is, bekom.

38. Eienaar moet waterbesoedeling voorkom

- (1) 'n Eienaar moet goedgekeurde maatreëls voorsien en in stand hou ter voorkoming van die insypeling in –
- (a) die waterdienstestelsel;
 - (b) enige deel van die waterdienste-installasie op sy perseel;
 - (c) enige stormwaterstelsel;
 - (d) enige vuilwaterwegdoeningstelsel; en
 - (e) die omgewing;

van 'n stof wat 'n gesondheidsgevaar inhou of die drinkbaarheid van water nadelig beïnvloed of die geskiktheid vir die gebruik daarvan raak, of nadelig kan wees vir die omgewing.

- (2) Swembad-terugspoelwater mag nie na 'n stormwaterstelsel, natuurlike stroom of dam weggevoer word nie en mag slegs in die rioolvuilwegdoeningstelsel gestort word.

39. Waterbeperkings

- (1) Ter voorkoming van die verkwistende gebruik van water ingevolge artikel 40, of in die geval van 'n watertekort, droogte of vloedwater, kan die munisipaliteit by wyse van openbare kennisgewing –
- (a) die verbruik van water in die geheel of 'n gedeelte van sy regsgebied verbied of beperk vir algemene doeleindes of –
 - (i) vir bepaalde doeleindes;
 - (ii) tydens bepaalde ure van die dag of op bepaalde dae;
 - (iii) op 'n bepaalde manier; en
 - (b) (i) inkortings op die hoeveelheid water wat oor 'n bepaalde tydperk verbruik mag word;
 - (ii) bykomende heffings tot die heffings voorgeskryf vir watervoorsiening wat die beperkte hoeveelheid in subartikel (1)(b)(i) beoog, oorskry; en
 - (iii) 'n algemene boete op die voorgeskrewe heffings vir watervoorsiening; bepaal en voorskryf; en
 - (c) beperkings of verbodsbepalings oplê met betrekking tot die gebruik of wyse van gebruik of die opstelling van 'n toestel wat water gebruik of verbruik, of die aansluiting van sodanige toestelle aan die waterinstallasie.

- (2) Die munisipaliteit mag die toepassing van die bepalings rakende 'n kennisgewing deur subartikel (1) beoog, tot bepaalde areas en kategorieë verbruikers, persele en aktiwiteite inkort, en mag afwykings, vrystellings of die verslapping van enige van die bepalings op redelike gronde toelaat.
- (3) Die munisipaliteit mag –
- (a) sodanige maatreëls instel, insluitend die installering van meettoestelle, drukverminderingstoestelle en toestelle vir die beperking van die vloei van water, of 'n verbruiker by wyse van skriftelike kennisgewing gelas om sodanige maatreëls self en op sy eie onkoste in te stel as wat na die oordeel van die munisipaliteit nodig mag wees ten einde nakoming van 'n kennisgewing wat ingevolge subartikel (1) uitgereik is, te verseker; of
 - (b) vir sodanige tydperk as wat die munisipaliteit dit nodig ag, die watervoorsiening na enige perseel inkort of opskort, in die geval van 'n oortreding of nie-nakoming op sodanige perseel van die bepalings van 'n kennisgewing uitgereik ingevolge subartikel (1), onderhewig aan kennisgewing ingevolge artikel 18;
 - (c) 'n boete oplê vir die nie-nakoming van enige bepaling van 'n kennisgewing soos in subartikel (1) beoog.
- (4) Die bepalings van hierdie artikel is ook van toepassing ten aansien van water wat regstreeks deur die munisipaliteit aan verbruikers buite die munisipaliteit se regsgebied voorsien word, nieteenstaande enigiets tot die teendeel in die voorwaardes wat sodanige voorsiening beheer, tensy anders aangedui in die kennisgewing wat ingevolge subartikel (1) uitgereik is.

40. Waterverkwisting onregmatig

- (1) Geen verbruiker mag toelaat dat –
- (a) water doelloos of verkwistend vanuit eindpuntkleppe losgelaat word nie;
 - (b) pype of watertoerusting lek nie;
 - (c) swak-passende of defektiewe watertoerusting gebruik nie;
 - (d) water voortdurend oorloop nie; of
 - (e) ondoeltreffende watergebruik voortduur nie;
- (2) 'n Eienaar moet sonder versuim enige onderdeel van sy waterinstallasie wat in sodanige toestand van verval verkeer dat dit enige van die gebeure in subartikel (1) uiteengesit, veroorsaak, of waarskynlik sal veroorsaak, herstel of vervang.
- (3) Indien 'n eienaar versuim om die maatreëls in subartikel (2) bedoel, toe te pas, vereis die munisipaliteit deur middel van skriftelike kennisgewing ingevolge artikel 18 van die eienaar om aan die bepalings van subartikel (1) te voldoen.
- (4) 'n Verbruiker moet verseker dat enige uitrusting of toerusting wat aan sy waterinstallasie gekoppel is, water op 'n doeltreffende wyse gebruik.
- (5) Die munisipaliteit mag by wyse van skriftelike kennisgewing 'n verbruiker verbied om enige bepaalde toerusting in 'n waterinstallasie te gebruik, indien die watergebruik van die toerusting, na die mening van die munisipaliteit, ondoeltreffend is. Sodanige toerusting mag nie weer gebruik word alvorens die doeltreffendheid daarvan herstel is en 'n skriftelike aansoek om die hergebruik daarvan deur die munisipaliteit goedgekeur is nie.
- (6) By versuim deur die verbruiker om uitvoering te gee aan die bepalings van 'n kennisgewing uitgereik ingevolge subartikel (5), kan die munisipaliteit die toerusting vervang of herstel en die volle koste van die verbruiker verhaal.
- (7) Indien 'n toestand soos beoog in subartikel (1) voorkom en die situasie een van dringendheid is, mag die munisipaliteit sonder voorafkennisgewing die stappe neem wat nodig is om toegang te verkry en die defek te stel en die kostes mag van die verbruiker verhaal word.

41. Kennisgewing van boorgate

- (1) Die munisipaliteit kan, by wyse van openbare kennisgewing, vereis dat –
 - (a) die eienaar van enige perseel binne die regsgebied van die munisipaliteit waarop 'n boorgat teenwoordig is, of, indien die eienaar nie in besit van die perseel is nie, die okkupeerder daarvan, die munisipaliteit op die voorgeskrewe vorm in kennis stel van die bestaan van 'n boorgat op sodanige perseel en voorts van sodanige inligting ten opsigte daarvan voorsien as wat die munisipaliteit mag vereis; en
 - (b) die eienaar of okkupeerder wat voornemens is om 'n boorgat op sodanige perseel te sink, die munisipaliteit op die voorgeskrewe vorm van sodanige voorneme in kennis stel, alvorens daar met werk in verband daarmee 'n aanvang geneem word.
- (2) Die munisipaliteit kan van die eienaar of okkupeerder van 'n perseel wat voornemens is om 'n boorgat te sink, vereis om alvorens die boorgat gesink word, 'n omgewingsimpakstudie vir sodanige beoogde boorgat tot bevrediging van die munisipaliteit te onderneem.
- (3) Boorgate is onderhewig aan enige vereistes van die Nasionale Waterwet, 1998 (Wet Nr 36 van 1998).
- (4) Die munisipaliteit kan by wyse van skriftelike kennisgewing aan 'n eienaar of okkupeerder van 'n perseel waarop daar reeds 'n boorgat vir gebruik van waterdienste bestaan, of by wyse van skriftelike kennisgewing aan sodanige eienaars of okkupeerders, vereis dat sodanige eienaar of okkupeerder –
 - (a) goedkeuring van die munisipaliteit verkry vir die gebruik van 'n boorgat vir waterdienste in ooreenstemming met artikels 6, 7 en 22 van die Wet; en
 - (b) voorwaardes voorgeskryf deur die munisipaliteit ten aansien van die gebruik van 'n boorgat vir waterdienste, nakom.
- (5) Watertoevoer vanuit 'n boorgat mag onder geen omstandighede verbind word met 'n waterinstallasie wat met die munisipale waterdienstestelsel verbind is nie.
- (6) Die eienaar van 'n perseel waarop watertoevoer vanuit 'n boorgat vir menslike gebruik benut word, moet toesien dat die waterkwaliteit te alle tye aan die vereistes van die SANS0241 spesifikasies voldoen.

42. Monsterneming van water

- (1) Die munisipaliteit kan watermonsters neem uit 'n bron geoorloof ingevolge artikel 6 of 7 van die Wet, buiten uit die watervoorsieningstelsel vir huishoudelike doeleindes, en die monsters laat toets vir voldoening daarvan aan enige nasionale standaard wat ingevolge artikel 9 van die Wet voorgeskryf is.
- (2) Die voorgeskrewe heffing vir die neem en toetsing van die monsters waarna in subartikel (1) verwys word, word betaal deur die party aan wie goedkeuring ingevolge artikel 6 (1) van die Wet verleen is om die water as drinkwater te gebruik.

43. Voorsiening van nie-drinkbare water deur die munisipaliteit

- (1) Die munisipaliteit kan op aansoek ingevolge artikel 3 instem om nie-drinkbare water aan 'n verbruiker te verskaf, onderhewig aan sodanige bedinge en voorwaardes as wat die munisipaliteit mag voorskryf.
- (2) Geen voorsiening van water waarvoor instemming ingevolge subartikel (1) verleen is, mag vir huishoudelike of enige ander doeleindes wat na die mening van die munisipaliteit tot 'n gesondheidsrisiko aanleiding kan gee, gebruik word nie.
- (3) Geen waarborg, hetsy uitdruklik, of regtens inbegrepe, is ten aansien van die suiwerheid van nie-drinkbare water wat deur die munisipaliteit voorsien word, of die geskiktheid vir die doeleindes waarvoor die watervoorsiening toegestaan is, van toepassing nie.
- (4) Die voorsiening van nie-drinkbare water geskied ten aansien van beide die toestand en die gebruik daarvan uitsluitlik op risiko van die verbruiker en die verbruiker is aanspreeklik vir enige gevolgskaad of verlies wat hy of sy self, of andere regstreeks of onregstreeks as gevolg daarvan mag ly, insluitend gevolge weens enige *bona fide*-fout deur die munisipaliteit, of die onklarheid van 'n verwerkingsaanleg.

44. Toetsing van druk in watervoorsieningstelsels

Op aansoek van 'n eienaar en teen betaling van die voorgeskrewe heffing, kan die munisipaliteit die druk in die watervoorsieningstelsel van toepassing op daardie perseel oor sodanige tydperk as wat die eienaar mag versoek, meet en aan die eienaar verskaf.

45. Pype in strate of openbare plekke

(1) Niemand mag vir doeleindes van die afvoer van water, ongeag van watter bron dit ook al bekom is, 'n pyp of bybehorende bestanddeel op of onder 'n straat, openbare plek of ander grond wat die munisipaliteit se eiendom is of wat setel in of beheer word deur die munisipaliteit, lê of bou nie, behalwe waar skriftelike toestemming vooraf van die munisipaliteit verkry is, onderhewig aan sodanige voorwaardes as wat hy mag voorskryf, en 'n plan vooraf deur die munisipaliteit goedgekeur is.

(2) Geen ander parrallele diens (bv. Telkom, elektrisiteit, ens.) mag nader as 500 mm vanaf 'n bestaande munisipale waterdienspyp gelê word nie, en onder geen omstandighede bo-op 'n munisipale waterdienspyp nie.

46. Gebruik van grys water

Niemand mag grys water gebruik of toelaat dat dit gebruik word sonder die voorafverkreë toestemming van die munisipaliteit nie, welke toestemming onderhewig mag wees aan voorwaardes soos van tyd tot tyd deur die munisipaliteit bepaal.

HOOFTUK III: Sanitasiedienste**47. Standaard vir sanitasiedienste**

Sanitasiedienste wat deur die munisipaliteit voorsien word, sal sover redelik moontlik aan die minimumvereistes wat ingevolge artikel 9 van die Wet vir die voorsiening van sanitasiedienste bepaal is, voldoen.

48. Aanstootlike loslaat na rioolvuilwegdoeningstelsel

(1) Niemand mag enige rioolvuil of ander stof in die rioolvuilwegdoeningstelsel loslaat of die loslaat of toegang daarvan toelaat indien daardie rioolvuil of ander stof –

- (a) nie aan die standaard en maatstawwe wat artikel 62 hieronder voorskryf, voldoen nie;
- (b) bestanddele in sodanige konsentrasie bevat as wat in die uitvloeiselprodukt vir loslating by enige rioolvuilbehandelingsaanleg of uitlooploslatingpunte ter see of in enige openbare water enige aanstootlike, of andersins onaanvaarbare smaak, kleur, reuk, temperatuur of enige skuim tot gevolg sal hê of waarskynlik tot gevolg sal hê;
- (c) die hergebruik van behandelde rioolvuil benadeel of enige van die prosesse waardeur rioolvuil vir hergebruik gesuiwer word of behandel is om slyk vir beskikking daaroor te produseer, nadelig raak;
- (d) enige stof of voorwerp van watter aard ook al bevat wat nie tot 'n bevredigende mate ontvanklik is vir behandeling by 'n rioolvuilbehandelingsaanleg nie, of wat die staking of onderdrukking van die prosesse wat in sodanige aanleg gebruik word tot gevolg sal hê of waarskynlik tot gevolg sal hê;
- (e) enige stof of voorwerp van watter aard ook al bevat wat so sterk is, of wat slegs ontvanklik is vir behandeling tot so 'n beperkte mate, dat dit tot gevolg het dat die uitvloeisel vanuit die rioolvuilbehandelingsaanleg nie aan die standaard voorgeskryf deur die Nasionale Waterwet, 1998 (Wet Nr 36 van 1998), voldoen nie;
- (f) 'n gevaar vir die gesondheid of veiligheid van enige persoon kan inhou, of nadelig vir die struktuur of materiaal van die rioolvuilwegdoeningstelsel kan wees, of wat 'n nadelige uitwerking op enige grond wat deur die munisipaliteit vir die rioolvuilwegdoeningstelsel gebruik word, kan hê, anders as in ooreenstemming met die toestemming wat ingevolge hierdie verordening uitgereik is;
- (g) die ongehinderde vloei van rioolvuil deur die rioolvuilwegdoeningstelsel mag onderdruk;
- (h) 'n temperatuur van meer as 43 grade Celcius by loslating het nie.

- (2) Niemand mag die insypeling of inlaat van enige stormwater of reënwater in die rioolvuilwegdoeningstelsel veroorsaak of toelaat nie.
- (3) Die ontstaan van oorlastoestande (byvoorbeeld reuke, besoedeling, of visuele aanstootlikheid) as gevolg van 'n foutiewe perseelrioleringsinstallasie word nie toegelaat nie. Die munisipaliteit gee die eienaar of okkupeerder van so 'n perseel 24 uur kennis om die oorlast te verwyder, by gebreke waarvan die munisipaliteit dit op die eienaar of okkupeerder se koste doen of laat doen, en die saak verder as 'n misdryf ingevolge hierdie verordening hanteer.
- (4) Die munisipaliteit kan by wyse van skriftelike kennisgewing die eienaar of okkupeerder gelas om op sy eie onkoste periodieke deskundige inspeksies van die perseel uit te voer ten einde voorkomingsmaatreëls (byvoorbeeld die installasie van vetvangers, sandvangers of olieskeiers) wat nakoming van hierdie verordening sal verseker, te identifiseer en om sodanige bevindings aan 'n gevolmagtigde verteenwoordiger oor te dra.
- (5) Indien enigiemand enige van die bepalinge vervat in subartikel (1) of subartikel (2) oortree, moet sodanige persoon binne 12 uur, of indien vereis, vroeër, die munisipaliteit van die besonderhede van die oortreding en die redes daarvoor in kennis stel.

49. Aansoek om infrastruktuur

- (1) Indien 'n ooreenkoms vir *in situ*-sanitasiedienste en verwante dienste in ooreenstemming met artikel 2 bestaan, en geen infrastruktuur in verband daarmee op die perseel in stand is nie, moet die eienaar onmiddellik op die voorgeskrewe vorm daarom aansoek doen en met die goedkeuring van die munisipaliteit die aansluitingsriool of *in situ*-sanitasiedienste in ooreenstemming met die spesifikasies van die munisipaliteit installeer.
- (2) 'n Munisipaliteit kan die tipe *in situ*-sanitasiediens wat geïnstalleer staan te word, spesifiseer.

50. Dienste verwant aan *in situ*-sanitasiedienste

- (1) Die verwydering of versameling van riooltenkinhoud, nagvuil of die leegmaak van putlatrines sal deur die munisipaliteit onderneem word indien kapasiteit beskikbaar is, in ooreenstemming met 'n verwydering- en versamelingskedule wat deur die munisipaliteit vasgestel is.
- (2) Afskrifte van die verwydering- en versamelingskedule word op versoek beskikbaar gestel.

51. Heffings ten opsigte van dienste verwant aan *in situ*-sanitasiedienste

- (1) Heffings ten opsigte van die verwydering of versameling van riooltenkinhoud, nagvuil of die leegmaak van putlatrines, sal alle operasionele- en onderhoudskoste vir die verwydering van die putinhoud, die vervoer daarvan na 'n wegdoeningsplek, die behandeling van die inhoud ten einde 'n sanitêre toestand te bereik, en die finale beskikking oor soliede oorblyfsels, insluit.
- (2) Heffings is betaalbaar ingevolge die munisipaliteit se tariefbeleid.

52. Voorsiening van 'n aansluitingsriool

- (1) Indien 'n ooreenkoms vir die gebruik van 'n rioolvuilwegdoeningstelsel in ooreenstemming met artikel 2 bestaan, en geen aansluitingsriool ten opsigte van die perseel bestaan nie, moet die eienaar onmiddellik op die voorgeskrewe vorm daarom aansoek doen en –
- die voorgeskrewe heffing vir die installering van sodanige aansluitingsriool betaal; of
 - met toestemming van die munisipaliteit die aansluitingsriool in ooreenstemming met enige spesifikasies van die munisipaliteit installeer.
- (2) Indien aansoek gedoen is vir gebruik van 'n rioolvuilwegdoeningstelsel na 'n perseel wat sodanig geleë is dat dit nodig is om die riool te verleng ten einde die rioolvuilwegdoeningstelsel met die perseel te kan verbind, kan die munisipaliteit tot die verlenging instem, op koste van die eienaar en onderhewig aan sodanige voorwaardes as wat dit mag voorskryf.
- (3) Die instandhouding en bedryf van die perseelrioleringsinstallasie, insluitend alle mangate, steekoë, vangputte, vetvangers, sandvangers, pypwerk en verwante toestelle, is die verantwoordelikheid van die eienaar van die perseel.

53. Plasing van aansluitingsriool

- (1) 'n Aansluitingsriool wat deur die munisipaliteit of die eienaar ingevolge artikel 52 voorsien en geïnstalleer is, moet –
- (a) geplaas wees in 'n posisie waaroor die eienaar met die munisipaliteit ooreengekom het en van 'n grootte wees wat deur die munisipaliteit of sy gevolmagtigde bepaal is;
 - (b) by 'n aansluitingspunt eindig ongeveer 1 meter binnekant die perseel of serwituut vanaf die grens van die grond wat deur die munisipaliteit besit word of in die munisipaliteit setel, of waaroor die munisipaliteit 'n serwituut of ander reg geniet, of, by die toepassing van subartikel (3), by die aansluitingspunt ingevolge daardie subartikel aangewys.
- (2) 'n Aansluitingsriool kan slegs geïnstalleer word nadat die munisipaliteit 'n bouplan goedgekeur het.
- (3) By bereiking van 'n ooreenkoms met die eienaar oor die plasing van 'n aansluitingsriool moet die munisipaliteit toesien dat die eienaar bewus is van –
- (a) die praktiese beperkings wat ten aansien van die plasing van 'n aansluitingsriool mag bestaan;
 - (b) die koste-implikasies van die verskillende moontlike plasings van die aansluitingsriool;
 - (c) of die munisipaliteit van die eienaar verg, al dan nie, om die plasing van die aansluitingsriool te bepaal deur 'n gedeelte van sy rioolinstallasie by of buite sy perseel se grense te voorsien, of sodanige ooreengekome posisie binne of buite sy perseel waar die aansluiting vereis word, vir die munisipaliteit om aan sodanige installasie te verbind;
 - (d) sy verantwoordelikheid om op sy eie koste 'n waterdigte aansluitingsmangat te voorsien by die aansluitingspunt;
 - (e) sy verantwoordelikheid om die koste van die verwydering van enige verstopping van die aansluitingsriool deur die munisipaliteit te dra, uitgesluit waar dit as gevolg van slytasie of verweerde infrastruktuur ontstaan het.
- (4) 'n Eienaar moet die voorgeskrewe aansluitingsheffing vooraf betaal.
- (5) Waar dit van 'n eienaar vereis word om 'n rioolvuilhyser soos deur die Bouregulasies voorgeskryf, te voorsien, sal die tempo en tyd van loslating in die riool onderhewig wees aan die goedkeuring daarvan deur die munisipaliteit.

54. Voorsiening van enkelaansluitingsriool vir verskeie verbruikers op dieselfde perseel (privaat-gekombineerde rioolstelsel)

- (1) Nieteenstaande die bepalings van artikel 53, mag slegs een aansluitingsriool na die rioolvuilwegdoenstelsel voorsien word vir die wegdoening van rioolvuil vanaf enige perseel, ongeag die aantal wooneenhede of verbruikers wat op sodanige perseel teenwoordig is.
- (2) Wanneer die eienaar of die persoon in bevel of belas met die bestuur van enige perseel waarop verskeie wooneenhede aangetref word, die wegdoen van rioolvuil vanaf sodanige perseel verlang vir die doeleindes van die wegdoening daarvan vanaf die verskillende wooneenhede, kan die munisipaliteit, na sy eie goeddunke –
- (a) 'n enkelaansluitingsriool ten opsigte van die perseel as 'n geheel, of enige aantal sodanige wooneenhede, voorsien en installeer; of
 - (b) 'n afsonderlike aansluitingsriool vir elke wooneenheid, of enige aantal wooneenhede, voorsien en installeer.
- (3) Wanneer die munisipaliteit 'n enkelaansluitingsriool soos in subartikel 2(a) beoog, geïnstalleer het –
- (a) moet die eienaar of die persoon in bevel of belas met die bestuur van die perseel, na gelang van die geval, indien die munisipaliteit dit vereis, aan elke takpyp wat vanaf die aansluitingsriool na die verskillende wooneenhede strek –
 - (i) 'n afsonderlike aansluitingsriool installeer en onderhou; en
 - (ii) 'n aansluitingsmangat by die aansluitingspunt voorsien en onderhou;
 - (iii) minstens 'n steekoog by alle vertakkingspunte voorsien en onderhou;
 - (b) is die eienaar of die persoon in bevel of belas met die bestuur van die perseel, na gelang van die geval, aanspreeklik teenoor die munisipaliteit vir die tariewe en heffings ten opsigte van alle rioolvuilverwydering vanaf die perseel deur middel van sodanige

enkelaansluitingsriool, ongeag die verskillende hoeveelhede wat deur die verskillende verbruikers wat deur sodanige aansluitingsriool bedien is, weggedoen is;

- (c) sal die eienaars gesamentlik verantwoordelikheid wees vir die onderhoud van die privaat-gekombineerde stelsel, vanaf die aansluitingspunt by die munisipale hoofrioollyn, insluitend die aansluitingsmangat.

(4) Ondanks subartikel (1) kan die munisipaliteit instem dat meer as een aansluitingsriool aan die rioolvuilverwyderingstelsel voorsien word vir die wegdoen van rioolvuil vanaf enige perseel wat uit deeltiteenhede bestaan, of indien, na die mening van die munisipaliteit, voorsiening van slegs 'n enkelaansluitingsriool onnodige ontbering en ongerief aan enige verbruiker op sodanige perseel tot gevolg sal hê.

(5) Wanneer die voorsiening van meer as een aansluitingsriool ingevolge subartikel (4) deur die munisipaliteit gemagtig is, is die tariewe en heffings vir die voorsiening van 'n aansluitingsriool ten opsigte van elke rioolaansluiting wat aldus voorsien is, betaalbaar.

55. Tussenaansluiting tussen persele

'n Eenaar van 'n perseel moet toesien dat geen tussenaansluiting tussen die perseelrioleringsinstallasie op sy perseel en die perseelrioleringsinstallasie op ander persele bestaan nie.

56. Diskonnektering van perseelrioleringsinstallasie van aansluitingsriool

Die munisipaliteit kan 'n perseelrioleringsinstallasie van die aansluitingsriool diskonnekteer en die aansluitingsriool verwyder indien –

- (a) die ooreenkoms vir voorsiening van die aansluitingsriool ingevolge artikel 10 beëindig is en geen aansoek vir die verdere voorsiening aan die perseel wat deur die riool bedien is binne 90 dae na sodanige beëindiging deur die munisipaliteit ontvang is nie; of
- (b) die gebou op die betrokke perseel gesloop is.

57. Aanvaarding van aflewering van rioolvuil deur middel van padvervoer

'n Munisipaliteit kan, na sy goeddunke, en onderhewig aan sodanige voorwaardes as wat dit mag spesifiseer, rioolvuil vir wegdoening wat deur middel van padvervoer aan die munisipaliteit se rioolvuilbehandelingsaanleg afgelewer word, aanvaar.

58. Skriftelike toestemming vir aflewering van rioolvuil deur middel van padvervoer

- (1) Niemand mag rioolvuil in die munisipaliteit se rioolvuilbehandelingsaanleg deur middel van padvervoer loslaat nie, behalwe met die skriftelike toestemming van die munisipaliteit en onderhewig aan sodanige tydperk, heffingsbetalings en enige voorwaardes wat voorgeskrewe terme van die skriftelike toestemming mag uitmaak.
- (2) Die heffings betaalbaar vir enige rioolvuil wat aan die munisipaliteit se rioolvuilbehandelingsaanleg vir wegdoening afgelewer is, word deur die munisipaliteit bepaal in ooreenstemming met die voorgeskrewe tariewe en heffings.
- (3) Waar daar van die munisipaliteit se suigtenkvrugmotor gebruik gemaak word, word die diens gelewer onderhewig aan die voorwaardes, beleid en heffings soos van tyd tot tyd deur die munisipaliteit bepaal.

59. Voorwaardes vir die aflewering van rioolvuil deur middel van padvervoer

- (1) Wanneer rioolvuil deur middel van padvervoer afgelewer word –
- (a) word die tyd van aflewering met die munisipaliteit gereël; en
- (b) word die aard en samestelling van die rioolvuil tot bevrediging van die munisipaliteit voor die loslating daarvan vasgestel, en niemand mag rioolvuil aflewer wat nie aan die standaard voldoen wat ingevolge hierdie verordening voorgeskryf is nie.

60. Terugtrekking van toestemming vir aflewering van rioolvuil deur middel van padvervoer

Die munisipaliteit mag enige toestemming terugtrek nadat skriftelike kennis gegee is van sodanige voorneme om die toestemming terug te trek aan 'n persoon wat toestemming het om rioolvuil deur middel van padvervoer los te laat, indien sodanige persoon –

- (a) versuim om toe te sien dat die rioolvuil wat aldus gelewer is, aan die standaard wat in die skriftelike toestemming voorgeskryf is voldoen; of
- (b) versuim of weier om aan enige kennisgewing wat regtens ingevolge hierdie verordening op hom beteken is, te voldoen, of enige bepaling van hierdie verordening of enige voorwaarde aan hom ingevolge enige toestemming voorgeskryf, oortree; en
- (c) versuim om die bepaalde heffings ten opsigte van enige gelewerde rioolvuil te betaal.

HOOFSTUK IV : WEGDOEN VAN NYWERHEIDSUITVLOEISEL**61. Aansoek om wegdoening van nywerheidsuitvloeisel**

(1) 'n Persoon moet op die wyse voorgeskryf deur die munisipaliteit aansoek doen vir die storting van nywerheidsuitvloeisel in die rioolvuilwegdoenstelsel van die munisipaliteit.

(2) Die munisipaliteit sal nie verplig wees om enige nywerheidsuitvloeisel in sy rioolvuilwegdoenstelsel te ontvang nie, in welke geval die redes vir die besluit om dit nie te ontvang nie, aan die applikant verstrekkend moet word.

(3) Indien die munisipaliteit die aansoek bedoel in subartikel (1) goedkeur, moet die applikant 'n skriftelike ooreenkoms, soos voorsien deur die munisipaliteit, onderteken en sal die storting van nywerheidsuitvloeisel onderhewig wees aan die voorwaardes soos vervat in gemelde ooreenkoms.

62. Norme en standaard vir nywerheidsuitvloeisel

(1) Die munisipaliteit mag norme, standaard en riglyne bepaal en publiseer wat toepaslike maatreëls beskryf wat geneem kan word om te voorkom dat stowwe in die rioolvuilwegdoenstelsel gestort word wat-

- (a) gevaarlik is vir die gesondheid van 'n persoon wat in diens is vir die instandhouding of werking van die rioleringsstelsels;
- (b) skadelik kan wees vir die rioolvuilwegdoenstelsel, of
- (c) enige van die prosesse waardeur rioolvuil gewoonlik behandel word of die hergebruik van gesuiwerde afvalwatersuiweringsuitvloeisel of die wegdoen van vaste stowwe wat uit die behandelingsproses ontstaan, nadelig mag beïnvloed;

(2) Die norme, standaard en riglyne beoog in subartikel (1) mag onderskei tussen gemeenskappe, geografiese areas en verskillende soorte persele.

(3) 'n Persoon aan wie toestemming verleen is ingevolge artikel 61(3), moet toesien dat nywerheidsuitvloeisel wat deur hom of haar in die munisipaliteit se rioolvuilwegdoenstelsel gestort word voldoen aan die standaard en vereistes soos bepaal ingevolge subartikel (1.)

HOOFSTUK V: BOU OF INSTALLERING VAN PERSEELRIOLERINGSINSTALLASIES**63. Bou of installering van perseelrioleringsinstallasies**

(1) Enige geboude of geïnstalleerde perseelrioleringsinstallasie moet aan enige toepaslike standaard ingevolge die Bouregulasies en enige standaard deur die Wet voorgeskryf, voldoen.

(2) (a) Waar die perseelrioleringsinstallasie 'n putlatrine is, moet dit van die geventileerde, verbeterde soort putlatrines of van 'n gelykwaardige soort wees met –

- (i) 'n put met 'n minimum inhoudsmaat van 2 m³;
- (ii) voering soos vereis;
- (iii) 'n blad wat ontwerp is om die opgelegde las te kan dra; en
- (iv) beskerming wat moet voorkom dat kinders by die put inval.

- (b) Die geventileerde, verbeterde putlatrine moet aan die volgende vereistes voldoen –
- (i) die put moet geventileer wees deur middel van 'n pyp wat aan die boonste punt verseël is 'n met duursame, insekbestande beskutting wat stewig in posisie geheg is;
 - (ii) die ventilasiepyp moet nie minder nie as 0.5 m bokant die naaste dak uitsteek, moet minstens 150 mm in deursnee wees en moet vertikaal sonder kromming geïnstalleer word;
 - (iii) die binnekant van die kloset moet egalig afgewerk wees ten einde dit in 'n skoon en higiëniese toestand te hou, en die bowerk moet goed geventileer wees ten einde die vry vloei van lug na die binnekant van die put deur die pyp te laat ventileer;
 - (iv) die opening in die blad moet voldoende wees ten einde besoedeling te voorkom; die velling moet verhewe wees sodat vloeistowwe wat gebruik word om die vloeroppervlakte mee te was, nie in die put vloei nie; dit sal van 'n deksel voorsien word ten einde die uittog van vlieë en ander insekte wanneer die toilet nie gebruik word nie, te voorkom;
 - (v) die latrine moet in 'n posisie onafhanklik van die woonstruktuur gelokaliseer wees;
 - (vi) die latrine moet sodanig gelokaliseer wees dat dit toegang bied aan padvoertuie met 'n breedte van 3.0 m ten einde die leegmaak van die put moontlik te maak;
 - (vii) in situasies waar die gevaar van besoedeling van 'n waterdraer vanweë die deurdringbaarheid van die grond bestaan, moet die put uitgevoer word met 'n ondeurdringbare materiaal wat duursaam is en nie onder druk sal kraak nie;
 - (viii) in situasies waar die grond waarin die put uitgegrawe staan te word onstabiel is, moet voldoende stutting voorsien word ten einde instorting van die grond te voorkom;
 - (ix) voldoende toegang tot water bied vir die was van hande.
- (3) By boupersele mag slegs van chemiese toilette gebruik gemaak word, of alternatiewelik mag tydelike spoeltoilette vir werknemers slegs opgerig word by die perseelaansluitingspunt.
- (4) Geen toilet, tydelik of permanent, mag direk bo-op 'n mangat, privaat of munisipaal, opgerig word nie.
- (5) Geen nuwe emmerrioleringsstelsel sal in die munisipale gebied toegelaat word nie.

64. Perseelriool in strate of openbare plekke

Niemand sal vir doeleindes van die afvoer van vuilriool, afkomstig uit watter bron ook al, 'n perseelriool op, in of onder 'n straat, openbare plek of ander grond wat behoort aan of setel in of onder die beheer verkeer van die munisipaliteit, lê of bou nie, behalwe met die voorafverkreë skriftelike toestemming van die munisipaliteit en onderhewig aan sodanige voorwaardes as wat die munisipaliteit mag voorskryf, en slegs na vooraf goedkeuring van 'n bouplan.

65. Serwitute

'n Serwituut moet deur die eienaar geregistreer word wanneer 'n perseelriool oor die grond van 'n ander party loop, en waar omstandighede dit noodsaak, kan die munisipaliteit vereis dat 'n serwituut ook oor sy grond geregistreer word.

66. Bouwerk deur munisipaliteit

Die munisipaliteit mag met die eienaar van enige perseel ooreenkom dat enige rioleringswerk wat sodanige eienaar verlang, of ingevolge hierdie verordening of die Bouregulasies verplig is om te bou, deur die munisipaliteit gebou word teen betaling, vooruit of op aanvraag, van alle onkoste wat met sodanige bouwerk in verband staan. Die onderhoud van enige private of privaat-gekombineerde stelsel bly die verantwoordelikheid van die eienaar.

67. Instandhouding van perseelrioleringsinstallasie

(1) Die eienaar of okkupeerder van enige perseel moet enige perseelrioleringsinstallasie en enige rioolaansluiting op sodanige perseel of in die serwituut wat daarop van toepassing is, in stand hou.

(2) Enige persoon wat die munisipaliteit versoek om 'n perseelrioleringsinstallasie skoon te maak, is aanspreeklik vir betaling van die voorgeskrewe tarief daarvoor.

(3) Op die skriftelike versoek van die eienaar of okkupeerder van 'n perseel, kan die munisipaliteit die perseelrioolinstallasie of enige gedeelte daarvan op die bepaalde perseel inspekteer en toets en die koste verbonde aan sodanige inspeksie en toetsing, soos bereken volgens die spesifieke skaal aangedui in die voorgeskrewe tarief van heffings, van die eienaar of okkupeerder verhaal.

68. Installering van voorbehandelingsfasiliteit

Die munisipaliteit mag vereis dat enige nuwe perseel van 'n minimum-voorafbehandelingsfasiliteit voorsien word, van 'n soort wat deur die munisipaliteit voorgeskryf mag word, voordat daardie perseel aan enige rioolvuilwegdoeningstelsel verbind word; bykomend hiertoe mag die munisipaliteit die installering, op koste van die eienaar, van monsternemers en moniteringstoerusting vir afloopwatergehalte- en volume vereis wat gekoppel moet wees aan die munisipaliteit se telemetriese stelsel, alvorens sodanige perseel aan enige rioolvuilwegdoeningstelsel verbind word.

69. Beskerming teen instroming van vloedwater

Waar 'n perseel op die 1 in 50 jaar-vloedvlakke geleë is, moet die boonste hoogte van die dienstoegangsgate, inspeksiekamers en rioolputte bokant die 1 in 50 jaar-vloedvlaktheogte wees, behalwe in die geval van dienstoegangsgate en inspeksiekamers waarvan die deksel op goedgekeurde wyse in posisie vasgeheg is.

HOOFSTUK VI: HERROEPING EN INWERKINGSTREDE**70. Herroeping van Verordeninge**

Die bepalings van enige verordeninge wat voorheen deur die munisipaliteit of deur enigeen van die ontbinde munisipaliteite wat nou in die munisipaliteit geïnkorporeer is, afgekondig is, word hiermee herroep insoverre hulle betrekking het op sake waarvoor daar in hierdie verordening voorsiening gemaak word en insoverre dit toepaslik gemaak is op die Munisipaliteit deur die magtiging vir die uitvoering van magte en funksies ingevolge Artikel 84(3) van die Wet op Plaaslike Regering: Munisipale Strukture, Wet 117 van 1998.

71. Kort titel en inwerkingtrede

Hierdie verordening heet die Verordening insake Watervoorsiening, Sanitasiedienste en Nywerheidsuitvloei en tree in werking op die datum van publikasie daarvan in die Provinsiale Koerant.

HESSEQUA MUNICIPALITY BY-LAW RELATING TO IRRIGATION WATER

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996 the Hessequa Municipality, enacts as follows:-

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1. Definitions
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4. Prohibited conduct
5. Maintenance of infrastructure
6. Non-liability of municipality
7. Service charges
8. Appeal
9. Penalties
10. Revocation of by-laws
11. Short title and commencement

1. Definitions

“**dry erf**” means an erf other than a water erf;

“**municipality**” means the Municipality of Hessequa, established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, councillor, duly authorized agent or any employee 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;

“**street**” means any street, road, cycle path, thoroughfare or any other place, including –

- (a) the verge of any such road, street or thoroughfare
- (b) any footpath, sidewalk or similar pedestrian portion of a road reserve;
- (c) any bridge, ferry or drift traversed by any such road, street or thoroughfare;
- (d) any other object belonging to such road, street or thoroughfare, which has at any time been –
 - (i) dedicated to the public;
 - (ii) used without interruption by the public for a period of at least thirty years;
 - (iii) declared or rendered such by the municipality or other competent authority, or
 - (iv) constructed by a local authority, and
 - (v) any land, with or without buildings or structures thereon, which is shown as a street on –
 - (aa) any plan of subdivision or diagram approved by the municipality or other competent authority and acted upon, or
 - (bb) any general plan as defined in the Land Survey Act, 1927, registered or filed in a deeds registry or Surveyor General’s office;

unless such land is on such plan or diagram described as a private street;

“**water erf**” means an original water erf, which according to the conditions of sale was entitled to receive irrigation water;

“**water fiscal**” means a person appointed by the municipality to give effect to and to see to the proper administration and implementation of this by-law.

2. Purpose of by-law

The purpose of this by-law is to provide procedures and rules for the provision and management of irrigation water to those properties in Hessequa which are entitled thereto in terms of the conditions of sale thereof.

3. Distribution and availability of irrigation water

The municipality must-

- (a) divide the water erven into blocks for distribution purposes and such distribution will be subject to the availability of water for irrigation purposes;
- (b) compile a statement in writing for each water turn stating the days and hours during which each block shall be entitled to water for irrigation purposes and must post a copy of such statement on the notice board outside the municipal offices, for general information; and
- (c) employ a sufficient number of water fiscals to ensure the division and distribution of water and define the duties of the water fiscals.

4. Prohibited conduct

(1) No person may:

- (a) alter the division of water made by a water fiscal in accordance with the statement referred to in section 3(b);
 - (b) lead water out of an irrigation furrow other than during his turn of water leading;
 - (c) permit irrigation water to run or flow from any other irrigation furrow into or upon his erf or land except during his turn of water leading;
 - (d) obstruct a water fiscal in the execution of his or her duties;
 - (e) scoop or pump by manual or mechanical means water from any public irrigation furrow for the purpose of irrigating any dry erf;
 - (f) wash clothes in the town dam or irrigation furrows or pollute any water in the town dam or in any irrigation furrow;
 - (g) allow poultry or animals to be in any irrigation furrow; or
 - (h) allow water to run from his water erf or portion thereof over or into any street or road.
- (2) A person who contravenes a provision of this section commits an offence

5. Maintenance of infrastructure

- (1) All owners of water erven or any portion thereof must keep clean and in proper order his or her water furrow leading to and past his or her erf or portion thereof as far as it extends along such water furrow other than furrows abutting on streets.
- (2) The municipality must-
 - (a) maintain and keep clean the main furrows supplying water; and
 - (b) maintain and keep clean all irrigation furrows abutting on streets and roads.
- (3) The municipality shall not be responsible for any capital cost in regard to construction or re-construction, cement lining or piping of water furrows other than those contemplated in subsection 2(b);

6. Non-liability of municipality

(1) The municipality shall not be liable for any damages resulting from -

- (a) the non-deliverance of irrigation water for any cause whatsoever;
- (b) the delivery of irrigation water to any water erf or portion thereof other than as set out in the statement referred to in section 3(b) hereof; or
- (c) overflow from any irrigation furrow caused by stormwater flowing in such furrow.

7. Service charges

- (1) An annual service charge per water erf as determined in the municipality's Tariff Policy shall be payable to the municipality.
- (2) The annual service charge shall be divided between the owners of a subdivided water erf based on the proportionate share of the water right attached to each subdivided share.
- (3) Owners of water erven or portions thereof situated above the main furrow, and water erven or portions thereof so built upon as to be unable to lead water thereon, shall be exempt from the annual service charge;

8. Appeal

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

9. 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 both such fine and such imprisonment, and in the case of a successive or continuing offence, to an additional fine or in default of payment thereof, to additional imprisonment for each day on which such offence is continued.

10. Revocation 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, and insofar as it has been made applicable to the municipality by the authorization for the execution of powers and functions in terms of section 84(3) of the Local Government: Municipal Structures Act, Act 117 of 1998.

11. Short title and commencement

This by-law is known as the By-law relating to Irrigation Water, and commences on the date of publication thereof in the Provincial Gazette.

MUNISIPALITEIT HESSEQUA BESPROEIINGSWATERVERORDENING

Kragtens die bepalings van artikel 156 van die Grondwet van die Republiek van Suid-Afrika, 1996, bepaal die Munisipaliteit van Hessequa soos volg:

Inhoudsopgawe

1. Woordomskrywing
2. Doel van Verordening
3. Verspreiding van Besproeiingswater
4. Verbode handelinge
5. Instandhouding van infrastruktuur
6. Nie-aanspreeklikheid van munisipaliteit
7. Diensgeld
8. Appel
9. Boetes
10. Herroeping van verordeninge
11. Kort titel en aanvangsdatum

1. Woordbepaling

“**droë erf**” beteken enige erf behalwe ‘n watererf;

“**munisipaliteit**” beteken die Munisipaliteit van Hessequa, gestig in terme van artikel 12 van die Munisipale Strukture Wet, 117 van 1998, en sluit in enige politieke strukture, politieke ampsdraers, raadslid, behoorlik gemagtige agent of enige werknemer wat optree met betrekking tot hierdie verordening by wyse van ‘n mag gevestig in die Munisipaliteit van Hessequa wat gedelegeer of gesubdeleer is aan sodanige politieke struktuur, politieke ampsdraer, raadslid, agent of werknemer;

“**straat**” beteken enige straat, pad, fietsrypaadjie, deurgangspad of enige ander plek ingesluit: -

- (a) die rand van enige sodanige pad, straat of deurgang;
- (b) enige voetpad, sypaadjie of soortgelyke voetoorgangsgedeelte van ‘n padreserwe;
- (c) enige brug, pont, of drif wat enige bogenoemde pad, straat of deurgangspad deurkruis;
- (d) enige ander deel wat aan die spesifieke pad, straat of deurgangspad behoort, wat op enige tyd –
 - (i) aan die publiek opgedra is;
 - (ii) vir ‘n tydperk van ten minste 30 jaar ononderbroke deur die publiek gebruik is;
 - (iii) as sodanig gebruik of verklaar is deur die betrokke munisipaliteit of enige ander goedgekeurde owerheid; of
 - (iv) aangelê is deur ‘n plaaslike owerheid; en
 - (v) enige grond, met of sonder geboue of strukture daarop, wat aangedui word as ‘n straat op:
 - (aa) enige plan of gedeelte daarvan of diagram wat goedgekeur is deur die betrokke munisipaliteit of enige ander goedgekeurde owerheid en daarvolgens optree, of
 - (bb) enige algemene plan soos uiteengesit in die Landmeterswet, 1927, geregistreer of geliasseer in ‘n Aktereregister by die Landmeter-Generaal se kantoor;

Behalwe indien die betrokke grond aangedui is op die betrokke plan of diagram as ‘n private pad.

“**watererf**” beteken ‘n oorspronklike watererf wat op 15 November 1847 en 14 Februarie 1848 verkoop is, en wat ooreenkomstig die verkoopvoorwaardes geregtig was om besproeiingswater te ontvang;

“**waterfiskaal**” beteken ‘n persoon aangestel deur die munisipaliteit om uitvoering te gee aan die behoorlike administrasie en implementering van hierdie verordening.

2. Doel van die verordening

Die doel van hierdie verordening is om prosedures en reëls vir die voorsiening en instandhouding van besproeiingswater te voorsien aan spesifieke eiendomme in Hessequa wat daarop geregtig is in terme van die voorwaardes van die koop van die spesifieke eiendomme.

3. Die verspreiding van besproeiingswater

Die raad moet -

- (a) die watererwe in blokke vir verspreidingsdoeleindes verdeel en sodanige verspreiding sal afhang van die beskikbaarheid van water vir besproeiing;
- (b) 'n skriftelike staat vir elke waterbeurt opstel waarin die dae en ure gemeld word wanneer elke blok geregtig is om water vir besproeiingsdoeleindes te lei, en 'n kopie van sodanige staat op die kennisgewingbord buite die munisipale kantore vir algemene inligting laat aanplak;
- (c) 'n voldoende aantal waterfiskale in diens neem om die verdeling en verspreiding van die water te verseker, en die pligte van die waterfiskale bepaal;

4. Verbode handelinge

(1) Niemand mag -

- (a) die verdeling van water deur die raad se waterfiskale vasgestel ooreenkomstig die staat gemeld in artikel 3(b), verander nie;
 - (b) water uit 'n besproeiingsvoor lei nie, behalwe gedurende sy waterbeurt;
 - (c) toelaat dat besproeiingswater uit enige besproeiingsvoor in of op sy erf of grond loop of uitvloeï nie, behalwe gedurende sy waterbeurt;
 - (d) 'n waterfiskaal in die uitvoer van sy/haar pligte belemmer nie;
 - (e) water uit enige openbare besproeiingsvoor vir die besproeiing van 'n droë erf uitskep of met die hand of meganies uitpomp nie;
 - (f) klere in die dorpsdam of besproeiingsvore was of enige water in die dorpsdam of in enige besproeiingsvoor besoedel nie;
 - (g) pluimvee of diere in enige besproeiingsvoor toelaat nie;
 - (h) toelaat dat water van sy watererf of gedeelte daarvan oor of op 'n openbare straat of pad loop nie.
- (2) Enige persoon wat 'n bepaling van hierdie artikel oortree pleeg 'n misdryf.

5. Instandhouding van infrastruktuur

- (1) Elke eienaar van 'n watererf of 'n gedeelte daarvan moet sy watervoor wat na en verby sy erf of gedeelte daarvan loop, in 'n skoon en goeie toestand hou vir sover dit langs sodanige watervoor strek, uitgesonderd vore wat aan openbare strate grens.
- (2) Die Munisipaliteit moet:-
 - (a) die hoofvore wat water voorsien instand hou en skoon hou;
 - (b) alle besproeiingsvore aangrensend aan openbare strate en paaie in stand en skoon te hou.
- (3) Die raad is nie aanspreeklik vir enige kapitaalkoste in verband met die konstruksie of rekonstruksie of sementuitvoering van, of die lê van pype in watervore soos genoem in subseksie 2(c) nie.

6. Nie-aanspreeklikheid van die munisipaliteit

- (1) Die munisipaliteit is nie verantwoordelik vir enige skade wat aangerig word as 'n gevolg van -
 - (a) besproeiingswater wat om watter rede ookal nie gelewer word nie;
 - (b) die lewering van besproeiingswater aan enige watererf of gedeelte daarvan op 'n ander wyse as dié uiteengesit in die staat waarna in artikel 3(b) verwys word nie;
 - (c) oorloopwater van enige besproeiingsvoor veroorsaak deur die vloei van stormwater in sodanige besproeiingsvoor nie.

7. Diensgelde

- (1) 'n Jaarlikse diensgeld per watererf, soos voorgeskryf deur die munisipaliteit se Tariefbeleid is aan die munisipaliteit betaalbaar.
- (2) Die jaarlikse geld word onder die verskillende eienaars van onderverdeelde watererf verdeel, gebaseer op die eweredige deel van die waterreg verbonde aan elke onderverdeelde deel.
- (3) Eienaars van watererwe of gedeeltes daarvan geleë bo die hoofvoor, en watererwe of gedeeltes daarvan wat so bebou is dat die lei van water daarop nie moontlik is nie, word vrygestel van die betaling van die jaarlikse geld.

8. Appèl

Enigiemand wie se regte deur 'n besluit wat in verband met hierdie verordening deur die munisipaliteit geneem is, geraak word, kan ingevolge artikel 62 van die Wet op Plaaslike Regering : Munisipale Stelsels, Wet 32 van 2000, teen sodanige besluit appelleer deur binne 21 dae van die datum van die kennisgewing van die besluit skriftelike kennis van die appèl en redes aan die Munisipale Bestuurder te gee.

9. Misdrywe

'n Persoon wat 'n misdryf ingevolge hierdie verordening pleeg is by skuldigbevinding daaraan strafbaar met 'n boete, of by wanbetaling daarvan met gevangenisstraf, of tot beide sodanige boete en gevangenisstraf en in die geval van 'n voortdurende misdryf, tot 'n addisionele boete of addisionele gevangenisstraf vir elke dag waarop sodanige misdryf voortduur.

10. Herroeping van verordeninge

Die bepalinge van enige verordening voorheen afgekondig deur die munisipaliteit of enige van die afgeskafte munisipaliteite wat nou deel is van die munisipaliteit van Hessequa, word hiermee herroep insover dit sake aangaan waarvoor daar in hierdie verordening voorsiening gemaak word, en insover dit van toepassing is op die munisipaliteit deur die goedkeuring vir die uitvoering van magte en funksies in terme van arikel 84(3) van die Plaaslike Owerheid: Munisipale Strukturewet,(Wet, Wet 117 van 1998.)

11. Kort titel en aanvangsdatum

Hierdie verordening staan bekend as die Besproeiingswaterverordening en sal in werking tree op die datum van publikasie daarvan in die Provinsiale Koerant.

**HESSEQUA MUNICIPALITY
BY-LAW RELATING TO PUBLIC BUSES AND TAXIS**

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996, the Hessequa municipality, enacts as follows:-

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5. Use of taxi ranks
6. General provisions relating to taxis and taxi drivers
7. Presumption
8. Penalties
9. Liaison forums in community
10. Exemptions
11. Repeal
12. Short title and commencement

1. Definitions

In this by-law, unless the context otherwise indicates –

“**bus stop**” means any place designated or area demarcated by a road traffic sign as a bus stop or for the exclusive stopping of buses;

“**Chief Traffic Officer**” means the person appointed as such by the Council, or any other person legally acting in that capacity, and any officer appointed a traffic officer and authorized by the Chief Traffic Officer to implement the provisions of this by-law;

“**driver**” in relation to a taxi, means any person who is in control of or who operates a taxi and who is in the employment of the proprietor of such taxi;

“**municipality**” means the Municipality of Hessequa, established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, councillor, duly authorized agent or any employee 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;

“**ply for hire**” means to use a motor vehicle for conveying passengers for hire or reward or to make a motor vehicle available at any place for the purpose of conveying passengers;

“**proprietor**” in relation to any taxi, means the owner of a taxi which is registered as such in an area and who conducts business by conveying passengers for reward;

“**taxi rank**” means a place designated by a road traffic sign or an area approved by the Council and demarcated as a taxi rank; and

“**taxi**” means a public motor vehicle (other than a public bus) used for the conveyance of passengers, or of passengers and such passengers’ goods, for reward.

2. Purpose of by-law

(1) The purpose of this by-law is to promote the safety of passengers making use of public transport and to provide procedures, methods and practices for the management thereof.

(2) Subject to any law and the provisions of section 10, it is the intention of the municipality to make public transport facilities available to all forms of public transport.

3. Stopping of public buses

No person, other than a traffic officer or any other authorized officer, shall, except in the case of an emergency, stop a public bus for the purpose of permitting passengers to board or alight from such bus at any place other than a bus stop.

4. Boarding and alighting from public buses

No person, other than a traffic officer or any other authorized officer, shall, except in the case of an emergency, board or alight from a public bus at any place other than a bus stop unless directed to do so by the driver or conductor thereof.

5. Use of taxi ranks

(1) The driver of a taxi shall, when plying for hire at a taxi rank, place his taxi in the first vacant place available on such taxi rank.

(2) No person shall park or stop a taxi which is not in good working order in a taxi rank or cause or permit such taxi to remain in a taxi rank.

6. General provisions relating to taxis and taxi drivers

(1) No person shall ply for hire with a taxi which is not in a good state of repair, clean and of a neat and presentable appearance.

(2) No driver of a taxi shall –

- (a) stand or wait with his taxi in a public street or public place when not hired or plying for hire except in the taxi rank; and
- (b) prevent or attempt to prevent the driver of any other taxi from lawfully obtaining or conveying passengers; and
- (c) ply for hire with a taxi in an area which is exclusively reserved for buses.

7. Presumption

If in any prosecution under this by-law it is proved that a person has conveyed passengers in a motor vehicle on a public road, it shall be presumed, until the contrary is proved, that he so conveyed such passengers for reward.

8. Penalties

Any person who contravenes or fails to comply with any provision of this by-law shall be guilty of an offence and liable on conviction to a fine or imprisonment, or such fine as well as such imprisonment.

9. Liaison forums in community

(1) The municipality may establish liaison forums in a community for the purposes of encouraging a local community to participate in the implementation, development and enforcement of this by-law; and

(2) The forums contemplated in sub-section (1) may consist of-

- (a) a member or members of an interest group or an affected person or community;
- (b) a designated official or officials of the municipality; and
- (c) a councillor from the relevant council committee.

(3) The municipality may, in the implementation and enforcement of this by-law-

- (a) request the input of a forum;
- (b) employ any skills or capacity that may exist in such a forum.

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

10. Exemptions

Notwithstanding the provisions of this by-law, the municipality may, on written application, exempt any person or class of persons from any or all of the requirements of this by-law and in considering such exemption it may impose any conditions or requirements it deems appropriate.

11. Repeal

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, and insofar as it has been made applicable to the municipality by the authorization for the execution of powers and functions in terms of section 84(3) of the Local Government: Municipal Structures Act, Act 117 of 1998.

12. Short title and commencement

This by-law shall be known as the By-law relating to Public Buses and Taxi's and shall come into operation on the date of publication thereof in the Provincial Gazette.

**HESSEQUA MUNISIPALITEIT
VERORDENING RAKENDE OPENBARE BUSSE EN TAXI'S**

Ingevolge Artikel 156 van die Grondwet van die Republiek van Suid-Afrika, 1996, bepaal die Hessequa Munisipaliteit soos volg:-

Inhoudsopgawe

1. Woordomsrywings
2. Doel van verordening
3. Die stop van openbare busse
4. In klim op en af klim van openbare busse
5. Gebruik van taxi-staanplekke
6. Algemene bepalings met betrekking tot taxi's en taxibestuurders
7. Aannee
8. Strafbepalings
9. Gemeenskaps-skakelforums
10. Uitsonderings
11. Herroeping
12. Kort titel en inwerkingtreding

1. Woordomsrywings

In hierdie verordening, tensy die inhoud daarvan anders aandui, beteken –

“**bestuurder**”, met betrekking tot ‘n taxi, enige persoon in beheer of die bestuurder van ‘n taxi wat in diens is van die eienaar van sodanige taxi;

“**bushalte**” enige aangewese plek of afgebakende terrein wat deur ‘n padverkeerstekende aangedui word as ‘n bushalte of uitsluitlik vir die stilhou van busse;

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

“**Hoof Verkeersbeampte**” die persoon as sodanig aangestel deur die Raad, of enige ander persoon wat wettig waarneem in daardie hoedanigheid, en enige amptenaar deur die Hoof Verkeersbeampte daartoe gemagtig om die bepalinge van hierdie verordening toe te pas;

“**munisipaliteit**” beteken die Hessequa Munisipaliteit, ingestel kragtens artikel 12 van die Munisipale Strukturewet, 117 van 1998, en sluit in enige politieke struktuur, politieke ampsdraer, raadslid, behoorlik gemagtigde agent of enige amptenaar wat ingevolge hierdie verordening handel kragtens ‘n bevoegdheid van die munisipaliteit wat gedelegeer is of gesubdelegeer is aan sodanige politieke struktuur, politieke ampsdraer, raadslid, agent of amptenaar;

“**taxi**” ‘n openbare voertuig (anders as ‘n openbare bus) wat aangewend word vir die vervoer van passasiers, of van passasiers en sodanige passasiers se bagasie, teen vergoeding;

“**taxi-staanplek**” ‘n plek aangedui deur ‘n padverkeerstekende of ‘n terrein soos goedgekeur deur die munisipaliteit en afgebaken as ‘n taxi-staanplek; en

“**vervoer teen huur aanbied**” om teen vergoeding ‘n voertuig vir verhuring aan te wend vir die vervoer van passasiers, of om ‘n voertuig beskikbaar te stel op enige plek vir die doel om passasiers te vervoer;

2. Doel van die verordening

(1) Die doel van hierdie verordening is om die veiligheid van passasiers wat van openbare vervoer gebruik maak, te bevorder en om voorsiening te maak vir prosedures, metodes en praktyke vir die beheer daarvoor.

(2) Onderhewig aan enige wetgewing en die bepalings van artikel 10, is dit die bedoeling van die munisipaliteit om openbare vervoerfasiliteite beskikbaar te stel vir alle vorme van openbare vervoer.

3. Die stop van openbare busse

Geen persoon, met die uitsondering van 'n verkeersbeampte of enige ander gemagtigde beampte, mag, behalwe in 'n noodsituasie, 'n openbare bus stop met die doel om passasiers te laat inklim op of afklim van so 'n bus op enige ander plek as 'n bushalte nie.

4. Inklim op en afklim van openbare busse

Geen persoon, met die uitsondering van 'n verkeersbeampte of enige ander gemagtigde beampte, mag, behalwe in 'n noodsituasie, inklim op of afklim van 'n openbare bus by enige plek anders as 'n bushalte nie tensy in opdrag van die bestuurder of kondukteur.

5. Gebruik van taxi-staanplekke

(1) Die taxi -bestuurder sal, wanneer hy sy taxi vir verhuuring aanbied by 'n taxi -staanplek, sy voertuig in die eerste beskikbare vakante parkeerplek by sodanige taxi -staanplek parkeer.

(2) Geen persoon mag 'n taxi wat nie in 'n goeie werkende toestand is nie, in 'n taxi -staanplek parkeer of stop of toelaat dat sodanige 'n taxi in 'n taxi-staanplek bly nie.

6. Algemene bepalings met betrekking tot taxi's en taxibestuurders

(1) Geen persoon mag 'n taxi vir vervoerdoeleindes aanbied wat nie in 'n goeie werkende toestand is en skoon, netjies en aanvaarbaar vertoon nie.

(2) Geen taxibestuurder mag-

(a) met sy taxi staan of wag in 'n openbare straat of openbare plek wanneer dit nie verhuur is of vir verhuuring aangebied word nie behalwe in die taxi -staanplek; en

(b) die bestuurder van enige ander taxi verhoed of poog om die bestuurder van enige ander taxi te verhoed om wettiglik passasiers te bekom of te vervoer nie; en

(c) 'n taxi aanbied vir verhuuring in 'n gebied wat uitsluitlik gereserveer is vir busse nie.

7. Aanname

Indien daar met enige vervolging in terme van hierdie verordening bewys word dat 'n persoon passasiers in 'n voertuig op 'n openbare pad vervoer het, sal daar, totdat die teendeel bewys is, aanvaar word dat hy sodanige passasiers vervoer het teen vergoeding.

8. Strafbepalings

Enige persoon wat enige van die bepalings van hierdie verordening oortree of versuim om daaraan te voldoen begaan 'n oortreding en kan, by skuldigbevinding, 'n boete of gevangenisstraf, of 'n boete sowel as gevangenisstraf, opgelê word.

9. Gemeenskaps-skakelforums

(1) Die munisipaliteit mag skakelforums in die gemeenskap tot stand bring met die doel om die plaaslike gemeenskap aan te moedig tot deelname aan die implementering, ontwikkeling en afdwing van hierdie verordening; en

(2) Die forums soos bedoel in sub-artikel (1) kan bestaan uit –

(a) 'n lid of lede van 'n belangegroep of 'n geaffekteerde persoon of gemeenskap;

(b) 'n aangewese amptenaar of amptenare van die munisipaliteit; en

(c) 'n raadslid van die betrokke raadskomitee.

(3) Die munisipaliteit mag, tydens die implementering en afdwinging van hierdie verordening –

(a) versoek dat 'n forum insette lewer;

(b) enige vaardighede of vermoëns wat in so 'n forum mag bestaan, aanwend.

(4) 'n Forum, of 'n persoon of persone soos bedoel in sub-artikel (2), mag op eie inisiatief insette vir oorweging aan die munisipaliteit voorlê.

10. Uitsonderings

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

11. Herroeping

Die bepalinge van enige verordeninge wat voorheen deur die munisipaliteit of enige van die ander ontbinde munisipaliteite wat tans by die munisipaliteit ingelyf is, uitgevaardig is word hiermee herroep in soverre hulle verband hou met aangeleenthede waarvoor hierdie verordening voorsiening maak, en in die mate waartoe dit van toepassing gemaak is op die munisipaliteit ingevolge artikel 84(3) van die Wet op Plaaslike Regering: Munisipale Strukture, Wet 117 van 1998.

12. Kort titel en inwerkingtreding

Hierdie verordening sal bekend staan as die Verordening rakende Openbare Busse en Taxi's en sal in werking tree op die datum van publisering daarvan in die Provinsiale Koerant.

HESSEQUA MUNICIPALITY
BY-LAW RELATING TO PREVENTION OF PUBLIC NUISANCES AND PUBLIC
NUISANCES ARISING FROM THE KEEPING OF ANIMALS

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996 the Hessequa Municipality enacts as follows:-

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1. Definitions

In this by-law, unless the context otherwise indicates –

“**agent**”, in relation to the owner of a property, means a person appointed by the owner of the property-

- (a) to receive rental or other payments in respect of the property on behalf of the owner; or
- (b) to make payments in respect of the property on behalf of the owner;

“**animal**” means any equine, bovine, sheep, goat, poultry, camel, dog, cat, or other domestic animal or bird, or any wild animal or reptile which is in captivity or under the control of a person, or insects such as, but not limited to, bees which is kept or under control of a person, but excluding any pet;

“**bird**” means a pigeon, peafowl, pheasant, partridge, canary, budgerigar, parrot, ostrich and any other domesticated bird or wild bird which is in captivity or under control of a person;

“**cattery**” means any establishment where cats are bred or boarded;

“**district municipality**” means the Eden District Municipality 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;

“**drunk**” means a person who, by 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;

“**kennel**” means any establishment that has as its business the breeding, training or boarding of dogs and includes pounds whether operated by the State or otherwise;

“**municipality**” means the Hessequa Municipality 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 or any employee 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;

“**municipal manager**” is the person appointed by the municipality in terms of Section 82 of the Municipal Structures Act, Act 117 of 1998, and includes a person –

- (a) acting in such position; and
- (b) to whom the municipal manager has delegated any power, function or responsibility;

“**owner**” –

- (a) in relation to an animal, includes the person having the possession, charge, custody or control of such animal;
- (b) in relation to property includes an occupier, lessee, servitude holder, trustee, executor, curator or assignee, agent or administrator of such property;

“**pet**” means a tame animal which is kept in a household;

“**pet parlour**” means an establishment where pets are groomed;

“**pet shop**” means an establishment where pets are kept for trading purposes;

“**poultry**” means any fowl, goose, ostrich, duck, pigeon, dove, turkey, muscovy, guinea-fowl, peacock or peahen or bird whether domesticated or wild;

“**premises**” means –

- (a) land or a portion of land, including a public place, whether or not a building or structure has been constructed or erected on such land or portion thereof; or
- (b) a building, structure, tent or caravan and the land on which it is situated and includes any vehicle, carriage, ship or boat;

“**public nuisance**” means any act or omission or condition on any premises or public place, including any building, structure or growth thereon, which is offensive or dangerous, or which materially interferes with the ordinary comfort, convenience, peace or quiet of other people or which adversely affects the safety of people, and “**nuisance**” has the same meaning;

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

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

“**responsible authority**” means the Hessequa Municipality or any national or provincial department that may in terms of its powers and functions impose conditions or restrictions in respect of the keeping of animals;

“**street**” means any road, street or thoroughfare or any section or part thereof which is commonly used by the public or to which the public has a right of access;

“**structure**” means any container, stable, shed, pigsty, kraal, aviary, paddock, covering structure, poultry house, enclosure, run, loft or building used for human shelter, business purposes or the keeping or enclosing of animals.

2. Objectives and application of by-law

- (1) The municipality, aware of the constitutional right of every person to an environment that is not harmful to his or her health or well-being, adopts this by-law with the aim of protecting and promoting the health and well-being of all people in the Hessequa area by fostering an environment in which the public in general may enjoy peaceful and harmonious living conditions.
- (2) In the implementation of this by-law, the municipality also recognises the infrastructural, social and economical disparities and inequalities resulting from the previous local government dispensation and shall strive to overcome such disparities and inequalities by supporting the new goals for local government as laid down in section 152 of the Constitution.
- (3) Sections 4(1), 14(1), 15(1), and 21(1) do not apply to –
 - (a) premises which are legally used for bona fide agricultural purposes; or
 - (b) premises identified by the municipality where the keeping of animals or the operation of pet parlours, pet shops or catteries and kennels is permitted and indicated as such in an approved spatial development framework and zoning scheme.
- (4) A person who keeps animals on premises contemplated in subsection (3) is not exempt from the provisions relating to the inception or bringing about of a public nuisance.

CHAPTER 1 GENERAL PROVISIONS RELATING TO PUBLIC NUISANCES

3. Behaviour and conduct

- (1) No person may –
 - (a) do work on or use any premises in such a manner that it interferes with the convenience or comfort of other people or that it becomes a source of danger to any person;
 - (b) subject to any approval in terms of the relevant Town Planning Scheme Regulations, carry on any trade, business, profession or hobby which causes discomfort or annoyance to other people;
 - (c) deposit, leave, spill, drop or place any fruit or vegetable peels, broken bottles, glass, refuse, building rubble, garden refuse or thing which is offensive or likely to cause annoyance, danger or injury to persons;
 - (d) allow the fencing of any premises to fall into a state of disrepair or to become unsightly or dilapidated;
 - (e) allow any building or structure or any portion thereof to fall into a dilapidated, neglected or unsightly state;
 - (f) use any stoep, verandah or alley of any shop or business premises or vacant land adjoining such shop or business premises for the purpose of storing, stacking, dumping, disposing, displaying or keeping articles or merchandise;
 - (g) enclose any stoep or verandah of any shop or business premises by any means otherwise than by such means as approved by the municipality;
 - (h) disturb the comfort, convenience, peace or quiet of other people by the use of electrical appliances or machinery whether malfunctioning or not;
 - (i) befoul, misuse or damage public toilets;
 - (j) carry or convey in any street or public place, any objectionable material- or thing, which is or may become offensive or dangerous, unless such material or thing is suitably covered;
 - (k) allow any erf to be overgrown to such an extent that it may be used as a shelter by vagrants, wild animals or vermin or may threaten the safety of any member of the community;
 - (l) erect, or allow to be erected or use on any premises any structure in a manner that causes a nuisance to people; or
 - (m) by an action allow that a nuisance be created or continued;
 - (n) bathe or wash him- or herself or any animal, article or clothing in a public stream, pool, water trough, hydrant, fountain or at any place which has not been set aside by the municipality for such purpose;
 - (o) at any time disturb the public peace by making unseemly noises in any manner whatsoever;
 - (p) cause a nuisance by-
 - (i) loitering in any street or public place;
 - (ii) being drunk or under the influence of drugs;

- (iii) soliciting or importuning any person for the purposes of prostitution or any other immoral act;
 - (iv) continuing to beg from a person or closely follow a person after such person has given a negative response to such begging;
 - (v) playing loud music or the use of music instruments on any premises;
 - (q) advertise wares or services by means of any megaphone, loudspeaker, or similar device or by insistent shouting, striking of gongs, blowing of horns or ringing of bells;
 - (r) in any street or public place use any abusive or threatening language;
 - (s) cleanse or wash any vehicle or part in any street or public place;
 - (t) discharge any fire-arm, airgun or air pistol on any premises except premises or land zoned for agricultural purposes and which does not form part of a general plan for a township.
- (2) (a) In the event of a contravention of section 3(1)(a) to (m), the municipality may issue a notice on the owner, occupier or alleged offender to terminate the action or to abate the nuisance created. In the event of non-compliance with such order and without prejudice to the municipality's right to prosecute, the municipality may take the necessary steps to remove the cause or source of the nuisance and any costs incurred in connection therewith may be recovered from the person responsible for the nuisance or the owner or occupier of the premises whether or not such owner or occupier is responsible therefore.
- (b) Where any vacant or developed premises or land in the vicinity of a street is used by unauthorised persons or where any of the materials or things mentioned in subsection (1)(c) are dumped or deposited on such premises, the municipality may serve a written notice on the owner or occupier requiring him or her to enclose or fence it in to its satisfaction by a date specified in the notice. Every such enclosure or fence must be so constructed that it will effectively prevent the entry of unauthorised persons and the dumping of materials and things.
- (3) For the application of this by-law, any action or condition on any premises that endangers the safety of any person or property or which is untidy, annoying, troublesome, offensive or disturbing to the peace of other people, shall be considered a public nuisance.
- (4) Any person who contravenes or fails to comply with any provisions of this section or fails to comply with any notice lawfully given there under is guilty of an offence.

CHAPTER 2

GENERAL PROVISIONS RELATING TO KEEPING OF ANIMALS

4. Permission to keep animals

- (1) No person may keep or permit to be kept on any premises any animals, excluding pets, without the written permission of the municipality.
- (2) Any person who applies for a permit to keep a wild animal must, when submitting an application contemplated in subsection (1), furnish the municipality with a captivity permit issued by the Department of Economic Affairs, Environment and Tourism.
- (3) The municipality may determine the number of bee hives, as well as the kind, number and gender of animals that may be kept and the areas within which the keeping of such animals will be prohibited.
- (4) In order to consider an application in terms of subsection (1), the municipality may obtain the input or comments of the owners or occupants of surrounding premises.
- (5) A person who contravenes subsection (1) or who fails to comply with a determination in subsection (3) commits an offence.

5. Plans for structures and management

The municipality may require from applicants who apply to keep animals that they must submit an application form and a detailed site plan according to specifications set by the municipality.

6. Consideration of application and imposition of conditions

- (1) The municipality may, after consideration of –
- (a) the input or comments obtained in terms of section 4(3);
 - (b) the location, geographical features or size of the premises in respect of which the application is submitted;

- (c) the documents and site plans submitted in terms of section 5; or
 - (d) any other information relating tot the application including, but not limited to, grazing, fencing, availability of water, etc. refuse to grant consent or grant consent.
- (2) Where consent is refused, the municipality must furnish the applicant with the reasons for such refusal and at the same time advise him or her of the right of appeal in terms of section 27.
- (3) Where consent is granted, the municipality may impose conditions.

7. Visibility of structures on premises

- (1) All structures in which animals are kept must be suitably screened from any street.
- (2) A person who fails to comply with subsection (1) commits an offence.

8. Wavering of requirements and withdrawal of authorisations

The municipality may after considering conditions particular to the property and provided that no objection is received from the owners or occupants of surrounding premises, waive any or all of the requirements of this part and impose other conditions and may withdraw any consent granted in terms of section 6(3) if any of the conditions imposed are not adhered to.

9. Validity of authorisations

All authorisations to keep animals granted in terms of any by-law or regulation repealed are deemed to have been granted in terms of this by-law.

10. Duties of owner or keeper of animal

- (1) The owner or keeper of an animal –
- (a) may not cause or allow an animal to interfere with the comfort, convenience, peace or quiet of other people;
 - (b) must provide such animal with shelter, water and proper food ;
 - (c) must maintain the premises on which an animal is kept in good repair and in a neat condition in order to prevent the occurrence of a public nuisance; and
 - (d) must exercise control over his or her animals in order to prevent damage to property or gardens;
 - (e) may not leave or allow any animal to be on any section of a public road or leave such animal in a place from where it may stray onto such section of a public road.
- (2) A person who contravenes a provision of subsection (1) commits an offence.

11. Animals kept in unsatisfactory manner

- (1) Whenever animals kept on any premises are a public nuisance, the municipality may by written notice require the owner or occupier of such premises to remove the cause of and to abate such nuisance.
- (2) The municipality may prescribe the steps that need to be taken or the work that must be done to remove the cause of and to abate any nuisance.
- (3) Any activities undertaken by the owner in terms of a notice contemplated in subsection (1) will be for such owner's own account.
- (4) If an owner fails to comply with a notice issued in terms of subsection (1) the municipality may take the steps required and recover the cost thereof from such owner.
- (5) A person who fails to comply with a notice contemplated in subsection (1) commits an offence.

12. Destruction of animals

- (1) The municipality may order the euthanization or destruction of an animal which is –
- (a) dangerous or ferocious; or
 - (b) injured or diseased to such an extent that it would be humane to do so.
- (2) An animal to be destroyed in terms of subsection (1) must be euthanized by a registered veterinary surgeon or destroyed with such instruments or appliances and in such a manner as to inflict as little suffering as possible.
- (3) A person who fails to comply with an order contemplated in subsection (1) or who contravenes subsection (2) commits an offence.

13. Hawking of animals

- (1) No person may hawk an animal in a street or public place or from a movable structure or vehicle.
- (2) A person who contravenes subsection (1) commits an offence.

CHAPTER 3**PROVISIONS RELATING TO KEEPING OF DOGS, CATS AND PETS*****Part 1 – General Provisions relating to dogs, cats and pets*****14. Number of dogs and cats**

- (1) Subject to the provisions of section 15, no person may, without the permission of the municipality, keep on any premises –
 - (a) more than two dogs; and
 - (b) more than two cats.
- (2) An application for permission in terms of subsection (1) must be submitted on an application form obtainable from the municipality and must contain an exposition of the breed, gender and number of dogs or cats applied for.
- (3) A restriction imposed under section 17 on the number of animals that may be kept on premises does not apply for a period of 10 weeks after the birth of a litter from an animal kept in terms of a permit.
- (4) A person who contravenes subsection (1) commits an offence.

15. Breeders of dogs and cats

- (1) A breeder of dogs or cats who wishes to keep more than two dogs or cats must obtain permission from the municipality.
- (2) The municipality may require the submission of plans and specifications of structures in which it is proposed to keep the dogs or cats as well as a site plan indicating all existing or proposed structures and fences on the premises.
- (3) A person who fails to obtain the permission of the municipality as required in subsection (1) commits an offence.

16. Breeders of pets

- (1) A person who breeds pets must obtain the approval of the municipality.
- (2) The provisions of section 15(2) are with the necessary adjustment applicable to an application in terms subsection (1).
- (3) A person who contravenes subsection (1) commits an offence.

17. Conditions and restrictions

The municipality's consent in terms of sections 4, 14(1), 15(1) and 16(1) may be subject to any conditions that the municipality, in consultation with another responsible authority, may deem fit to impose.

18. Withdrawal of permission

- (1) Where a person contravenes or fails to adhere to a condition or restriction set in terms of section 17, the municipality may, after hearing that person, withdraw its consent and may order the removal of animals from the premises for care and safekeeping by an animal welfare organisation or pound.
- (2) Any costs incurred by the municipality for the removal and safekeeping of animals in terms of subsection (1), will be recovered from the owner or keeper of such animals.

19. Dogs or cats in streets or public places

- (1) Subject to the provisions of the Public Amenities By-law, the owner or keeper of a dog or cat may not bring or allow it in a street or public place unless the dog is on a leash or the cat is under physical control.
- (2) Except in the event of a blind person being lead by a guide dog, a person in charge of a dog in a street or public place, must remove any faeces left by the dog by wrapping it in paper or plastic and disposing of it in a receptacle provided for litter or refuse.
- (3) A person who contravenes any of the provisions of subsection (1) or (2) commits an offence.

Part 2 – Specific provisions relating to dogs

20. Control of dogs

- (1) No person who owns or keeps a dog may –
- (a) permit a bitch on heat to be in a street or public place without supervision;
 - (b) urge a dog to attack, worry or frighten any person or animal unless in self-defence;
 - (c) keep a dog if the premises is not adequately fenced to keep such dog inside when it is not on a leash; or
 - (d) permit a dog –
 - (i) to trespass on private property;
 - (ii) to constitute a hazard to traffic using any public road;
 - (iii) to constitute source of danger or injury to a person outside the premises on which such dog is kept; or
 - (iv) to be a source of danger to employees of the municipality entering such premises for the purpose of carrying out their duties. A notice to the effect that a dog is kept must be displayed in a conspicuous place.
 - (e) keep any dog which interferes materially with the comfort, convenience, peace or quiet of neighbours by–
 - (i) barking, yelping, howling or whining;
 - (ii) charging any vehicles, animals, poultry, pigeons or persons outside any premises where it is kept; or
 - (iii) by behaving in any other manner.
- (2) The municipality may seize and impound a dog which is found in a street or public place in contravention with the provisions of this by-law.
- (3) A dog impounded in terms of subsection (2) may be released to the owner upon payment of a fee determined by the municipality.
- (4) A person who contravenes a provision of subsection (1) commits an offence.

**CHAPTER 4
DOG KENNELS, CATTERIES, PET SHOPS
AND PET PARLOURS**

21. Permission to operate

- (1) No kennel, cattery, pet shop or pet parlour may be operated without the permission of and subject to conditions imposed by the municipality.
- (2) The person operating a kennel, cattery, pet shop or pet parlour may not conduct the business in such a manner so as to cause any nuisance or annoyance to other people.
- (4) A person who contravenes subsection (1) or (2) commits an offence.

**CHAPTER 5
CO-OPERATION BETWEEN MUNICIPALITIES**

22. Service delivery agreements

In order to achieve optimal service delivery in terms of this by-law, the municipality may enter into agreements with the district municipality with which legislative and executive powers is shared.

23. Powers of municipality in case of omission by District Municipality

If the service delivery referred to in section 22 is impeded by the refusal or omission by the district municipality to execute any of the arrangements envisaged in an agreement in terms of section 22 the municipality may, subject to the principles of cooperative government as set out in section 41 of the Constitution of the Republic of South Africa, 1996, proceed to give effect to such arrangement and any expenses incurred by the municipality in giving effect to such an arrangement may be recovered from the district municipality.

CHAPTER 6 GENERAL PROVISIONS

24. Right of entry and inspection

- (1) Any duly authorised employee of the municipality is authorised to inspect any premises within the municipal area in order to determine whether there is compliance with the provisions of this by-law; provided that a private dwelling may not be entered for routine inspection purposes.
- (2) When entering premises in terms of subsection (1), the employee must on request by any person, identify him- or herself by producing written proof of authorisation.
- (3) The authorised employee may be accompanied by a person reasonably required to assist in conducting the inspection.
- (4) Any person who fails to give or refuses access to any authorised official, or obstructs or hinders him or her in the execution of his or her duties under this by-law, or who fails or refuses to give information that he or she may lawfully be required to give to such official, or who gives false or misleading information knowing it to be false or misleading, commits an offence.

25. Service of documents and process

- (1) Whenever a notice, order, demand or other document is authorised or required to be served on a person in terms of this by-law, it shall be deemed to have been effectively and sufficiently served on such person –
 - (a) when it has been delivered to him personally;
 - (b) when it has been left at his place of residence or business in the Republic with a person apparently over the age of sixteen years;
 - (c) when it has been posted by registered or certified mail to his last known residential or businesses address in the Republic and an acknowledgment of the posting thereof is produced;
 - (d) if his address in the Republic is unknown, when it has been served on his agent or representative in the Republic in the manner provided by paragraph (a), (b) or (c); or
 - (e) if his address and agent in the Republic are unknown, when it has been posted in a conspicuous place on the immovable property (if any) to which it relates.
- (2) When any notice, order, demand or other document is authorised or required to be served on a person, it is not necessary to name him or her but it will be sufficient if he or she is described as the owner, occupier or holder of a right.

26. Transitional provisions

A person who, at the commencement of this by-law, owns a larger number of animals than the number contemplated in section 4(2) may not replace animals that die or are disposed of and must gradually reduce the number of animals that may be kept.

27. Appeal

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

28. Penalties

A person who has committed an offence in terms of this by-law is, on conviction, and subject to penalties prescribed in any other law, 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 and a further amount equal to any costs and expenses incurred by the municipality as result of any contravention.

29. Exemptions

Notwithstanding the provisions of this by-law, the municipality may exempt any person and class of persons from any or all of these requirements and may impose any other requirements it deems appropriate.

30. 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; and
 - (b) promoting a safe and healthy environment;
- (2) A liaison forum may consist of –
- (a) a member of members of an interest group, or an affected person;
 - (b) a designated official or officials of the municipality; and
 - (c) a councillor.
- (3) (a) the municipality may, when considering an application for an approval, or exemption certificate 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.

31. 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, and insofar as it has been made applicable to the municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Local Government: Municipal Structures Act, Act 117 of 1998.

32. Short title and commencement

This by-law is called the Prevention of Public Nuisances and Keeping of Animals By-law and will come into operation on the date of publication thereof in the Provincial Gazette.

**HESSEQUA MUNISIPALITEIT:
VERORDENING INSAKE OPENBARE OORLASTE EN OORLASTE WAT SPRUIT UIT DIE
AANHOU VAN DIERE**

Kragtens die bepalings van artikel 156 van die Grondwet van die Republiek van Suid-Afrika, 1996, verorden die Hessequa Munisipaliteit as volg:-

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32. Kort titel en inwerkingtrede

1. Woordoms krywing

In hierdie verordening en tensy dit uit die samehang anders blyk, beteken: -

“agent” in verband met die eienaar van eiendom, beteken ‘n persoon wat deur die eienaar aangestel is om -

- (a) huur of ander betalings ten opsigte van die eiendom namens die eienaar te ontvang; of
- (b) om betalings namens die eienaar ten opsigte van die eiendom te maak;

“dier” ’n lid van die perdefamilie, bees, skaap, bok, vark, pluimvee, kameel, hond, kat of ander huisdier of voël of ’n wilde dier of reptiel wat in gevangenskap verkeer of onder die beheer van iemand is, of insekte soos, maar nie beperk tot, bye wat deur ’n persoon aangehou of beheer word, maar uitgesluit enige troeteldier;

“voël” enige duif, pou, fisant, patrys, kanarie, budjie, papegaai, volstruis en enige ander mak of wilde voël wat in gevangenskap is of onder beheer van iemand is;

“kattery”, enige inrigting waar katte geteel word of aangehou word;

“distriksmunisipaliteit” die Kaapse Wynland Distriksmunisipaliteit gestig in terme van Artikel 12 van die Munisipale Strukturewet, 117 van 1998, Provinsiale Kennisgewing 486 van 200 gedateer 22 September 2000, soos gewysig per Provinsiale Kennisgewing 162 gedateer 20 Augustus 2004, en sluit in enige politieke struktuur, politieke ampsbekleeder, raadslid, behoorlik gevolmagtigde agent daarvan of enige werknemer daarvan handelende ingevolge hierdie verordening uit hoofde van ’n bevoegdheid van die munisipaliteit wat gedelegeer of gesubdelegeer is aan gemelde politieke struktuur, politieke ampsbekleeder, raadslid, agent of werknemer;

“dronk” ’n persoon wat weens die alkohol wat hy of sy ingeneem het beheer oor sy of haar geestes- of fisiese vermoëns, of beide, tot so ’n mate verloor het dat hy of sy nie in staat is om hom- of haarself te gedra nie, of nie in staat is om enige handeling waarmee hy of sy besig is op so ’n wyse te verrig dat dit nie ’n gevaar vir hom- of haarself inhou nie of met daardie agting vir die regte van ander soos deur die reg vereis word nie;

“hondeherberg”, enige inrigting waarvan die besigheid die teel, aanhou of afrigting van honde is insluitend skutte hetsy dit deur die Staat of andersins bedryf word;

“munisipaliteit” die Hessequa Munisipaliteit gestig in terme van Artikel 12 van die Munisipale Strukturewet, 117 van 1998, Provinsiale Kennisgewing 488 gedateer 22 September 2000 en sluit in enige politieke struktuur, politieke ampsbekleeder, raadslid, behoorlik gevolmagtigde agent daarvan of enige werknemer daarvan handelende ingevolge hierdie verordening uit hoofde van ’n bevoegdheid van die munisipaliteit wat gedelegeer of gesubdelegeer is aan gemelde politieke struktuur, politieke ampsbekleeder, raadslid, agent of werknemer;

“munisipale bestuurder” die persoon wie as die munisipale bestuurder van die munisipaliteit aangestel ingevolge die bepaling van artikel 82 van die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet 117 van 1998) en sluit enige persoon in:

(a) wat in sodanige pos waarneem; en

(b) aan wie die munisipale bestuurder enige magte, funksie of pligte deleger het in soverre dit die uitvoering van daardie magte, funksie of pligte aangaan;

“eienaar”

(a) met betrekking tot ’n dier, ook iemand wat in besit is van of belas is met die sorg, bewaring of beheer van ’n dier;

(b) met betrekking tot openbare oorlaste soos bedoel in Deel 1 van hierdie verordening -

(i) die persoon of persone in wie se naam die vaste eiendom van tyd tot tyd geregistreer is;

(ii) in enige geval waar ’n eiendom aan ’n huurooreenkoms onderworpe is, die huurder van so ’n eiendom;

(iii) in gevalle wat die persoon in wie se naam dit geregistreer is insolvent is of afgestorwe is, of nie by sy volle verstand is nie of wie se boedel toegewys is vir die wins van sy krediteure, die persoon in wie die administrasie van die eiendom gevestig is as trustee, eksekuteur, kurator of gevolmagtigde, of administrateur;

(iv) in gevalle waar die eienaar soos hierbo beskryf afwesig is, die agent of persoon wat die huur van die ter sake eiendom ontvang;

(v) in enige geval waar die eiendom voordelig bewoon word onder ’n serwituut of soortgelyke reg die bewoner van so ’n eiendom.

“troeteldier” enige mak dier wat normaalweg in ’n huishouding aangehou word vir kameraadskap of vermaak;

“troeteldiersalon” ’n onderneming waar troeteldiere versorg word;

“troeteldierwinkel” ’n onderneming waar troeteldiere aangehou word vir handelsdoeleindes;

“pluimvee”, enige hoender, gans, volstruis, eend, duif, kalkoen, makou, tarentaal, pou of voël hetsy dit makgemaak of wild is.

“perseel”,

- (a) grond of ’n gedeelte grond hetsy ’n gebou of struktuur op sodanige grond of gedeelte grond gebou of opgerig is; of
- (b) ’n gebou, struktuur, tent of woonwa saam met die grond waarop dit staan en sluit dit en sluit in enige voertuig, rytuig, skip of boot.

“openbare oorlas” enige handeling, versuim of toestand op ’n perseel met inbegrip van enige gebou, struktuur of gewas daarop wat die veiligheid van persone of eiendom in gevaar stel of wat onooglik, hinderlik, aanstootlik of rusversteurend vir ander mense is.

“oorlas” het dieselfde betekenis

“openbare plek” enige plein, gebou, park, ontspanningsoord of oop terrein wat -

- (a) by die munisipaliteit berus;
- (b) die publiek die reg het om te gebruik, of
- (c) getoon word op ’n algemene plan van ’n dorpsgebied in ’n akterregistrasiekantoor van ’n landmeter-generaal en wat verskaf is vir of gereserveer is vir die gebruik van die publiek of die eenaars van erwe in sodanige dorpsgebied;

“verantwoordelike owerheid” die Hessequa Munisipaliteit of enige nasionale of provinsiale departement wat uit hoofde van sy funksies en bevoegdhede beperking of voorwaardes ten opsigte van die aanhou van diere mag ople;

“straat” enige pad, straat of deurgang of enige ander plek (hetsy ’n deurgang aldan nie) wat algemeen gebruik word deur die publiek of enige gedeelte daarvan of waartoe die publiek of ’n deel daarvan die reg van toegang het, en ook -

- (a) die soom van enige sodanige pad, straat of deurgang;
- (b) enige brug, pont of drif waaroor of waardeur enige sodanige pad, straat of deurgang loop; en
- (c) enige ander werk of voorwerp wat ’n deel uitmaak van of verbind is met of behoort tot daardie pad, straat of deurgang; en

“struktuur”, enige, stal, skuur, varkhok, kraal, voëlhok, kamp, bedekte struktuur, hoenderhok, hok, kamp, duiwehok of gebou wat gebruik word vir bewoning deur mense of die aanhou diere.

2. Oogmerke en toepassing

(1) Die munisipaliteit, bewus van die grondwetlike reg wat elke persoon het op ’n omgewing wat nie skadelik is vir sy of haar gesondheid of welsyn, neem hierdie verordening aan met die doel die gesondheid en welsyn van alle inwoners te beskerm en te bevorder deur ’n omgewing te skep waarin die algemene publiek vrede en harmonie kan geniet.

(2) By die implementering erken die munisipaliteit die infrastrukturele, maatskaplike en ekonomiese ongelykhede van die vorige plaaslike regeringstelsel en sal die munisipaliteit daarna streef om die ongelykhede te oorkom deur die nuwe doelwitte vir plaaslike regering soos bepaal in artikel 152 van die Grondwet te ondersteun.

(3) Die bepalings van artikels 4(1), 14(1), 15(1), 21(1) en 26 is nie van toepassing op-

- (a) ’n perseel of grond wat vir bona fide landboudoeleindes aangewend word nie; of
- (b) ’n perseel of grond wat deur die munisipaliteit geïdentifiseer is waar die aanhou van diere of die bedryf van troeteldiersalonne, troeteldierwinkels of honde- en katterherberge toelaatbaar is en as sodanig aangedui word in ’n goedgekeurde ruimtelike ontwikkelingsraamwerk of soneringskema.

(2) ’n Persoon wie diere aanhou op persele soos bedoel in subartikel (3) word nie vrygestel van die bepalings van enige ander verordeninge van die munisipaliteit of wetgewing met betrekking tot die ontstaan of veroorsaking van ’n openbare oorlas nie.

HOOFSTUK 1**ALGEMENE BEPALINGS INSAKE OPENBARE OORLASTE****3. Gedrag en optrede**

(1) Ondanks die bepalings van enige ander verordening mag niemand -

- (a) werk op enige perseel uitvoer of ’n gebou of gronde gebruik vir doeleindes wat daarop bereken is om dit te ontsier of om inbreuk te maak op die gerief of gemak van ander mense of om ’n bron van gevaar vir enige persoon te word nie. Indien die munisipaliteit van mening is dat hierdie bepaling verontagsaam word, kan hy gelas dat sodanige werk of gebruik onmiddellik gestaak word en dat die vorige toestand herstel word;

- (b) enige handel, besigheid, beroep of stokperdjie beoefen op enige perseel in die munisipale gebied wat na die mening van die munisipaliteit 'n bron van ongerief of ergernis vir ander mense is of kan word nie;
- (c) enige vrugte- of groenteskille, gebreekte bottels, glas, vullis of ding wat aanstootlik is of waarskynlik ergernis, gevaar of besering sal veroorsaak aan persone in of op enige perseel, straat of openbare plek stort, laat bly, uitgooi, neergooi of plaas nie;
- (d) toelaat dat die omheining van enige perseel in 'n vervalte, gevaarlike, onooglike of verwaarloosde toestand raak nie;
- (e) toelaat dat 'n gebou of struktuur of enige gedeelte daarvan op enige perseel in 'n vervalte, gevaarlike, verwaarloosde of onooglike toestand raak nie, of in gebreke bly om die dakwaterwegdoenstelsel, pype, vuilriole, riole, water-, afvalwater- en spoelklosettoerusting en alle ander toebehore wat deel uitmaak van of bevestig is aan enige gebou of struktuur, in 'n goeie en heel toestand te hou, of in gebreke bly om die mure van enige gebou of struktuur vogvry te hou nie;
- (f) enige stoep en/of veranda van enige winkel of besigheidperseel of onbeboude grond wat aan sodanige winkel of besigheidperseel grens, gebruik of laat gebruik of toelaat dat dit gebruik word vir die doel om enige goedere, artikels of handelsware op te berg, op te stapel, te stort of weg te doen nie;
- (g) enige stoep of veranda van enige winkel of besigheidperseel deur middel van los of vaste strukture, voorwerpe, artikels of toestelle toemaak of laat toemaak of toelaat dat dit daardeur toegemaak word nie, behalwe op 'n wyse deur die munisipaliteit goedgekeur;
- (h) veroorsaak of toelaat dat die gewone gerief, gemak, vrede en rus van ander mense versteur word deur die gebruik of aanwending van elektriese toebehore of masjinerie, defektiewe lugreëlingtoestelle of soortgelyke toestelle of toebehore nie;
- (i) 'n openbare toilet of 'n toilet wat in 'n openbare gebou of openbare plek voorsien is, bemors, misbruik of beskadig nie;
- (j) enige materiaal of ding, vloeibaar of vas, wat aanstootlik of gevaarlik is of kan word, deur of in 'n straat of openbare plek dra of vervoer of laat dra of vervoer of toelaat dat dit daardeur of daarin gedra of vervoer word nie, tensy sodanige aanstootlike materiaal of ding met geskikte materiaal bedek is om te voorkom dat 'n openbare oorlas ontstaan;
- (k) toelaat dat enige erf oorgroei word met bosse, onkruid of gras of ander plantegoei, behalwe gekweekte bome, struike en gras, tot so 'n mate dat dit as skuilplek gebruik kan word deur rondlopers, wilde diere of ongediertes of die veiligheid van enige lid van die gemeenskap mag bedreig nie.
- (l) enige struktuur op enige perseel oprig of toelaat dat dit opgerig word op 'n wyse dat dit 'n oorlas vir ander persone is nie;
- (m) deur 'n handeling, regstreeks of onregstreeks, of deur nalatigheid, toelaat dat 'n openbare oorlas ontstaan of voortgesit word nie;
- (n) in 'n openbare stroom, rivier, dam of watersloot baai of hom of 'n dier of kledingstuk of 'n ander artikel of ding daarin of by 'n openbare brandkraan of fontein of op 'n plek wat nie deur die munisipaliteit vir enige sodanige doel afgesonder is, was nie;
- (o) te eniger tyd gedurende die dag of nag die openbare vrede in 'n openbare of private plek of perseel of in 'n straat versteur deur geluide te maak of deur te skreeu, aanhoudend te toeter, te twis of rusie te maak, of deur 'n skare byeen te bring, of deur 'n betoging te reël, of deur bakleiery of 'n uitdaging tot 'n bakleiery, of deur met 'n stok of ander wapen te slaan of dit te swaai of op 'n dreigende wyse te gebruik, of deur enige ander oproerige, geweldadige of onbetaamlike gedrag, of deur op sypaadjies te vergader of saam te drom nie;
- (p) 'n openbare las te veroorsaak deur:
 - (i) in enige straat of openbare plek ledig te wees of te drentel;
 - (ii) dronk of onder die invloed van dwelmmiddels te wees nie;
 - (iii) enige persoon vir die doeleindes van prostitusie of enige ander immorele daad uit te lok nie;
 - (iv) aan te hou bedel by 'n persoon of 'n persoon aanhou volg nadat so 'n persoon negatief op die bedelary gereageer het;
 - (v) harde musiek te speel of musiekinstrumente op enige perseel gebruik nie;
- (q) ware of dienste in 'n straat of openbare plek adverteer deur middel van 'n megafoon, luidspreker of dergelyke toestel of deur aanhoudend te skreeu, op 'n ghong te slaan, toeters te druk of klokke te lui nie;
- (r) in enige straat of openbare plek beledigende of dreigende taal besig of iets doen wat die openbare vrede kan versteur of wat daarop bereken is om die vrede te versteur nie;

- (s) 'n voertuig of stuk gereedskap in 'n straat of openbare plek skoonmaak of was nie;
- (t) vuurwapen, windbuks of windpistool op enige perseel, behalwe 'n perseel of grond wat gesoneer is vir landboudoeleindes en wat nie deel vorm 'n algemene plan van 'n dorpsgebied nie, afvuur nie.
- (2) (a) Waar daar 'n oortreding van artikel 3(1)(a) tot (n) plaasvind kan die munisipaliteit 'n kennisgewing op die eienaar of okkupeerder of beweerde oortreder beteken om binne 'n bepaalde tyd die handeling te staak of die oorlas uit die weg te ruim. By versuim om aan sodanige 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 bron van sodanige oorlas te verwyder en enige koste in verband daarmee aangegaan is deur die munisipaliteit verhaalbaar op die persoon wat verantwoordelik is vir die oorlas of die eienaar of okkupeerder van die perseel waarop die oorlas ontstaan of voortgesit word, ongeag of die eienaar of okkupeerder daarvoor verantwoordelik is aldan nie.
(b) waar die munisipaliteit oor bewys beskik dat enige beboude of onbeboude grond of perseel in die omgewing van 'n straat vir enige doel deur ongemagtigde persone gebruik word of dat enige van die materiale of dinge in subartikel (1)(l) vermeld op sodanige grond of perseel geplaas of gestort word, kan hy skriftelike kennis aan die eienaar of okkupeerder daarvan beteken waarin daar van hom vereis word om die grond of perseel voor 'n bepaalde datum tot sy bevrediging in te sluit of te omhein. Elke sodanige insluiting of omheining moet minstens twee meter hoog wees en moet van sodanige aard en so gebou wees dat dit die toegang van ongemagtigde persone daartoe of die storting of ophoping van materiale of dinge daarop sal verhoed.
- (3) Vir die toepassing van hierdie verordening word enige handeling of toestand op 'n perseel, met inbegrip van enige gebou, struktuur of gewas daarop, wat na die mening van die munisipaliteit die veiligheid van 'n persoon of eiendom in gevaar stel of wat onsinnelik, ergerlik, hinderlik, aanstootlik of rusversteurend is vir ander mense, as 'n openbare oorlas beskou.
- (4) 'n Persoon wat enige van die bepalings van hierdie artikel oortree of versuim om daaraan te voldoen, of versuim om aan 'n kennisgewing wat regtens daaronder uitgereik is te voldoen, is skuldig aan 'n misdryf.

HOOFSTUK 2

ALGEMENE BEPALINGS INSAKE DIE AANHOU VAN DIERE

4. Toestemming om diere aan te hou

- (1) Niemand mag sonder die skriftelike toestemming van die munisipaliteit enige diere, met uitsondering van troeteldiere, op enige perseel of eiendom aanhou of toelaat dat dit daarop aangehou word nie.
- (2) Enige persoon wat aansoek doe om 'n permit om 'n wilde dier aan te hou moet, wanneer so 'n aansoek ingevolge subartikel (1) ingedien word, die munisipaliteit voorsien van 'n aanhoudingspermit wat deur die Department van Ekonomiese Sake, Omgewing en Toerisme uitgereik is.
- (3) Die munisipaliteit mag die aantal byekorwe sowel as die tipe, getal, en geslag van diere wat aangehou mag word, bepaal asook die gebiede waarbinne die aanhou van sodanige diere en bye verbied word.
- (4) Ten einde 'n aansoek ingevolge subartikel (1) te oorweeg moet die munisipaliteit ook die insette en kommentaar van die eienaars of bewoners van omliggende residensiële persele bekom.
- (5) Enige persoon wat die bepalings van subartikel (1) oortree of versuim om aan 'n vasstelling in terme van subartikel (3) te voldoen, pleeg 'n misdryf.

5. Planne vir strukture en bestuur

Die munisipaliteit mag van persone wat aansoek doen om diere aan te hou vereis om 'n aansoekvorm in te dien en dat sodanige aansoekers gedetailleerde planne wat aan die munisipaliteit se spesifikasies moet voldoen.

6. Oorweging van aansoek en oplê van voorwaardes

- (1) Die munisipaliteit kan, na oorweging van-
 - (a) insette of kommentaar verkry ingevolge artikel 4(3);
 - (b) die ligging, geografiese kenmerke of grootte van die perseel ten opsigte waarvan die aansoek gerig word;
 - (c) die dokumente en uiteensettings ingevolge artikel 5 ingedien; of
 - (d) enige ander inligting wat op die aansoek betrekking het, 'n aansoek ingevolge artikel 4 weier of goedkeur.

- (2) Indien 'n aansoek geweier word, moet die munisipaliteit die redes vir sodanige weiering aan die applikant verstrek en hom/haar terselfdertyd in kennis stel van die reg van appél ingevolge artikel 27.
- (3) By die goedkeuring van 'n aansoek mag die munisipaliteit voorwaardes oplê.

7. Sigbaarheid van strukture op persele

- (1) Alle strukture waarin diere aangehou word moet toepaslik afgeskerm word van enige straat.
- (2) Enige persoon wat die bepalings van subartikel (1) oortree pleeg 'n misdryf.

8. Opskorting of intrekking van magtigings

Nieteenstaande bogemelde bepalings mag die munisipaliteit, na oorweging van voorwaardes ten opsigte van die eiendom en op voorwaarde dat geen beswaar van die eienaars of bewoners van omliggende persele ontvang is nie, enige of alle vereistes van hierdie gedeelte opskort en ander voorwaardes instel, indien toepaslik, en kan hy enige magtiging ingevolge artikel 6(3) intrek indien daar nie voldoen word aan enige voorwaardes daarin neergelê nie.

9. Geldigheid van magtigings

Alle magtigings om diere aan te hou wat uitgereik is ingevolge enige verordening of regulasie wat herroep word, sal geag word as sou dit ingevolge hierdie verordening uitgereik wees.

10. Pligte van die bewaarder van diere

- (1) Die eienaar van 'n dier of die persoon in beheer daarvan -
- (a) mag nie veroorsaak of toelaat dat 'n dier die gewone gerief, gemak, vrede en rus van ander mense versteur nie;
 - (b) moet sodanige dier van slaapplek, skuiling, water en behoorlike kos voorsien;
 - (c) moet ten alle tye die perseel waarop 'n dier aangehou word en alle gepaardgaande toebehore in goeie en netjiese toestand te hou om te voorkom dat 'n openbare oorlas ontstaan;
 - (d) moet beheer oor sy of haar diere uitoefen ten einde skade aan eiendom of tuine te verhoed; en
 - (e) mag nie enige dier op enige gedeelte van 'n openbare pad laat, toelaat dat dit op 'n openbare pad is nie en mag 'n dier ook nie op enige plek laat van waar dit op enige deel van 'n openbare pad mag afdwaal nie.
- (2) Enige persoon wat die bepalings van subartikel (1) oortree pleeg 'n misdryf.

11. Diere wat op 'n onbevredigende wyse aangehou word

- (1) Wanneer ookal diere wat op enige perseel aangehou word, ongeag of sodanige perseel kragtens hierdie verordening deur die munisipaliteit goedgekeur is of nie, 'n openbare oorlas is, kan die munisipaliteit by wyse van 'n skriftelike kennisgewing die eienaar of okkupeerder van sodanige perseel aansê om binne die tydperk wat in sodanige kennisgewing aangedui moet word, die oorsaak van sodanige oorlas te verwyder en om die werk te verrig of die stappe te neem vir genoemde doel.
- (2) Die munisipaliteit mag die stappe wat geneem moet word of die werk wat gedoen moet word om die oorsaak van die oorlas te verwyder of an enige oorlas te verminder.
- (3) Enige aktiwiteite wat deur die eienaar in terme van subartikel (1) onderneem word is vir die eienaar se rekening.
- (4) Indien 'n eienaar versuim om die stappe in terme van subartikel (1) te neem, kan die munisipaliteit die nodige stappe neem en die kostes van die eienaar verhaal.
- (5) Enige persoon wat versuim om aan 'n kennisgewing in terme van subartikel (1) te voldoen, pleeg 'n misdryf.

12. Afmaak van diere

- (1) Die munisipaliteit mag die afmaak van 'n dier gelas wanneer dit-
- (a) gevaarlik of boosaardig is;
 - (b) sodanig beseer of siek is dat dit menslik sou wees om dit te doen.
- (2) Wanneer diere ingevolge subartikel (1) afgemaak word moet dit gedoen word deur 'n geregistreerde veearts of waar so 'n veearts nie beskikbaar is nie met sodanige instrumente of toestelle as wat nodig mag wees en op 'n wyse geskied wat so min lyding as moontlik veroorsaak.

(3) Enige persoon wat versuim om aan 'n bevel, soos beoog in subartikel (1), te voldoen of subartikel (2) oortree, pleeg 'n misdryf.

13. Smous met diere

(1) Geen persoon mag met 'n dier smous in 'n straat of openbare plek of vanaf 'n mobiele struktuur of 'n voertuig nie.

(2) 'n Persoon wat enige van die bepalings van subartikel (1) oortree is skuldig aan 'n misdryf.

HOOFSTUK 3: BEPALINGS MET BETREKKING TOT DIE AANHOU VAN HONDE EN KATTE

Deel 1 – Algemene Bepalings ten opsigte van honde en katte

14. Getal honde en katte

(1) Behoudens die bepalings van artikel 15 mag niemand op enige perseel-

(a) meer as twee honde; en

(b) meer as twee katte,

aanhou sonder die toestemming van die munisipaliteit nie.

(2) Aansoek ingevolge subartikel (1) moet gedoen word op 'n aansoekvorm verkrygbaar by die munisipaliteit en moet 'n uiteensetting bevat van die ras, geslag en getal honde en katte waarvoor aansoek gedoen word.

(3) 'n Beperking wat ingevolge artikel 17 opgelê is op die getal diere wat op 'n perseel aangehou mag word, geld nie vir 'n tydperk van 10 weke vanaf die datum van geboorte van 'n werpsel van 'n dier wat met toestemming aangehou word nie.

(4) 'n Persoon wat enige van die bepalings van subartikel (1) oortree is skuldig aan 'n misdryf.

15. Telers van honde en katte

(1) 'n Teler van honde wat meer as twee honde wil aanhou of 'n teler van katte wat meer as twee katte wil aanhou moet die toestemming van die munisipaliteit verkry.

(2) Die munisipaliteit mag vereis dat planne en spesifikasies ingedien word van strukture waarin dit beoog word om katte of honde aan te hou sowel as 'n erfplan waarop alle bestaande en beoogde strukture en heinings aangetoon word.

(3) Enige persoon wat versuim om die munisipaliteit se goedkeuring in terme van subartikel (1) te bekom, pleeg 'n misdryf.

16. Telers van troeteldiere

(1) 'n Persoon wat met troeteldiere teel moet aansoek doen om die toestemming van die munisipaliteit.

(2) Die bepalings van artikel 15(2) is met die nodige aanpassing van toepassing op 'n aansoek ingevolge subartikel (1).

(3) 'n Persoon wat die bepalings van subartikels (1) en (2) oortree, is skuldig aan 'n misdryf.

17. Voorwaardes en beperkings

Die munisipaliteit se toestemming ingevolge artikels 4, 14(1), 15(1) en 16(1) sal toegestaan word onderhewig aan sodanige voorwaardes en beperkings as wat die munisipaliteit in oorleg met 'n ander verantwoordelike owerheid mag nodig ag om op te lê.

18. Terugtrek van toestemming

(1) Waar 'n persoon enige voorwaarde of beperking opgelê ingevolge artikel 17 oortree of versuim om daaraan te voldoen, sal die munisipaliteit geregtig wees om, nadat die persoon aangehoor is, sy toestemming terug te trek en die diere van die perseel te laat verwyder vir veilige bewaring deur 'n dierewelsynsorganisasie of skut.

(2) Enige koste wat deur die munisipaliteit aangegaan is vir die verwydering en veilige bewaring van diere bedoel in subartikel (1) sal van die eienaar of persoon in beheer van sodanige diere verhaal word.

19. Honde of katte in openbare plekke

- (1) Onderworpe aan die bepalings van die Verordening op Openbare Geriewe, mag die eienaar of bewaarder van 'n hond of kat mag dit nie in 'n straat of openbare plek bring of dit toelaat om daar te wees nie tensy die hond deur 'n verantwoordelike persoon aan 'n leiband gehou word en die kat onder fisiese beheer is van die eienaar of bewaarder daarvan.
- (2) Behalwe in die geval van 'n blinde persoon wat deur 'n gidshond begelei word, moet 'n persoon in beheer van 'n hond in 'n straat of 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 rommel of vullis voorsien is.
- (3) 'n Persoon wat enige bepaling van subartikels (1) of (2) oortree pleeg 'n misdryf.

Deel 2 – Spesifieke bepalings met betrekking tot honde**20. Beheer oor honde**

- (1) Niemand mag-
- (a) toelaat dat enige hitsige teef sonder toesig in 'n straat of openbare plek is nie;
 - (b) enige hond aanspoor om enige persoon of dier aan te val, lastig te val of bang te maak nie, behalwe waar dit nodig is vir die verdediging van sodanige eersgenoemde persoon of sy of haar eiendom;
 - (c) 'n hond aanhou indien die perseel waarop die hond aangehou word nie behoorlik en voldoende omhein is om sodanige hond binne te hou wanneer dit nie aan 'n leiband is nie.
 - (d) toelaat dat enige hond waarvan hy die eienaar is of wat deur sodanige persoon aangehou word-
 - (i) op private eiendom oortree nie;
 - (ii) 'n gevaar uitmaak vir verkeer wat enige openbare pad gebruik nie;
 - (iii) 'n bron van gevaar of besering uitmaak of na sy wete waarskynlik 'n bron van gevaar of besering sal uitmaak vir enige persoon buite die perseel waarop sodanige hond aangehou word nie, of
 - (iv) 'n bron van gevaar is vir die munisipaliteit se werknemers wat sodanige perseel betree met die doel om hul pligte uit te voer nie. 'n Kennisgewing ten effekte dat 'n hond op sodanige perseel aangehou word, moet op 'n opvallende plek vertoon word.
 - (e) enige hond aanhou wat –
 - (i) deur te blaf, te kef, te tjank of te huil;
 - (ii) in die gewoonte geraak het om af te storm op enige voertuie, diere, pluimvee, duiwe of persone buite enige perseel waar die hond aangehou word, of
 - (iii) deur hom op enige ander wyse te gedra, die gewone gemak, gerief, vrede of rus van bure wesenlik versteur nie.
- (2) Die munisipaliteit kan op enige hond wat in 'n straat of openbare plek gevind word strydig met die bepalings van hierdie verordening, beslag lê en skut op 'n plek deur die munisipaliteit bepaal.
- (3) 'n Hond wat kragtens subartikel (2) geskut is, kan aan die eienaar of bewaarder van so 'n hond vrygestel word teen betaling van 'n bedrag soos deur die munisipaliteit bepaal.
- (4) 'n Persoon wat enige bepaling van hierdie artikel oortree is skuldig aan 'n misdryf.

HOOFSTUK 4**HONDEHERBERGE, KATTERYE, TROETELDIERSALONNE EN TROETELDIERWINKELS****21. Toestemming**

- (1) Geen hondeherberg, kattery, troetedierson of troetedierwinkel mag bedryf word sonder die toestemming van die munisipaliteit nie, welke goedkeuring aan voorwaardes onderworpe mag wees.
- (2) 'n Persoon wat 'n hondeherberg, kattery, troetedierson of troetedierwinkel bedryf mag nie toelaat dat die besigheid op so 'n wyse bedryf word dat dit 'n openbare oorlas of ongerief vir ander mense is nie.
- (3) 'n Persoon wat enige bepaling van hierdie artikel oortree is skuldig aan 'n misdryf.

HOOFSTUK 5 SAMEWERKING TUSSEN MUNISIPALITEITE

22. Diensleweringsreëlings

Ten einde optimale dienslewering ingevolge hierdie verordening te verseker, kan die munisipaliteit ooreenkomste aangaan met die distriksmunisipaliteit met wie wetgewende en uitvoerende gesag gedeel word.

23. Bevoegdheids van die Munisipaliteit in die geval van 'n nalate deur die Distriksmunisipaliteit

Indien die dienslewering waarna in artikel 22 verwys word belemmer word deur die weiering of versuim van die distriksmunisipaliteit om enige van die reëlings wat in 'n ooreenkoms voorsien is, mag die munisipaliteit, onderworpe aan die bepalings van die Grondwet rakende samewerkende regering soos bepaal in artikel 41 van die Grondwet van die Republiek van Suid-Afrika, 1996, voortgaan en effek gee aan dusdanige reëling en enige uitgawes wat in verband daarmee aangegaan word van die distriksmunisipaliteit verhaal.

HOOFSTUK 6 ALGEMENE BEPALINGS

24. Reg van toegang en inspeksie

- (1) Enige behoorlik gemagtigde werknemer van die munisipaliteit is gemagtig om enige perseel binne die munisipale gebied te inspekteer ten einde te bepaal of daar aan die bepalings van die verordening voldoen word.
- (2) Wanneer 'n perseel ingevolge subartikel (1) binnegegaan word, moet die gemagtigde werknemer op versoek van enige persoon, hom/haarself identifiseer deur 'n geskrewe bewys van magtiging te toon.
- (3) Die gemagtigde werknemer mag vergesel word van 'n persoon van wie dit redelikerwys verwag word om te help in die uitvoer van die inspeksie.
- (4) Iemand wat versuim of weier om toegang te verleen aan 'n behoorlik gemagtigde werknemer van die munisipaliteit indien hy toegang tot grond of 'n perseel versoek, of wat hom dwarsboom of hinder in die uitvoering van sy pligte kragtens hierdie verordening, of wat versuim of weier om inligting te verstrek wat wettiglik van hom vereis kan word of vals of misleidende inligting aan sodanige behoorlik gemagtigde werknemer van die munisipaliteit verstrek, welwetende dat dit vals of misleidend is, is skuldig aan 'n misdryf.

25. Bediening van dokumente en geregtelike stappe

- (1) Wanneer enige kennisgewing, bevel, aanskrywing of ander dokument gemagtig is of nodig is om bedien te word op 'n persoon ingevolge hierdie verordening, word dit geag effektief en na behore aan sodanige persoon beteken te wees-
 - (a) wanneer dit persoonlik aan hom afgelewer is;
 - (b) wanneer dit by sy plek van inwoning of besigheid in die Republiek gelaat is by 'n persoon wat duidelik ouer as sestien jaar is;
 - (c) wanneer dit gepos is per geregisreerde of gesertifiseerde pos aan sy laaste bekende woon- of besigheidsadres in die Republiek en 'n erkenning van die versending verskaf word;
 - (d) indien sy adres in die Republiek onbekend is, wanneer dit aan sy agent of verteenwoordiger in die Republiek bedien is op so 'n manier soos bepaal deur paragraaf (a), (b) of (c), of
 - (e) indien sy adres en agent in die Republiek onbekend is, wanneer dit opsigtelik vertoon word op die vaste eiendom, indien enige, waarop dit betrekking het.
- (2) Wanneer enige kennisgewing, bevel, aanskrywing of ander dokument soos die voorgenoemde gemagtig is of bedien moet word aan 'n persoon omdat hy die eienaar of bewoner is of was of 'n ander reg hou met betrekking tot vaste eiendom, sal dit nie nodig wees om hom by name te noem nie, maar sal dit voldoende wees as hy daarin beskryf word as die eienaar, bewoner of houder van sodanige vaste eiendom of ander reg, wat ook al die geval mag wees.

26. Oorgangsbepalings

'n Persoon wat tydens die inwerkingtrede van hierdie verordening meer diere aanhou as wat ingevolge hierdie verordening goedgekeur is, mag voortgaan om sodanige groter getal diere aan te hou, maar mag nie sonder die toestemming van die munisipaliteit enige van sodanige groter aantal diere vervang wanneer een of meer daarvan te sterwe kom of weggemaak word nie.

27. Appél

'n Persoon wie se regte geraak word deur 'n besluit wat deur 'n politieke struktuur, politieke ampsbeker, raadslid of personeellid geneem is ingevolge 'n bevoegdheid of plig wat deur 'n delegerende owerheid gedelegeer of gesubdelegeer is aan die politieke struktuur, politieke ampsbeker, raadslid of personeellid, kan teen daardie besluit appelleer deur binne 21 dae na die datum van verwittiging van die besluit, skriftelike kennis van die appél en redes aan die munisipale bestuurder te gee.

28. Strawwe

Iedereen wat enige bepaling van hierdie verordening oortree of nalaat om daaraan te voldoen is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n straf van 'n boete of gevangenisstraf, of óf sodanige boete of sodanige gevangenisstraf óf beide sodanige boete en sodanige gevangenisstraf; in die geval van 'n voortdurende misdryf, met 'n addisionele boete, of 'n addisionele tydperk van gevangenisstraf of óf sodanige addisionele boete of sodanige addisionele gevangenisstraf, óf beide sodanige addisionele boete en gevangenisstraf vir elke dag wat sodanige misdryf voortduur; en 'n verdere bedrag gelyk aan enige koste en uitgawes wat na bevinding van die hof deur die munisipaliteit aangegaan is as gevolg van sodanige oortreding of versuim.

29. Vrystellings

Nieteenstaande die bepalings van die verordening, mag die munisipaliteit enige persoon of klas van persone vrystel van enige of al hierdie vereistes en mag dit enige ander vereistes oplê wat dit as geskik beskou.

30. Gemeenskapskakelforums

- (1) Die Munisipaliteit mag skakelforums in 'n gemeenskap instel vir die doel om –
 - (a) geleenthede vir die gemeenskap te skep om deel te neem aan die aangeleenthede van die munisipaliteit;
 - (b) die gemeenskap aan te moedig om deel te neem aan die aangeleenthede van die munisipaliteit; en
 - (c) die bereiking van 'n gesonde omgewing te bevorder.
- (2) 'n Skakelforum mag bestaan uit –
 - (a) 'n lid of lede van 'n belangegroep, of geaffekteerde persoon;
 - (b) 'n lid of lede van die gemeenskap;
 - (c) 'n aangewese beampte of beamptes van die Munisipaliteit; en
 - (d) die raadslid verantwoordelik vir die aangeleenthede wat die onderwerp van hierdie verordening is.
- (3) (a) Die Munisipaliteit mag wanneer 'n aansoek om toestemming, permit of vrystelling sertifikaat oorweeg word ingevolge hierdie verordening, waar van toepassing, die insette van 'n skakelforum versoek.
 - (b) 'n Skakelforum of enige persoon of persone gedoel in subartikel (2) mag op eie inisiatief, 'n inset aan die Munisipaliteit vir oorweging stuur.

31. Herroeping van Verordeninge

Die bepalings van enige verordeninge wat voorheen deur die munisipaliteit of deur enigeen van die afgeskafte munisipaliteite wat nou in die munisipaliteit geïnkorporeer is, uitgevaardig is, word herroep insoverre hulle betrekking het op aangeleenthede waarvoor daar in hierdie verordening voorsiening gemaak word en insoverre dit op die munisipaliteit van toepassing gemaak is deur magtiging vir die uitoefening van magte en funksies ingevolge Artikel 84(3) van die Wet op Plaaslike Regering: Munisipale Strukture, Wet 117 van 1998.

32. Kort titel en aanvang

Die verordening sal bekend staan as die Verordening insake Openbare Oorlaste en die Aanhou van Diere en tree in werking op die datum waarop dit in die Provinsiale Koerant gepubliseer word.