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PROVINCIAL NOTICE**PROVINSIALE KENNISGEWING**

The following Provincial Notice is published for general information.

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DIRECTOR-GENERAL

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Die volgende Proviniale Kennisgewing word vir algemene inligting gepubliseer.

ADV. B. GERBER,
DIREKTEUR-GENERAAL

Provinsiale-gebou,
Waalstraat,
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HESSEQUA MUNICIPALITY BY-LAW RELATING TO THE MANAGEMENT AND USE OF RIVERS

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: MANAGEMENT AND USE OF BOATS ON RIVERS**2. Operation or use of boats on the river**

- (1) No person shall operate or control any power boat with a motor of more than 15 horse power on a river, unless—
 - (a) such boat has been registered and licensed by the municipality;
 - (b) a temporary permit has been issued for such boat for that particular river where the boat is to operate; and
 - (c) the person who operates that boat is in possession of a valid skipper's ticket or a certificate of competence as issued by SAMSA.
- (2) A person under the age of sixteen years may only operate or control a boat or a vessel equipped with a motor of 15 horse power or less, while such person is accompanied by a person who is in possession of a valid certificate of competence.
- (3) Where any licensee of a boat as contemplated in subsection (1) allows any other person who does not possess a certificate as contemplated in subsection (2), or who, in the opinion of an authorised officer, is not competent to operate or control such boat safely or with due regard to the environment, such officer may direct the licensee not to allow such person to operate or control such boat.
- (4) Any person who contravenes a provision of this section commits an offence.

3. Prohibited behavior

- (1) No person may operate a boat or vessel on a river—
 - (a) in a manner which an authorised officer regards as reckless or negligent;
 - (b) while under the influence of intoxicating liquor or narcotic drug, or while the percentage of alcohol in his blood is 0.05 or more, expressed in grams per hundred milliliters of blood;
 - (c) while suffering from an infirmity which renders him unfit to do so;
 - (d) in a manner an authorised officer regards as dangerous to public or to the occupants of such boat or vessel or in a manner calculated to endanger or damage any property or facility, regard being had to all the circumstances of the case;
 - (e) in a manner which in the authorised officer's opinion constitutes a nuisance;
 - (f) without reasonable consideration of the rights of other persons using such river;
 - (g) while it is leaking oil, petrol, pollutant or any toxic or noxious substance;
 - (h) if the load or number of persons on board exceeds the carrying capacity as stated on the boat or vessel's registration certificate or stated on the license;
 - (i) if the boat or vessel is not registered and licensed by the municipality as required in terms of this by-law and the identification number issued in respect thereof is not permanently fixed in a manner determined by the municipality; or
 - (j) in contravention of any usage zone on a river as determined by the municipality.
- (2) No person may, in the water area, without the prior written consent of the municipality—
 - (i) offer for reward or profit any show or entertainment or conduct any business or trade or charter any boat or vessel for reward;
 - (ii) keep or use any boat or vessel for the transport of passengers or goods for payment or reward;
 - (iii) hold or arrange any fishing competition; or
 - (iv) hold or arrange any race, meeting or regatta.
- (3) When the municipality grants its authority in terms of subsection (2), it may set the conditions which it sees fit in the circumstances in any particular case, to ensure the safety of the public.
- (4) No person may, while in the water area—
 - (a) use indecent, offensive or improper language;
 - (b) behave in an offensive, improper or disorderly manner;
 - (c) willfully or negligently do anything which will cause inconvenience to any other person using the water area, or which may disturb the peace.
- (5) No person may—
 - (a) fish from any bridge or within 20 metres either side of slipway;
 - (b) fish from a boat or vessel on a river while that boat or vessel is under motorized power;
 - (c) scuba dive, spearfish or use fish nets other than a landing net or casting net in a river without a permit;

- (d) swim in any river where boating is allowed, unless in an area designated for swimming and indicated as such by means of notice boards;
 - (e) catch fish without a license;
 - (f) operate any hovercraft, water jet-driven craft (including but not limited to jet-ski's), or seaplanes or any form of parachuting on any part of the water area of a river; or
 - (g) place any form of obstruction on or near the surface of a river.
- (6) The municipality may restrict the size of any motor used on any river or any part of any river.
- (7) The municipality may designate any river or any portion of any river into usage zones for environmental or safety reasons.
- (8) The provisions of subsection (1)(i) only applies to a boat as contemplated in section 2(1).
- (9) A person who contravenes the provisions of this section commits an offence.

4. Equipment required on board a boat or vessel

- (1) No person may use any boat or vessel on a river, unless the equipment as listed in Schedule 1 is on board such boat or vessel.
- (2) All life-saving apparatus on board a boat or vessel must be in good working condition and within easy reach for immediate and effective use.
- (3) The batteries and fuel of any boat or vessel must be kept in separate compartments and no fuel line may run through battery compartments. Both compartments must be sufficiently ventilated.
- (4) A person who contravenes a provision of this section commits an offence.

5. Rules for Boating

- (1) No person may leave a boat or vessel unattended in the water area unless it has been properly anchored, moored or removed to dry land at a safe height above the water level.
- (2) Notwithstanding the provisions of sub-section (1), no boat or vessel may be left unattended in the water area for a period in excess of 24 hours.
- (3) No boat or vessel may be moored or launched at any place other than that indicated or approved by the municipality and an authorised officer or the municipality may move any boat or vessel or moor it at any other place without the consent of the owner if he deems it to be in the public interest. Such movement shall be at the sole risk of the owner of the boat or vessel.
- (4) No boat or vessel may be moored to any other boat or vessel or to a marker, buoy or other navigational aid.
- (5) The helmsman of any boat or vessel must ensure that he can at all times exercise full control over the boat or vessel while it is underway.
- (6) The helmsman of any boat or vessel towing a line, cable or rope for any purpose whatsoever, must ensure that he does not thereby endanger or cause any inconvenience to another person.
- (7) No person may operate a boat or vessel or allow it to be operated in such a manner that it endangers or creates a nuisance to any other boat or vessel or the occupants thereof or other persons or property or installations in the water or at the water's edge including any boats or vessels moored to any jetty;
- (8) No power boat, which is under way and no person who is water-skiing in the water area, may approach closer than 10 meters from any spot where people are swimming or closer than 10 meters from the side of the river bank or closer than 10 meters from any other boat or vessel or any such other distance as determined by the municipality unless;
 - (a) circumstances are such that the said distances cannot be maintained;
 - (b) assistance is being given in an emergency situation; or
 - (c) the power boat is fishing or any water-skier towed by it is landing or leaving the shore;

Provided that when the prescribed distances are not maintained, the power boat must immediately reduce its speed to less than 10 km per hour.

- (9) No person may be on the bow, forward deck or gunwale of any power boat which is under way unless sufficient safety rails or guard rails have been installed, and no person may jump or dive from any power boat which is under way, except when assistance is being given in an emergency or when it is necessary to moor or to land the power boat.
- (10) Where it is possible, a powerboat must be piloted in such a manner that the median line of the water area shall always be on the port side of the boat. Powerboats must proceed in an anti-clockwise direction, keeping to the right hand side of the water area.
- (11) A power boat must keep clear of sailing boats and boats or vessels propelled by oars or paddles.
- (12) In the case of powerboats, whenever two boats approach each other head-on or approximately head-on, each must alter course to starboard in such a manner that it passes the other on its port side and, subject to the provisions of subsection (8) at such a distance and at such a speed that the wake of either of the vessels shall not endanger the other.

- (13) In the case of powerboats, no boat may pass another boat which is proceeding in the same direction, unless it is safe to do so. Such boat must, when it does so, pass the other boat on the port side unless it is clearly unsafe to do so or there is insufficient room to manoeuvre, and, subject to the provisions of subsection (8), at such a distance and at such a speed that its wake shall not endanger the other vessel or any towed skier. Slower traffic should thus operate closer to the right hand side of the water area to allow as much room as possible on their port side.
- (14) A boat which is being passed shall maintain its speed and direction until the passing boat is safely past.
- (15) In the case of powerboats, whenever two boats approach each other in a manner other than referred to in subsections (12) and (13), the boat which has the other on its port side must maintain its speed and direction and the boat which has the other on its starboard side must keep clear and alter course to starboard so as to pass behind the other boat and must, if necessary, stop or reverse to avoid a collision.
- (16) Whenever two sailing boats are approaching one another in such a way as to involve risk of collision, the following right-of-way rules apply:
 - (a) when each has the wind on a different side, the sailing boat which has the wind on the port side, shall keep clear by altering course to pass behind the other, or by going about, or by stopping; and
 - (b) when both have the wind on the same side, the sailing boat which is to windward (upwind) must keep clear of the vessel which is to leeward (downwind).
 - (c) For the purpose of this subsection, the windward side is the side opposite which the mainsail is carried.
- (17) To avoid collisions, a power boat must give way to other classes of boats or vessels, and a rowing boat or canoe must give way to a sailing boat when circumstances require it, notwithstanding the provisions of subsections (11), (12), (13), (14) and (15); provided that this by-law shall not give the right to the helmsman of any boat or vessel to unnecessarily obstruct or interfere with the course of any other vessel. It is the duty of every user of the water area to take all possible steps to avoid an accident, irrespective of whether they have right-of-way as provided for in this section.
- (18) The helmsman of any boat or vessel must maintain a safe and cautious speed in any area where people are swimming, boats or vessels are moored, where angling is taking place or where buoys are placed and must at all times, and especially whenever visibility is obstructed due to fog or other causes, operate the boat or vessel under his control in such a manner that people, other boats or vessels or other property are not endangered.
- (19) No boat or vessel may follow closer than 100 meters in the wake of a water-skier and the same applies to a boat or vessel towing a skier.
- (20) Boats or vessels leaving a slipway or jetty must give way to incoming or passing boats or vessels.
- (21) No boat, vessel or any vehicle which is propelled by means of a propeller above the water, or by means of a water jet, shall be used in the water area.
- (22) Except in the case of an emergency, no airplane may land in or take off from the water area.
- (23) No boat or vessel may be left on any slipway except for purposes of repair.
- (24) No person may operate a boat or allow it to be operated in such a manner that excessively large waves are generated.
- (25) No person may be towed behind a boat on any apparatus where in the opinion of an authorised officer, the towing of such apparatus poses a danger to the user or any other river users.
- (26) Any person who contravenes a provision of this section commits an offence.

6. Rules for water-skiing where allowed

- (1) No person may water-ski unless wearing an effective life-belt or ski-vest or approved flotation device.
- (2) No steel or other metal cable or wire may be used to tow a water-skier.
- (3) The helmsman of any boat or vessel which tows a water-skier must, before such water-skier is taken in tow, ensure that the water-skier is familiar with the distress signal for water-skiers, namely drawing the hand across the throat, as well as with the other standard communication signals used in water-skiing.
- (4) No water-skiing is allowed between sunset and sunrise and the municipality may also prohibit water-skiing at other times or in certain zones.
- (5) No boat or vessel may tow a water-skier unless a second person older than 16 years is present in the boat or vessel to observe the water-skier.
- (6) No water-skier may drop-off a water-ski except at a spot where the discarded water-ski does not constitute a danger to any other user of the river.
- (7) As soon as a water-skier has dropped the towline, the towing boat must stop until the observer or other passenger has taken the towline on board. The boat must then travel at slow speed to reach the place where the tow will be resumed, or to take the skier on board, or to return to the place where the skier has gone ashore, as the case may be.
- (8) Water-skiing shall be permitted in demarcated areas only.
- (9) The operator of a boat towing a skier must display a red flag measuring a minimum of 500mm by 500mm to indicate any of the following conditions:
 - (a) a skier down in the water, or preparing to ski;
 - (b) a tow line extended from the boat; and

- (c) a ski in the water in the vicinity of the boat.
- (10) Any person who contravenes a provision of this section commits an offence.

CHAPTER 2: REGISTRATION AND LICENCING OF BOATS

7. Registration and licensing of boats

- (1) Any person who intends to operate a power boat, house boat or pleasure boat on a river must apply in writing on the prescribed form to the municipality for registration and a license for such a boat and in such application must advise the size of the boat, the method of propulsion, motor size and its intended use and what safety equipment the boat is equipped with.
- (2) Any such application must be accompanied by the fees, as determined by the municipality, for the river upon which the applicant intends operating his boat which shall be refundable if the application is not approved.
- (3) A boat in respect of which an application for a license has been made, must be made available for examination by an authorised officer at a date, place and time determined by the authorised officer unless such applicant is advised by the authorised officer that such examination is not required.
- (4) The municipality may, in the interests of safety and environmental sustainability or to ensure compliance with this by-law, limit the number of boats on a river by limiting the licenses to be issued in any given year in respect of any river.
- (5) The municipality may, in the interests of safety or to ensure compliance with this by-law, approve or refuse such application and may, in approving it, impose such conditions as to the manner of operation of or repairs or alterations to such boat as it may deem necessary.
- (6) The municipality must refuse to approve an application if it is satisfied that the operation of the boat will—
 - (a) be a source of pollution in a river or the vicinity of a river;
 - (b) cause a nuisance;
 - (c) constitute a danger to persons using it, or to the public or any section of the public;
 - (d) be inappropriate with the area and nature of the river; or
 - (e) create wakes or waves which may create a nuisance to riparian owners or cause unacceptable risk of damage to the environment.
- (7) The registration of a boat is not transferable from any person to another or from one boat to another except where a licensee of a registered boat in terms of this by-law transfers his registration number and license to another boat belonging to him with the written permission of the municipality.
- (8) The registration must specify the licensee, the maximum number of persons permitted to be carried in the boat, the type and overall length of the boat the maximum power of the motor and the identification number allocated to the boat.
- (9) The municipality must provide reasons in the event of it refusing to register or license a boat.
- (10) The municipality reserves the right to limit the number of registrations per licensee.
- (11) Any person who contravenes a provision of this section or who makes a false declaration in any application commits an offence.

8. Validity of licenses, issuing of temporary permits and displaying of tokens

- (1) The license of a power boat shall expire as determined by the Municipal Manager for each river in question.
- (2) For the purposes of operating a power boat on a river when such boat has not been licensed and may otherwise not be operated in terms of the provisions of this by-law, application may be made to the municipality for the issuing of a temporary permit for the river in respect of which the applicant intends to operate the boat which temporary permit shall be valid for a period as approved by the municipality and against payment of the prescribed fee. No such temporary permit shall be valid for a period in excess of thirty days.
- (3) The licensee of a boat must forthwith affix the license or temporary permit or cause it to be affixed to such boat in a manner acceptable to the municipality.

9. Automatic lapsing or cancellation of licenses and registrations

- (1) A license and a boat's registration shall lapse automatically if such boat has been removed by or on the authority of the municipality in terms of section 15 (4) on account of pollution caused by the discharge of petrol or oil in a river.
- (2) If the municipality is of the opinion that a boat no longer qualifies for licensing in terms of this by-law or in terms of any conditions on which the license was issued, the license may be cancelled after notice of thirty days to that effect has been given to the licensee, at the address on the license.

10. Cancellation of licenses

- (1) The municipality may cancel any license if—
 - (a) it is satisfied that the boat in respect of which such license was issued is no longer seaworthy, or is a source of pollution in the vicinity of a river, or is operated in a manner which constituted a nuisance or danger to other boats or vessels or to the public or any section of the public;

- (b) the boat is transferred, sold or disposed of or if the municipality is satisfied that the licensee has ceased to exercise control over the said boat or to supervise it;
 - (c) the licensee has been convicted of an offence relating to the operation or control of a boat in terms of this by-law; or
 - (d) any information provided in any application form is incorrect.
- (2) If the municipality cancels any licenses in terms of this by-law, an authorized officer must forthwith notify the licensee in writing of such cancellation, at the address appearing on the application form

CHAPTER 3: FIXING OF TARIFFS AND FEES

11. Fixing of tariffs, fees and levies

- (1) The municipality may determine tariffs, fees and levies for the registration and licensing of boats and the provision of discs and tokens in respect of rivers or any particular river.
- (2) In fixing tariffs, fees and levies in terms of subsection (1), the municipality may distinguish between various classes of boats or vessels making use of a river or any facilities, or in respect of their size, method of propulsion or use, or may make any other distinctions which, in the opinion of the municipality, are relevant in fixing such tariffs or fees.
- (3) Any application for the licensing of a boat and the use of any facilities by a boat or vessel or for a temporary permit shall be accompanied by the prescribed fees as determined by the municipality.
- (4) All income derived from permits issued for recreational activities in terms of this by-law must be allocated to the control of recreational activities or maintenance of public infrastructure in and around the river from which the income was derived or both the control and maintenance.

CHAPTER 4: POLLUTION OF RIVERS

12. Pollution of rivers

- (1) No person, except with the permission of the municipality and in compliance with the provisions of the Sea-Shore Act, 1935 (Act 21 of 1935), may allow any sewer pipe or tank to discharge into a river or allow any other waste water from any other source to drain into the river.
- (2) No substance such as petrol, oil or any toxic or noxious substance may be disposed of in a river.
- (3) No person may throw bottles, cans, garbage or refuse of any kind whatsoever into the water or onto abutting land or any facility except in receptacles furnished for that purpose.
- (4) No person may by any act or omission, whether directly or indirectly, allow a nuisance or the creation or continuation of a source of danger, or allow any interference with the convenience or comfort of persons in the vicinity of a river.
- (5) No person may dispose of any fish remains in the river.
- (6) A person who contravenes any provision of this section commits an offence.

CHAPTER 5: POWERS OF AUTHORISED OFFICERS

13. Powers of authorized officers

- (1) Any person who operates an unlicensed boat on a river or contravenes any provision of this by-law, may be ordered by an authorized officer to remove such boat forthwith from the river or to cease such contravention, and non-compliance with such order shall constitute an offence.
- (2) Any authorized officer shall have the right to board a boat or vessel at any time and to inspect it for the purposes of ensuring compliance with the provisions of this by-law.
- (3) Any authorized officer may, in the water area—
 - (a) investigate and test any boat or vessel or part thereof or any equipment thereon in order to determine whether the boat or vessel is suitable for navigation on or in the water and whether the provisions contained in this by-law have been complied with;
 - (b) call for any information regarding the boat or vessel from the helmsman and may, if the helmsman is unable to furnish the information, order him to remove the boat or vessel forthwith from the water until such time as the request can be complied with;
 - (c) require the helmsman to furnish his name and address or the name and address of the licensee and any other information required for identification purposes;
 - (d) require any other person in the boat or vessel other than the helmsman, to furnish his name and address as well as any other information required for identification of the helmsman or the licensee;
 - (e) if it appears to him that the helmsman of any boat or vessel, owing to physical or mental condition, irrespective of how this originated, is not capable of steering the boat or vessel or of being in control of it, forbid the helmsman temporarily from continuing to steer or being in control of the boat or vessel and may make arrangements which in his opinion are necessary or advisable for the safe disposal of the boat or vessel;
 - (f) if it appears to him that the load or number of persons transported in any boat or vessel is more than that stated on the registration certificate or more than can be transported in reasonable safety under prevailing conditions, forbid the helmsman of such a boat or vessel to proceed until the load or the number of persons has been reduced in the manner he considers necessary or advisable;

- (g) if it appears to him that any boat or vessel or part thereof is un-navigable in or on the water, order the helmsman to remove the boat or vessel forthwith from the water area until such time as the boat or vessel or part thereof has been made navigable in or on the water;
 - (h) if it appears to him that any of the equipment prescribed by this by-law is not on board the boat or vessel or in good working condition or easily available for immediate use on board, order the helmsman to remove the boat or vessel forthwith from the water area until such time as all the provisions of this by-law have been complied with
 - (i) remove any fishing rod or line that has been left unattended, from a river, if in his opinion the rod or line constitutes a threat to the safety of others.
- (4) No person may—
- (a) obstruct or interfere with any authorized officer whilst the latter is engaged in the execution of his duties; or
 - (b) refuse to furnish his or her correct name and address when requested to do so by an authorized officer.
- (5) A person who contravenes any provision of subsection (4) commits an offence.

14. Delegation of power

The municipality may delegate and or transfer any powers conferred on it under this by-law with the exception of the power to levy or determine fees, to any person or persons or organization.

15. Removal of boats from the river

- (1) If the owner of an unlicensed boat fails to remove such boat from a river after having been instructed to do so by the municipality or any authorized officer, the municipality may remove such boat forthwith.
- (2) (a) In the event of the municipality canceling any license, or if any license expires or lapses in terms of this by-law, the owner of the boat, the license of which has expired or lapsed or has been cancelled, must immediately remove such boat from the river;
- (b) If the owner of a boat, the license of which has expired or lapsed or has been cancelled, fails to remove such boat for vessel from a river within thirty days after such license has expired or lapsed or after notification to him of the said cancellation, the municipality may remove such boat forthwith.
- (3) Any boat in or on a river for which the fees as prescribed by the municipality are in arrears for more than thirty days, may be removed from the river by the municipality after written notice has been given to the owner or licensee.
- (4) Where the municipality is entitled to remove a boat, an authorized officer may make any arrangements considered necessary by him to ensure the removal of such boat or vessel and the municipality may recover the cost of such removal from the owner or licensee.
- (5) If a boat or vessel removed from the river in terms of the provisions of subsections (1), (2)(b) or (4) is not claimed within ninety days after such removal, or in the case of a boat or vessel referred to in subsection (3), within ninety days after the said written notice has been given and all fees in arrears have been paid, the municipality may seize such boat or vessel by Court Order to claim fees in arrears.

CHAPTER 6: HOUSEBOATS

16. Houseboats

- (1) No person may, in the water area, keep or use any houseboat without the prior written approval of the municipality.
- (2) The owner of any houseboat wishing to use it on the river must apply to the municipality by completion of the prescribed form and payment of the prescribed fee. The application must contain full details pertaining to the construction, size, method of propulsion, intended use and area of operation. Furthermore, the applicant must satisfy the municipality that the houseboat has sufficient facilities to store any rubbish, waste or sewerage generated on board the houseboat.
- (3) The municipality may request any further detail pertaining to the houseboat which it deems necessary to enable it to decide whether to grant authorization or not.
- (4) The houseboat, in respect of which the application has been made, must be submitted for examination by an authorized officer of the municipality at a date, place and time appointed by the authorizing officer.
- (5) The municipality, in granting authorization to keep or use a houseboat on a river may impose such conditions as it deems necessary in the interests of safety or to limit the impact of the houseboat on other users of the river.
- (6) The municipality is entitled, at its sole discretion to limit the number of houseboats operating on the river.
- (7) Any authorization granted by the municipality shall be valid for a period of 12 months, where after it shall automatically lapse and thereafter the owner of the houseboat must submit an application for permission as provided herein.
- (8) The owner of a houseboat used on a river must ensure that all persons operating the houseboat shall have the necessary skill to control the houseboat.
- (9) No houseboat shall be allowed to remain anchored at any place on the river for a period longer than 24 hours, without the written permission from the municipality.
- (10) Every houseboat shall be required to obtain the relevant safety certification from the South African Maritime Safety Authority (SAMSA).

CHAPTER 7: SPECIFIC PROVISIONS RELATING TO CERTAIN RIVERS**17. Management plans for specific rivers**

- (1) The municipality may compile and publish management plans for the control and use of the following rivers in its area of jurisdiction—
 - (a) Breede River;
 - (b) Goukou River;
 - (c) Gouritz River; and
 - (d) Duiwenhoks River.
- (2) The management plans contemplated in subsection (1) may provide for rules, including, but not limited to—
 - (a) the use of boats or vessels on the rivers and the sizes and numbers to be allowed;
 - (b) safety on the rivers;
 - (c) pollution of rivers;
 - (d) erection of structures and facilities;
 - (e) demarcation of areas for usage;
 - (f) the organization of public events and regattas; and
 - (g) protection of fish, bird- or animal life and vegetation.
- (3) The management plans contemplated in subsection (1) must be subject to a public participation process involving communities and interest groups.
- (4) The management plans contemplated in subsection (1) will, if compiled and published, become effective and the provisions of such management plans will enjoy preference in the event of any conflict with the provisions of this by-law.
- (5) A person who fails to comply with any directives, conditions or rules laid down in a management plan contemplated in subsection (1) commits an offence.

CHAPTER 8: GENERAL PROVISIONS**18. Exemption from liability**

- (1) The municipality shall not be liable for any injury which is sustained by any person using a river or any other facilities or for damage to any property thereon, whatever the cause may be.
- (2) The municipality as a whole, individual councilors, any person in the service of the Council, any authorized officer or any person or organization to whom the municipality has delegated any powers in terms of section 13 of this by-law shall not, except in the event of any willful act or omission on the part of the municipality or the said person or organization, be liable for any loss or damage which results from any loss of or damage to property which is caused by or arises out of or in connection with anything which is done or performed in good faith in exercise or performance of a power or duty conferred or imposed in terms of this by-law.

19. 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.

20. 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.

21. 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.

22. 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.

23. Short title and commencement

This by-law may be cited as the by-law relating to the Management and use of Rivers, and commences on the date of publication thereof in the Provincial Gazette.

SCHEDULE 1

(Section 4)

Equipment required	Type of boat or vessel
1. A life belt	Any boat or vessel, excluding a canoe, paddle-ski, paddle-boat, or rowing boat.
2. Life-buoy or other floating device	
3. Sufficient oars, paddles or poles or alternative propulsion apparatus to land boat or vessel	Any boat or vessel
4. A pump or other bailer	Any boat or vessel, unless boat or vessel has been designed to float with the number of persons on board even if waterlogged
5. A water-skiing rear mirror	Power boat used to tow a water-skier
6. Whistle or siren to be employed for prevention of collisions	Power boat
7. Fire extinguisher	House boat
8. Flame arrestor for each carburetor of any petrol motor on the boat or vessel, except an outboard motor	
9. Silencer on the exhaust	Any motor driven boat or vessel
10. Lights which must be visible for a distance of at least 200 metres if boat or vessel is used between the hours of sunset and sunrise: (a) whittle light visible from all angles (b) port and starboard lights visible for 112.5 degrees (c) lantern or flashlight to be shown to prevent collisions	Power boats and sailing boats whilst at anchor Power boats and sailing boats whilst underway Vessels other than a power boat
11. Container for refuse	Any boat or vessel, excluding a canoe, paddle-ski or sailboard
12. Anchor with at least 30 metres of anchor line	Any boat or vessel, excluding a canoe, paddle-ski, jet-ski or sailboard

HESSEQUA MUNISIPALITEIT VERORDENING INSAKE DIE BESTUUR EN GEBRUIK VAN RIVIERE

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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3. Verbode gedrag
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12. Besoedeling van riviere

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13. Bevoegdhede van gemagtigde beampetes
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HOOFSTUK 6: HUISBOTE

16. Huisbote

HOOFSTUK 7: BESONDERE BEPALINGS TEN OPSIGTE VAN SEKERE RIVIERE

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19. Vrystelling van bepalings
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21. Strawwe
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BYLAE 1: TOERUSTING WAT OP BOTE EN VAARTUIE MOET WEES

1. In hierdie verordeninge, tensy dit uit die samehang anders blyk,
beteken—

"gemagtigde beampte" enige persoon wat deur die munisipaliteit gemagtig is om die funksies van 'n gemagtigde beampte ingevolge hierdie verordening uit te oefen of 'n lid van die Suid-Afrikaanse Polisie;

"boot" of **"vaartuig"** enige vervoer wat op of in water kan dryf of ontwerp is om op of in water te navigeer, insluitende, maar nie beperk nie tot, 'n seilboot, seilbord, waterponie, vissersboot, platboomskuit, pont, huisboot, plesierboot, waterfiets en vlot;

"boeg" die voorkant van die vaartuig;

- “verordening”** hierdie verordening en enige wysigings daarvan;
- “keerdatum”** 30 Junie van elke jaar of sodanige ander datum soos deur die munisipaliteit bepaal;
- “tregtermond” ’n wateropervlak—**
- wat deel is van ’n watervloeï wat permanent of periodiek oop is na die see;
 - waarin die styg en val van die watervlak as gevolg van die getye meetbaar is tydens vloedgety wanneer die watervloeï oop is na die see; of
 - waarin die soutgehalte meetbaar hoër is as gevolg van die invloed van die see;
- “stuurman”** ’n persoon wat ’n boot of vaartuig stuur of in beheer is daarvan;
- “huisboot”** enige vaartuig of boot, ongeag of dit op eie krag aangedryf word, wat deur meer as een persoon geokkupeer kan word, toegerus is met aakkommadasiegeriewe vir die dag of nag en waarop geriewe vir die voorbereiding van kos asook toilette of wasgeriewe voorsien word, maar sluit ’n seilboot en ’n kajuitboot wat nie met ablusie- of kookgeriewe toegerus is nie, uit;
- “luierspoed”** die spoed waarteen ’n boot beweeg wat geen wit water agter die boot wys nie en teen ’n maksimum spoed van 10 kilometer per uur;
- “gelisensieërde”** die persoon in wie se naam ’n boot of vaartuig geregistreer is soos deur hierdie verordening vereis;
- “munisipaliteit”** die Hessequa Munisipaliteit wat ingevolge Artikel 12 van die Wet op Munisipale Strukture, 117 van 1998, 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;
- “munisipale bestuurder”** die munisipale bestuurder van die munisipaliteit;
- “omgewing van die rivier”** eiendom langs of in die onmiddellike omgewing van die rivier;
- “gebruik” of “beheer”** of enige soortgelyke uitdrukking ten opsigte van ’n boot of vaartuig, om ’n boot of vaartuig te water te laat, te gebruik, te seil, te navigeer, te dok of om ’n boot of vaartuig op ’n rivier te hê of om toe te laat dat ’n boot of vaartuig op ’n rivier is;
- “toestemming”** die geskrewe toestemming van die munisipaliteit;
- “plesierboot”** enige vaartuig of boot ongeag of dit op eie krag aangedryf word, wat deur meer as een persoon geokkupeer kan word, wat gebruik word vir die vermaak van passasiers by wyse van skemervaarte, onthale of enige ander vorm van vermaak;
- ‘bakboord’** die linkerkant van die boot of vaartuig soos beskou vanaf die boeg;
- ‘kragboot’** enige boot of vaartuig wat aangedryf word deur ’n motor of ander meganiese apparaat, hetsy binne- of buiteboord en ongeag of sodanige motor of apparaat die hoof kragbron is;
- “publiseer”** ten opsigte van die bepalings van artikel 17(1)—
- om in die Provinsiale Gazette en ’n plaaslike koerant te publiseer; en
 - om die kennisgewing wat gepubliseer is op die munisipaliteit se kennisgewingborde te vertoon;
- “geregistreerde boot”** ’n boot of vaartuig wat ingevolge artikel 6 van hierdie verordening van ’n identifikasienommer voorsien is;
- “rivier”** die Breede Rivier, die Goukou Rivier, die Gouritz Rivier, die Duiwenhoks Rivier of enige ander rivier in die munisipaliteit se jurisdiksiegebied en sluit ’n tregtermond in;
- “roeiboot”** ’n boot of vaartuig wat ontwerp is om aangedryf te word deur middel van spane sonder enige meganiese bystand;
- “seil” of “onderweg”** die stand van ’n boot of vaartuig wat nie geanker of gedok is nie of op droë grond is;
- “seilboot”** enige boot of vaartuig wat deur die middel van seile deur die wind aangedryf kan word;
- “SAMV”** die Suid-Afrikaanse Maritieme Veiligheidsgesag (South African Maritime Safety Authority);
- “stuurboord”** die regterkant van die boot of vaartuig soos beskou vanaf die boeg;
- “stewe”** die agterkant van ’n boot of vaartuig;
- “sigbaar”** sigbaar vir iemand met redelike sig tydens ’n donker nag met ’n skoon atmosfeer;
- “watergebied”** die gebied tussen die hoogwatermerk op beide banke van die rivier en sy monding op enige gegewe tyd;
- “waterski”** om in die water te ski of skaats met of sonder enige bystand van enige soort skitoerusting en waar die waterskiër deur ’n boot of vaartuig gesleep word aan ’n sleepstrop;
- “water-skiër” of “skiër”** ’n persoon wat waterski.

HOOFTUK 1: BESTUUR VAN BOTE EN DIE GEBRUIK VAN RIVIERE

2. Gebruik van bote op riviere

- Niemand mag ’n boot met ’n masjien van meer as 15 perdekrag op ’n rivier gebruik of in beheer daarvan wees nie, tensy—
 - so ’n boot deur die munisipaliteit geregistreer en gelisensieer is nie;
 - ’n tydelike permit vir sodanige boot uitgereik is vir die bepaalde rivier waarop die boot gebruik gaan word nie; en
 - die persoon wat die boot beheer in besit is van ’n geldige skipperslisensie of ’n sertifikaat van bekwaamheid wat deur die SAMV uitgereik is.

- (2) 'n Persoon onder die ouderdom van 15 jaar mag slegs in beheer wees van 'n boot met 'n masjien van 15 perdekrag of minder terwyl so 'n persoon vergesel is van 'n persoon wat in besit is van 'n geldige sertifikaat van bekwaamheid.
- (3) Waar enige lisensiehouer van 'n boot soos bedoel in subartikel (1) toelaat dat enige ander persoon, wat nie in besit is van 'n sertifikaat soos bedoel in subartikel (2) nie, 'n boot gebruik of beheer, of wat na die mening van die gemagtigde beamppte nie bevoeg is om 'n boot met die nodige respek vir die omgewing te gebruik of in beheer daarvan te wees nie, mag so 'n gemagtigde beamppte die gelisensieerde instruksie gee om nie so 'n ander persoon toe te laat om sodanige boot te gebruik of in beheer daarvan te wees nie.
- (4) Enige persoon wat 'n bepaling van hierdie artikel oortree, pleeg 'n misdryf.

3. Verbode gedrag

- (1) Geen persoon mag 'n boot of vaartuig op 'n rivier gebruik—
 - (a) op 'n roekeloze of nalatige wyse nie;
 - (b) terwyl hy onder die invloed van drank of dwelmmiddels is, of terwyl die alkohol persentasie in sy bloed 0.05 of meer, uitgedruk in gram per 100 milliliters bloed;
 - (c) terwyl hy aan 'n siekte of swakheid lei wat hom ongeskik maak of dit te doen nie;
 - (d) op 'n wyse wat deur die gemagtigde beamppte word gevaaerlik te wees vir die publiek of die insittendes van so 'n boot of vaartuig of op 'n wyse wat bereken is om eiendom of geriewe in gevaar te stel of te beskadig, met inagneming van al die omstandighede van die geval;
 - (e) op 'n wyse wat na die mening van die gemagtigde beamppte 'n oorlas daarstel;
 - (f) sonder redelike inagneming van die regte van ander persone wat so 'n rivier gebruik;
 - (g) terwyl dit olie, petrol, besoedelende of enige ander toksiese of aanstootlike middele lek;
 - (h) indien die vrag of die aantal persone aan boord die dravermoë van die vaartuig oorskrei, soos aangedui op die vaartuig se registrasiesertifikaat of soos gemeld op die lisensie;
 - (i) indien die boot of vaartuig nie by die munisipaliteit geregistreer en gelisensieer is soos in hierdie verordening vereis word en indien die identifikasienommer wat ten opsigte van die boot of vaartuig uitgereik is nie permanent aangebring is op 'n wyse deur die munisipaliteit bepaal nie; en
 - (j) in stryd met enige gebruiksone op 'n rivier soos deur die munisipaliteit bepaal is nie.
- (2) Geen persoon mag in die watergebied sonder die voorafverkreë skriftelike goedkeuring van die munisipaliteit—
 - (i) teen vergoeding of vir wins enige vertoning of vermaak aanbied of enige besigheid of enige ambag bedryf of enige boor of vaartuig verhuur nie;
 - (ii) enige boot of vaartuig vir die vervoer van passassiers of goedere teen vergoeding aanhou of gebruik nie;
 - (iii) enige visvangkompetisie reël of aanbied nie; of
 - (iv) enige wedren, vergadering of regatta reël of aanbied nie.
- (3) Wanneer die munisipaliteit goedkeuring verleen ingevolge subartikel (2) mag dit enige voorwaardes stel wat dit in die lig van die omstandighede van elke geval goedvind ten einde die publiek se veiligheid te beskerm.
- (4) Terwyl in 'n watergebied, mag geen persoon—
 - (a) onwelvoeglike, aanstootlike of onbehoorlike taal gebruik nie;
 - (b) homself op 'n aanstootlike, onbehoorlike of wanordelike wyse gedra nie;
 - (c) opsetlik of nalatiglik enige iets doen wat ongerief van ander gebruikers van die watergebied mag veroorsaak, of wat die vreedsaamheid mag versteur nie.
- (5) Niemand mag—
 - (a) van enige brug af of binne 20 meter aan enige kant van 'n sleepelling visvang nie;
 - (b) vanaf 'n boot of vaartuig hengel terwyl daardie boot of vaartuig onder gemotoriseerde krag aangedryf word nie;
 - (c) sonder 'n permit scubaduik, vis skiet of visnette, behalwe 'n land- of gooinet, gebruik nie;
 - (d) in enige rivier swem waar bootry toegelaat word nie, tensy dit in 'n gebied is wat vir swem gereserveer is en indien dit as sulks deur 'n kennisgewingbord aangedui word;
 - (e) sonder 'n lisensie visvang nie;
 - (f) enige skeertuig, straalgedrewe watertuig (insluitende, maar nie beperk nie tot waterponies) of seevliegtuig gebruik of enige valskeermaktiwiteite beoefen op enige deel van die watergebied van 'n rivier nie; of
 - (g) enige obstruksie op of nabij 'n rivier se oppervlak plaas nie.

- (6) Die munisipaliteit mag die grootte beperk van enige motor wat op enige rivier of gedeelte van 'n rivier gebruik word.
- (7) Die munisipaliteit mag aan enige rivier of gedeelte daarvan gebruiksones toeken vir die die beskerming van die omgewing of vir veiligheidsoorwegings.
- (8) Die bepaling van subartikel (1)(i) is slegs van toepassing op 'n boot bedoel in artikel 2(1).
- (9) Enige persoon wat 'n bepaling van hierdie artikel oortree, pleeg 'n misdryf.

4. Toerusting aanboord 'n boot of vaartuig

- (1) Geen persoon mag enige boot of vaartuig op 'n rivier gebruik nie tensy die toerusting wat in Bylae 1 gelys is aanboord so 'n boot of vaartuig is nie.
- (2) Alle lewensreddingstoerusting aan boord van 'n boot of vaartuig moet in 'n goeie, werkende toestand en binne maklike reikafstand wees vir onmiddelike en effektiewe gebruik.
- (3) Die batterye en brandstof van enige boot of vaartuig moet in afsonderlike kompartemente gehou word en geen brandstoftoevoerpyp mag deur 'n batterykompartement loop nie. Beide kompartemente moet behoorlik geventileer wees.
- (4) Enige persoon wat 'n bepaling van hierdie artikel oortree, pleeg 'n misdryf.

5. Reëls vir die gebruik van bote

- (1) Niemand mag 'n boot of vaartuig sonder toesig in die watergebied laat tensy dit behoorlik ge-anchor, vasgemeer of na droë grond tot 'n veilige hoogte bo die watervlak verwyder is nie.
- (2) Nieteenstaande die bepaling van subartikel (1), mag geen boot of vaartuig in 'n watergebied vir 'n langer tydperk as 24 ure sonder toesig gelaat word nie.
- (3) Geen boot of vaartuig mag vasgemeer of te water gelaat word op enige plek wat nie 'n plek is wat deur die munisipaliteit aangedui of goedgekeur is nie, en 'n gemagtigde beampte of die munisipaliteit mag enige boot of vaartuig sonder die toestemming van die eienaar skuif, of dit op 'n ander plek vasmeer indien dit in openbare belang geag word en sodanige beweging sal gedoen word op die risiko van die eienaar van die boot of vaartuig.
- (4) Geen boot of vaartuig mag vasgemeer word aan enige ander boot of vaartuig of aan 'n merker, boei of ander navigasiehulpmiddel.
- (5) Die stuurman van enige boot of vaartuig moet seker maak dat hy te alle tye volle beheer oor die boot of vaartuig kan uitoefen terwyl dit onderweg is.
- (6) Die stuurman van enige boot of vaartuig wat 'n lyn, kabel of tou vir enige doeleindes sleep, moet seker maak dat geen ander persoon in gevaar gestel of verontrief word nie.
- (7) Geen persoon mag 'n boot of vaartuig gebruik of toelaat dat dit gebruik word op so 'n wyse dat dit gevaar of oorlas veroorsaak vir enige ander boot of vaartuig of die insittendes daarvan of vir ander persone of eiendom of installasies in die water of aan die rand van die water of vir enige bote of vaartuie wat by 'n kaai vasgemeer is nie.
- (8) Geen kragboot wat onderweg is en geen persoon wat in 'n watergebied waterski mag nader as 10 meter gaan aan 'n plek waar mense swem of nader as 10 meter van die kant van 'n rivier of nader as 10 meter van enige ander boot of vaartuig of sodanige ander afstand soos deur die munisipaliteit bepaal, tensy:
 - (a) omstandighede sodanig is dat die gemelde afstande nie gehandhaaf kan word nie;
 - (b) bystand verleen word in 'n noodsituasie; of
 - (c) die kragboot gebruik word om vis te vang of enige waterskiër wat deur dit getrek word besig is om aan land te gaan of dit te verlaat; Met dien verstande dat waar die voorgeskrewe afstande nie gehandhaaf word nie, moet die kragboot onmiddellik sy spoed na minder as 10 km per uur verminder.
- (9) Niemand mag op die boeg, voordek of boordwand van enige kragboot wat onderweg is wees nie tensy voldoende veiligheidsreëlings aangebring is, en geen persoon mag vanaf enige kragboot wat onderweg is spring of duik nie tensy hulp verleen word in 'n noodgeval of tensy dit nodig is om die boot te water te laat of aan land te bring.
- (10) Waar moontlik, moet 'n kragboot so geloods word dat die mediaanlyn van die water altyd aan die bakboordkant van die boot is en kragbote moet anti-klokgewys beweeg en aan die regterkant van die watergebied hou.
- (11) 'n Kragboot moet weghou van seilbote en bote of vaartuie wat deur roeispante of spane aangedryf word.
- (12) In die geval van kragbote, wanneer twee bote kop-aan-kop of naastenby kop-aan-kop nader, moet elkeen sy koers so na stuurboord verander sodat hulle mekaar aan die bakboord-kant verbygaan en, onderworpe aan die bepaling van subartikel (8), op so 'n afstand en teen so 'n spoed dat die kielwater van enige van die vaartuie nie die ander in gevaar stel nie.
- (13) In die geval van kragbote, mag geen boot 'n ander boot wat in dieselfde rigting beweeg verbygaan nie tensy dit veilig is om so te doen. So 'n boot moet, wanneer 'n ander boot verbygesteek word, sodanige boot aan die bakboordkant verbygaan tensy dit ooglopend onveilig is of indien daar genoegsame ruimte is om te manuevre en, onderworpe aan die bepaling van subartikel (8), op so 'n afstand en teen so 'n spoed dat die kielwater nie die ander vaartuig of 'n skiër in gevaar stel nie. Stadiger verkeer moet dus nader aan die regterkant van die watergebied hou ten einde soveel ruimte moontlik aan die bakboordkant te laat.
- (14) 'n Boot wat verbygegaan word moet sy spoed en rigting hanhaaf totdat die verbyganende boot veilig verby is.

- (15) In die geval van kragbote, wanneer twee bote mekaar nader op 'n ander wyse as vermeld in subartikels (12) en (13), moet die boot wat die ander boot aan sy bakboordkant het sy spoed en rigting handhaaf en die boot wat die ander boot aan sy stuurboordkant het moet koers na stuurboord verander sodat hy agter die ander boot verbygaan en moet, indien nodig, stop of agteruitbeweeg ten einde 'n botsing te voorkom.
- (16) Wanneer twee seilbote mekaar nader op 'n wyse wat die risiko van 'n botsing inhou, geld die volgende reg van weg reëls:
- indien elkeen die wind aan 'n verskillende kant kry, moet die seilboot wat die wind aan bakboordkant kry die weg oophou deur koers te verander sodat hy agter die ander boot verbygaan, of deur om die ander boot te gaan of te stop; en
 - indien beide die wind aan dieselfde kant kry, moet die seilboot wat aan die loefsy (wind-op) is wegblê van die vaartuig wat aan die lykant (wind-af) is;
 - Vir die doeleindeste van hierdie subartikel is die loefsy die teenoorgestelde kant van die kant waar die hoofseil gedra word.
- (17) Ten einde botsings te vermy, moet 'n kragboot die reg van weg gee aan ander klasse bote of vaartuie, en 'n roeiboot of kano moet die reg van weg gee aan 'n seilboot wanneer omstandigheede dit vereis, nieteenstaande die bepalings van subartikels (11), (12), (13), (14) en (15), met dien verstaande dat hierdie verordening nie aan enige stuurman die reg gee om onnodig die rigting van 'n ander vaartuig te blokkeer of daarmee in te meng nie. Dit is die plig van elke gebruiker van die watergebied om alle moontlike stappe te neem ten einde 'n ongeluk te voorkom, ongeag wie die reg van weg het soos bepaal in hierdie verordening.
- (18) Die stuurman van enige boot of vaartuig moet 'n veilige en versigtige spoed handhaaf in gebiede waar mense swem, bote of vaartuie vasgemaak is, waar visgevang word of waar boei geplaas is en moet te alle tye, en veral wanneer sigbaarheid deur mis of ander oorsake belemmer word, die boot so hanteer dat mense, ander bote of vaartuie of ander eiendom nie in gevaar gestel word nie.
- (19) Geen boot of vaartuig mag nader as 100 meter in die kielwater van 'n waterskiër volg nie en dieselfde geld vir 'n boot of vaartuig wat 'n skiër trek.
- (20) Bote en vaartuie wat 'n sleepelling of jettie verlaat moet die reg van weg verleen aan inkomende of verbygaande bote of vaartuie.
- (21) Geen boot, vaartuig of ander voertuig wat by wyse van 'n skroefprop bokant die water, of by wyse van 'n waterstraal aangedryf word, mag in die watergebied gebruik word nie.
- (22) Tensy in 'n noodsituasie, mag geen vliegtuig in die watergebied land of opstyg nie.
- (23) Geen boot of vaartuig mag op 'n sleepelling gelaat word nie, tensy dit vir die doeleindeste van herstelwerk is.
- (24) Geen persoon mag 'n boot gebruik, of toelaat dat dit gebruik word, op 'n wyse dat buitensporig groot branders geskep word nie.
- (25) Niemand mag agter 'n boot gesleep word op enige apparatuur wat na die mening van die gemagtigde beampte 'n gevaar vir die gebruiker of ander gebruikers van die rivier inhou nie.
- (26) Enige persoon wat 'n bepaling van hierdie artikel oortree, pleeg 'n misdryf.

6. Reëls vir waterski, waar toegelaat

- Niemand mag waterski tensy hy of sy 'n effektiewe lewengordel of ski-frokkie of goedgekeurde drywingsapparaat aanhet nie.
- Geen staal of ander metaalkabel of draad mag gebruik word om 'n waterskiër te sleep nie.
- Die stuurman van enige boot of vaartuig wat 'n waterskiër sleep moet, voordat die waterskiër gesleep word, seker maak dat die waterskiër kennis dra van die noodsein vir waterskiërs, naamlik die trek van die hand oor die keel, sowel as ander standaard kommunikasietekens wat in waterski gebruik word.
- Waterski word nie tussen sonsondergang en sonop toegelaat nie en die munisipaliteit mag ook waterski op enige ander tyd of in sekere sones verbied.
- Geen boot of vaartuig mag 'n waterskiër sleep tensy 'n tweede persoon wat ouer as 16 jaar is in die boot teenwoordig is om die waterskiër dop te hou nie.
- Geen waterskiër mag 'n ski uitskop behalwe op 'n plek waar 'n ski wat so uitgeskop is nie 'n gevaar vir enige ander gebruiker van die rivier sal inhou nie.
- Sodra 'n waterskiër die sleeptou laat val, moet die boot stop totdat die observeerde of 'n ander passassier die sleeptou aanboord geneem het. Die boot moet dan stadig na die plek beweeg vanwaar die sleep voortgesit sal word of die skiër aanboord gebring sal word, of om terug te keer na die plek waar die skiër aan wal gegaan het, wat ookal die geval mag wees.
- Waterski word slegs in afgebakte gebiede toegelaat.
- Die bestuurder van 'n boot wat 'n skiër sleep moet 'n rooi vlag met 'n minimum afmeting van 500mm by 500mm vertoon ten einde die volgende toestande aan te duif:
 - Wanneer 'n skiër geval het of wil begin ski;
 - wanneer 'n sleeptou vanaf die boot in die water is; en
 - wanneer 'n ski in die water in die omgewing van die boot is.
- Enige persoon wat 'n bepaling van hierdie artikel oortree, pleeg 'n misdryf.

HOOFSTUK 2: REGISTRASIE EN LISENSIËRING VAN BOTE

7. Registrasie en lisensiëring van bote

- (1) Enige persoon wat van plan is om 'n kragboot, huisboot of plesierboot op 'n rivier te gebruik moet skriftelik op die voorgeskrewe vorm by die munisipaliteit aansoek doen om registrasie en die lisensie vir so 'n boot en die aansoek moet die grootte van die boot, die metode van aandrywing, die masjiengrootte, die voorgenome gebruik en die veiligheidstoerusting op die boot aandui.
- (2) Enige sodanige aansoek moet vergesel gaan van die fooie, soos deur die munisipaliteit bepaal, vir die rivier waarop die aansoeker van voorname is om die boot te gebruik en die fooie sal terugbetaalbaar wees indien die aansoek nie goedgekeur word nie.
- (3) 'n Boot ten opsigte waarvan 'n aansoek om 'n lisensie gebring is moet beskikbaar gestel word vir inspeksie deur 'n gemagtigde beampete op 'n datum, plek en tyd vasgestel deur die gemagtigde beampete tensy die aansoeker deur die gemagtigde beampete in kennis gestel word dat sodanige inspeksie nie nodig is nie.
- (4) Die munisipaliteit mag, in belang van veiligheid en omgewingsvolhoubaarheid of ten einde voldoening aan hierdie verordening te verseker, die aantal bote op 'n rivier beperk deur die aantal lisensies te beperk wat in enige gegewe jaar ten opsigte van enige rivier uitgerek word.
- (5) Die munisipaliteit mag, in belang van veiligheid of ten einde voldoening aan hierdie verordening te verseker, enige aansoek goedkeur of afkeur en mag, wanneer so 'n aansoek goedgekeur word, voorwaardes oplê rakende die wyse van gebruik of van herstelwerk of alterasies aan so 'n boot soos dit mag nodig vind.
- (6) Die munisipaliteit moet weier om 'n aansoek goed te keur indien dit van mening is dat die gebruik van die boot—
 - (a) 'n bron van besoedeling in 'n rivier of in die omgewing van 'n rivier sal wees;
 - (b) oorlas sal veroorsaak;
 - (c) 'n gevvaar vir die persone wat dit gebruik of die publiek of 'n deel van die publiek sal daarstel;
 - (d) onvanpas sal wees in die gebied en die aard van die rivier; of
 - (e) kielwater of branders sal veroorsaak wat 'n oorlas vir oewerbewoners sal wees of 'n onaanvaarbare risiko van skade aan die omgewing inhou.
- (7) Die registrasie van 'n boot is nie oordraagbaar van een persoon na 'n ander nie of van een boot na 'n ander nie tensy 'n lisensiehouer van 'n boot wat ingevolge hierdie verordening geregistreer is sy registrasienommer en lisensie met die skriftelike goedkeuring van die munisipaliteit oordra na 'n ander boot wat aan hom behoort.
- (8) Die registrasie moet die lisensiehouer, die maksimum getal persone wat deur die boot gedra mag word, die tipe en lengte van die boot, die maksimum krag van die motor en die identifikasienommer wat aan die boot toegeken is spesifiseer.
- (9) Waar die munisipaliteit weier om 'n boot te registreer of te lisensieer, moet dit redes vir die weierung verstrek.
- (10) Die munisipaliteit behou die reg voor om die aantal registrasies per lisensiehouer te beperk.
- (11) Enige persoon wat 'n bepaling van hierdie artikel oortree of 'n vals verklaring maak, pleeg 'n misdryf.

8. Geldigheid van lisensies, uitreik van tydelike permitte en die vertoon van tekens

- (1) Die lisensie van 'n boot verval soos deur die munisipale bestuurder bepaal vir elke rivier.
- (2) Ten einde 'n boot op 'n rivier te gebruik waar so 'n boot nie gelisensieer is nie en andersinds nie in terme van hierdie verordening gebruik mag word nie, mag 'n aansoek tot die munisipaliteit gerig word vir die uitreiking van 'n tydelike permit vir die rivier ten opsigte waarvan die aansoeker van plan is om die boot te gebruik en sodanige tydelike permit sal van krag wees vir 'n tydperk soos deur die munisipaliteit goedgekeur teen betaling van die voorgeskrewe fooi. Geen sodanige tydelike permit sal vir meer as dertig dae geldig wees nie.
- (3) Die lisensiehouer van 'n boot moet onverwyld die lisensie of tydelike permit op die boot aanbring of laat aanbring op 'n wyse wat vir die munisipaliteit aanvaarbaar is.

9. Outomatiese verval en kansellasié van lisensies en registrasies

- (1) 'n Lisensie en 'n boot se registrasie verval outomaties indien so 'n boot deur of op gesag van die munisipaliteit verwijder is ingevolge artikel 15(4) as gevolg van die veroorsaking van besoedeling deur die vrystelling van petrol of olie in die rivier.
- (2) Indien die munisipaliteit van mening is dat 'n boot nie langer vir registrasie ingevolge hierdie verordening of ingevolge enige voorwaardes waarop 'n lisensie toegestaan is kwalifiseer nie, mag die lisensie gekanselleer word nadat dertig dae kennis te dien effekte aan die gelisensieerde gegee is by die adres wat op die lisensie verskyn.

10. Kansellasié van lisensie

- (1) Die munisipaliteit mag enige lisensie kanselleer indien—
 - (a) dit tevrede is dat die boot ten opsigte waarvan so 'n lisensie uitgereik is nie meer seewaardig is nie, of 'n bron van besoedeling in die omgewing van die rivier is, of op 'n wyse gebruik word wat 'n oorlas of gevvaar vir ander vaartuie of die publiek of 'n deel van die publiek daarstel;
 - (b) die boot oorgedra, verkoop of mee weggedoen is of indien die munisipaliteit oortuig is dat die lisensiehouer nie meer beheer of toesig oor die boot uitoefen nie;

- (c) die lisensiehouer skuldig bevind is aan 'n oortreding wat verband hou met die gebruik van of beheer oor 'n boot ingevolge hierdie verordening; of
 - (d) enige inligting wat op die aansoekvorm verstrek is verkeerd is.
- (2) Indien die munisipaliteit enige lisensie ingevolge hierdie verordening kanselleer, moet 'n gemagtigde beampte die lisensiehouer onverwyld skriftelik, by die adres wat op die aansoekvorm verskaf is, van sodanige kansellasie in kennis stel.

HOOFSTUK 3: VASSTELLING VAN TARIEWE EN FOOIE

11. Vasstelling van tariewe, fooie en heffings

- (1) Die munisipaliteit mag tariewe, fooie en heffings vasstel vir die registrasie en lisensiëring van bote en die verskaffing van skyfies en tekens ten opsigte van riviere of enige besonderse rivier.
- (2) By die vasstelling van tariewe, fooie en heffings ingevolge subartikel (1) mag die munisipaliteit onderskei tussen verskillende klasse bote en vaartuie wat van 'n rivier of enige geriewe gebruik maak, ten opsigte van hul grootte, metode van aandrywing of gebruik, of dit mag enige ander onderskeid tref wat, na die mening van die munisipaliteit, relevant is tot die daarstelling van sodanige tariewe of fooie.
- (3) Enige aansoek vir die lisensiëring van 'n boot en die gebruik van geriewe deur 'n boot of vaartuig moet vergesel gaan van die voorgeskrewe fooie deur die munisipaliteit bepaal.
- (4) Alle inkomste wat gegeneere word uit permitte wat uitgereik word ingevolge hierdie verordening vir ontspanningsaktiwiteite moet toegewys word aan die beheer van ontspanningsaktiwiteite of die onderhoud van openbare infrastruktur en en om die rivier ten opsigte waarvan die inkomste gegeneere is of beide die beheer en onderhoud.

HOOFSTUK 4: BESOEDELING VAN RIVIERE

12. Besoedeling van riviere

- (1) Niemand mag, behalwe met die goedkeuring van die munisipaliteit en in ooreenstemming met die bepalings van die Wet op die Beheer oor Strandgebiede, 1935 (Wet 21 of 1935), toelaat dat enige riooltyp of—tenk in 'n rivier uitloop nie of toelaat dat enige ander afvalwater van enige bron in die rivier beland nie.
- (2) Daar mag van geen stof soos petrol, olie of enige giftige of aanstootlike stof in 'n rivier mee weggedoen word nie.
- (3) Niemand mag enige bottels kanne, afval of vullis van enige aard in die water of op enige aangrensende grond of gerief gooie nie, behalwe in houers wat vir daardie doel voorsien word.
- (4) Niemand mag deur enige handeling of versuim, hetsy direk of indirek, 'n oorlas toelaat of toelaat dat 'n bron van gevaar geskep of voortgesit word, of enige inmenging met die gemak of gerief van persone in die omgewing van 'n rivier toelaat nie.
- (5) Niemand mag enige visafval in 'n rivier stort nie.
- (6) Enige persoon wat 'n bepaling van hierdie artikel oortree, pleeg 'n misdryf.

HOOFSTUK 5: BEVOEGDHEDE VAN GEMAGTIGDE BEAMPTES

13. Bevoegdhede van gemagtigde beampetes

- (1) Enige persoon wat 'n ongelisensieerde boot op 'n rivier gebruik of enige bepaling van hierdie verordening oortree, mag deur 'n gemagtigde beampte aangesê word om so 'n ongelisensieerde boot sonder verwyl van die rivier te verwijder of om sodanige oortreding te staak en nie-nakoming van so 'n bevel is 'n misdryf.
- (2) Enige gemagtigde beampte het die reg om te eniger tyd aan boord 'n vaartuig te gaan en dit te inspekteer ten einde te vas te stel of die bepalings van hierdie verordening nagekom word.
- (3) Enige gemagtigde beampte mag in die watergebied—
 - (a) enige boot of vaartuig of enige toerusting daarop ondersoek en toets ten einde te bepaal of die boot of vaartuig geskik is vir navigasie op of in die water en of die bepalings van hierdie verordening nagekom word;
 - (b) enige inligting ten opsigte van die boot of vaartuig van die stuurman versoek, en indien die stuurman nie in staat is om die inligting te verstrek nie, hom beveel of die boot of vaartuig onverwyld van die water te verwijder tot tyd en wyl daar aan die versoek voldoen kan word;
 - (c) van die stuurman vereis om sy naam en adres asook die naam en adres van die lisensiehouer te verstrek asook enige ander inligting wat vir identifikasiedoeleindes vereis word;
 - (d) van enige ander persoon op die boot of vaartuig, buiten die stuurman, vereis om sy naam en adres asook enige ander inligting wat vir die identifikasie van die stuurman of lisensiehouer vereis word te verstrek;
 - (e) indien dit vir hom voorkom dat die stuurman van enige boot of vaartuig as gevolg van enige fisiese of geestelike toestand, ongeag die oorsprong daarvan, nie in staat is om die boot of vaartuig te stuur of in beheer daarvan te wees nie, die stuurman tydelik verbied om aan te hou stuur of in beheer van die boot of vaartuig en hy mag reëlings tref wat na sy mening nodig en aan te beveel is vir die veilige besorging van die boot of vaartuig;
 - (f) indien dit vir hom voorkom dat die vrag of die aantal persone wat in enige boot of vaartuig vervoer word meer is as wat op die registrasiesertifikaat aangedui word, die stuurman verbied om met die vaart voort te gaan totdat die vrag of die getal persone op die wyse verminder is as wat hy nodig en aan te beveel vind;

- (g) indien dit vir hom voorkom dat enige boot of vaartuig of deel daarvan nie-navigeerbaar in of op die water is, die stuurman beveel om die boot of vaartuig onverwyld uit die watergebied te verwyder tot tyd en wyl die boot of vaartuig of gedeelte daarvan navigeerbaar gemaak is;
 - (h) indien dit vir hom voorkom dat enige van die toerusting wat deur hierdie verordening voorgeskryf word nie aan boord die boot of vaartuig is nie of nie in 'n goeie werkende toestand is of maklik beskikbaar is vir onmiddellike gebruik nie, die stuurman beveel om die boot of vaartuig onverwyld uit die watergebied te verwyder tot tyd en wyl daar aan al die bepalings van hierdie verordening voldoen word;
 - (i) enige visstok of—lyn wat onbewaak gelaat word van 'n rivier verwyder, indien sodanige stok of lyn 'n gevaar vir die veiligheid van ander persone.
- (4) Niemand mag—
- (a) met 'n gemagtigde beampete immeng in die uitvoering van sy pligte nie of hom belemmer om sy werk te doen nie; of
 - (b) weier om sy naam of korrekte adres op versoek van 'n gemagtigde beampete te vertrek nie.
- (5) Enige persoon wat 'n bepaling van subartikel (4) oortree, pleeg 'n misdryf.

14. Delegasie van bevoegdhede

Die munisipaliteit mag enige bevoegdhede wat aan dit opgedra is ingevolge hierdie verordening, met die uitsondering van die bevoegdheid om fooie te hef of vas te stel, aan enige persoon, persone of organisasies deleger of oordra.

15. Verwydering van bote van die rivier

- (1) Indien die eienaar van 'n ongelisensieerde boot versuim om so 'n boot van die rivier te verwyder nadat hy aangesê is om dit te doen deur die munisipaliteit of enige gemagtigde beampete, mag die munisipaliteit sodanige boot onverwyld verwyder.
- (2)
 - (a) Waar die munisipaliteit enige lisensie kanselleer, of indien enige lisensie verstryk of verval in terme van hierdie verordening, moet die eienaar van die boot waarvan die lisensie verval of verstryk het so 'n boot onverwyld van die rivier verwyder;
 - (b) Indien die eienaar van 'n boot waarvan die lisensie verval of verstryk het of dit gekanselleer is, versuim om sodanige boot binne dertig dae nadat die lisensie verval of verstryk het of na kenniggewing dat dit gekanselleer is te verwyder, mag die munisipaliteit sodanige boot onverwyld verwyder.
- (3) Enige boot in of op 'n rivier waarvan die fooie soos voorgeskryf deur die munisipaliteit vir meer as dertig dae agterstallig is, mag van die rivier verwyder word deur die munisipaliteit nadat skriftelik kennis gegee is aan die eienaar of lisensiehouer.
- (4) Waar die munisipaliteit gemagtig is om 'n boot of vaartuig te verwyder, mag 'n gemagtigde beampete enige reëling tref wat hy nodig vind ten einde seker te maak dat so 'n boot of vaartuig verwyder word en die munisipaliteit mag die koste verbonde aan sodanige verwydering van die eienaar of lisensiehouer verhaal.
- (5) Indien 'n boot of vaartuig wat van 'n rivier verwyder is ingevolge die bepalings van subartikels (1), (2)(b) of (4) nie binne negentig dae na sodanige verwydering geëis word nie, of in die geval van 'n boot of vaartuig waarna verwys word in subartikel (3), binne negentig dae nadat sodanige kennis gegee is en nadat alle agterstallige fooie betaal is, mag die munisipaliteit op sodanige boot of vaartuig ingevolge 'n hofbevel beslag lê ten einde die agterstallige fooie te verhaal.

HOOFTUK 6: HUISBOTE

16. Huisbote

- (1) Niemand mag 'n huisboot binne die watergebied aanhou of gebruik sonder die voorafverkreeë skriftelike goedkeuring van die munisipaliteit nie.
- (2) Die eienaar van enige huisboot wat sodanige boot op 'n rivier wil gebruik moet skriftelik op die voorgeskrewe vorm by die munisipaliteit aansoek doen teen betaling van die voorgeskrewe fooi. Die aansoek moet volle besonderhede bevat van die konstruksie, grootte van die boot, die metode van aandrywing, die voorgenome gebruik en die gebied waar dit gebruik sal word. Voorts moet die aansoeker die munisipaliteit tevrede stel dat die huisboot voldoende geriewe aan boord het vir die bewaring van vullis, afval of riool wat aan boord gegeneere mag word.
- (3) Die munisipaliteit mag sodanige verdere besonderhede ten opsigte van die huisboot versoek wat dit nodig mag ag om dit in staat te stel om te besluit of die aansoek goedgekeur moet word of nie.
- (4) Die huisboot ten opsigte waarvan die aansoek gedoen word moet beskikbaar gestel word vir 'n ondersoek deur 'n gemagtigde beampete van die munisipaliteit op 'n datum, plek en tyd deur die beampete aangedui.
- (5) By die verlening van magtiging om 'n huisboot aan te hou of te gebruik op 'n rivier, mag die munisipaliteit sodanige voorwaardes stel as wat dit nodig vind in die belang van veiligheid of om die impak van die huisboot op ander gebruikers van die rivier te beperk.
- (6) Die munisipaliteit het volle diskresie om die aantal huisbote op 'n rivier te beperk.
- (7) Enige magtiging wat deur die munisipaliteit verleen is sal vir 'n tydperk van 12 maande geldig wees en daarna verval dit outomaties, waarna die eienaar van die huisboot weer 'n aansoek moet indien ingevolge hierdie verordening.
- (8) Die eienaar van 'n huisboot wat op 'n rivier gebruik word moet seker maak dat alle persone wat die huisboot gebruik oor die nodige vaardighede beskik om dit te beheer.

- (9) Geen huisboot mag vir langer as 24 uur sonder die skriftelike goedkeuring van die munisipaliteit op enige plek in die rivier voor anker lê nie.
- (10) Elke huisboot moet die nodige veiligheidssertifikaat van die SAMV bekom.

HOOFSTUK 7: BESONDERR BEPALINGS TEN OPSIGTE VAN SEKERE RIVIERE

17. Bestuursplanne vir riviere

- (1) Die munisipaliteit mag bestuursplanne vir die beheer en gebruik van die volgende riviere in sy jurisdiksiegebied daarstel en publiseer—
 - (a) Breede Rivier;
 - (b) Goukou Rivier;
 - (c) Gouritz Rivier; and
 - (d) Duiwenhoks Rivier.
- (2) Die bestuursplanne bedoel in subartikel (1) mag vir reëls voorsiening maak, maar is nie tot die volgende beperk nie—
 - (a) die gebruik van bote en vaartuie op die riviere en die groottes en getalle wat toegelaat sal word;
 - (b) veiligheid op die riviere;
 - (c) besoedeling van die riviere;
 - (d) die oprigting van strukture en geriewe;
 - (e) die afbakening van gebiede vir gebruik;
 - (f) die reël van openbare geleenthede en regattas; en
 - (g) die beskerming van die vis-, dier en plantlewe.
- (3) Die bestuursplanne bedoel in subartikel (1) moet aan 'n openbare deelnameproses onderwerp word en gemeenskappe en belanggroeppe moet betrek word.
- (4) Die bestuursplanne bedoel in subartikel (1) sal, indien saamgestel en gepubliseer, geldig wees en die bepalings van sodanige bestuursplanne sal voorkeur geniet indien daar enige teenstrydigheid is met die bepalings van die verordening.
- (5) Enige persoon wat versuim om te voldoen aan enige voorskrifte, voorwaardes of reëls wat in 'n bestuursplan bedoel in subartikel (1) vervat is, pleeg 'n misdryf.

HOOFSTUK 8: ALGEMENE BEPALINGS

18. Vrystelling van aanspreeklikheid

- (1) Ongeag die oorsaak daarvan sal die munisipaliteit nie aanspreeklik wees vir enige besering opgedoen deur enige persoon wat 'n rivier of enige ander geriewe gebruik of vir skade aan enige eiendom daarop nie.
- (2) Die munisipaliteit as geheel, individuele raadslede, enige persoon in diens van die munisipaliteit of enige organisasie aan wie die munisipaliteit enige bevoegdhede gedelegeer het ingevolge artikel 13 van hierdie verordening sal nie, behalwe in die geval van enige opsetlike handeling of versuim deur die munisipaliteit of sodanige persoon of organisasie, vir enige verlies of skade aanspreeklik wees wat veroorsaak is of spruit uit of in verband met enigets wat ter goeder trou gedoen in die uitvoering van enige bevoegdheid of verpligting wat in terme van hierdie verordening opgelê is nie.

19. Vrystelling van bepalings

- (1) Enige persoon mag by wyse van 'n skriftelike aansoek waarin die redes vir die aansoek ten volle aangedui word, by die munisipaliteit aansoek doen om vrystelling van die bepalings van hierdie verordening.
- (2) Die munisipaliteit mag:
 - (a) 'n vrystelling skriftelik verleen en die voorwaardes, indien enige, en die tydperk waarvoor die vrystelling verleen word, moet daarin uiteengesit word;
 - (b) enige vrystelling of voorwaarde in 'n vrystelling wysig of kanselleer; of
 - (c) weier om vrystelling te verleen.
- (3) 'n Vrystelling is nie van krag voordat die aansoeker skriftelik onderneem het om aan al die voorwaardes wat ingevolge subartikel (2) gestel is na te kom nie, met dien verstande dat indien 'n aktiwiteit onderneem word voordat so 'n onderneming by die munisipaliteit ingedien is, verval die vrystelling.
- (4) Indien enige voorwaarde van 'n vrystelling nie nagekom word nie, verval die vrystelling onmiddellik.

20. 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.

21. 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.

22. 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, aangekondig 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.

23. Kort titel en inwerkingtrede

Hierdie verordening word die Verordening insake die Bestuur en Gebruik van Riviere genoem en tree in werking op die datum van die publikasie daarvan in die Provinciale Koerant.

BYLAE 1

(Arikle 4)

Toerusting vereis	Tipe boot of vaartuig
1. 'n Lewensgordel 2. Lewensboei of ander drywende voorwerp	Enige boot of vaartuig, uitsluitende 'n kanoe, roei-ski, wielstoomboot of roeiboot.
3. Voldoende roeispante of pale of alternatiewe aandrywingsapparaat om 'n boot of vaartuig te land	Enige boot of vaartuig
4. 'n Pomp of ander skepapparaat	Enige boot of vaartuig, tensy die boot of vaartuig ontwerp is om te dryf met die aantal persone aan bord self indien dit vol water is
5. 'n Water-ski truspieël	Kragboot wat gebruik word om 'n waterskiër te trek
6. Fluit of sirene wat gebruik moet word om ongelukke te vermy 7. Brandblusser 8. Vlamvasvanger vir elke vergasser van enige petrolenjin op 'n boot of vaartuig, behalwe 'n buiteboordmasjien	Kragboot Huisboot
9. Knaldemper op die uitlaatstelsel	Enige masjiengedrewne boot of vaartuig
10. Ligte wat vir ten minste 200m sigbaar moet wees indien die boot of vaartuig tussen sonsondergang en sonop gebruik word: (a) whittle lig sigbaar vanuit alle hoeke (b) bakboord en stuurboord ligte sigbaar vir 112.5 grade (c) lantern of flitsende lig wat gewys word om botsings te voorkom	Kragbote en seilbote voor anker Kragbote en seilbote terwyl onderweg Vaartuie anders as 'n kragboot
11. Vullishouer	Enige boot of vaartuig, behalwe 'n kanoe, roei-ski of seiplank
12. Anker met ten minste 30 meter ankerlyn	Enige boot of vaartuig, behalwe 'n kanoe, roei-ski, waterponie of seiplank

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

- (1) No person may conduct the business of a street trader without the written permission of the municipality.
- (2) The municipality may impose conditions when issuing a street trading permit and the municipality may indicate the area and time for which the permit is valid.
- (3) The municipality may suspend the validity of a street trading permit in a specific area or of street trading permits in general when a special event takes place, provided that the municipality shall post written notices to this effect on its notice boards and provided further that, where possible, written notices shall be served on individual street traders in the affected areas.
- (4) The municipality may refuse to renew a permit if there are any fines outstanding.
- (5) This by-law applies to all persons who carry on the business of street trading within the area of jurisdiction of the Hessequa Municipality.
- (6) A person who contravenes a provision of this section commits an offence.

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 2 metres 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, provided that prior written approval to erect a structure must be obtained from the municipality and the municipality may prescribe the materials that may be used;
 - (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 of 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. Woordomskrywings
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. Woordomskrywings

(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 Stelselswet, 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:

(2) In die ontwikkeling en bestuur van sy verpligte 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 voortvloeи 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 gebruik, 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, standarde en riglyne, die goedkeuring van vrystellings en die gebruik van skakelforum.

3. Toepassing

- (1) Niemand mag die besigheid van 'n straathandelaar sonder die skriftelike goedkeuring van die munisipaliteit bedryf nie.
- (2) Wanneer die munisipaliteit 'n permit uitrek om straathandel te dryf mag dit voorwaardes stel en die gebied waar en tyd waarbinne handel gedryf mag word aandui.
- (3) Die munisipaliteit mag die geldigheid van 'n permit vir 'n sekere gebied opskort of straathandelpermitte in die algemeen opskort wanneer 'n spesiale geleentheid plaasvind, met dien verstande dat die munisipaliteit skriftelike kennisgewings te dien effekte op die munisipale kennisgewingborde sal aanbring en, waar moontlik, deur skriftelike kennisgewings op straathandelaars in die geaffekteerde gebiede te dien.
- (4) Die munisipaliteit mag weier om 'n permit te hernu indien enige boetes uitstaande is.
- (5) Hierdie verordening is van toepassing op alle persone wat in straathandel sake doen binne die regsgebied van die Hessequa Munisipaliteit.
- (6) Enige persoon wat 'n bepaling van hierdie artikel oortree pleeg 'n misdryf.

HOOFSTUK 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 toege wys is, aandui.
- (3) Die munisipaliteit mag die gebiede beoog by sub-artikel (1) verander, indien die behoeftes en omstandighede van inwoners en straathandelaars sodanige heroorweging 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 Erfenis hulpbronne, 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 immeng 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 voetoorgang, 'n parkeer- of oplaaiplek 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 verwijder, 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 beampete van 'n munisipaliteit versoek of deur 'n persoon wat gemagtig is om munisipale dienste te voorsien, sy of haar eiendom skuif ten einde die beampete 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 houers wat deur die munisipaliteit vir die publiek voorsien is;
 - (e) op versoek van 'n beampete 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 $6m^2$ 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 verwijder moet word, met dien verstande dat die munisipaliteit se goedkeuring vir die oprigting van so 'n skuiling vooraf verkry moet word en dat die munisipaliteit mag voorskry watter materiaal gebruik mag 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, sypadjie, 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 gevaaar 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 nullishouer 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, verwijder 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 uitrek 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.

