

SENQU MUNICIPALITY MUNICIPAL NOTICE

LOCAL AUTHORITY NOTICE NO...

2017

BY-LAW ON CHILD CARE FACILITIES

The Municipal Council of Senqu Local Municipality in the Schedule hereto publishes, in terms of section 13 of the Local Government Municipal Systems Act, 2000 (Act 32 of 2000) read with section 162 of the Constitution of the Republic of South Africa Act 1996 (Act 108 of 1996) the By-law on Child Care Facilities.

SCHEDULE

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CHAPTER 1

OBJECTIVES, DEFINITIONS AND APPLICABILITY OF BY-LAW

1 Objectives

The objectives of this By-law is to–

- (a) regulate the operation of child care facilities by requiring operators to apply for a health compliance certificate;
- (b) ensure that the premises on which child care facilities are operated are age-appropriate and suitable for the health and well-being of children;
- (c) impose minimum safety standards; and
- (d) make provision for the medical care of children while attending child care facilities.

2 Definitions

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

“Act” means the Children’s Act, 38 of 2005, including the regulations made under that Act;

“adequate” means that which is adequate in the reasonable opinion of the Municipality after having regard to applicable law and guidelines;

“approved” means that which has been approved by the Municipality, after having regard to the reasonable environmental health requirements that may apply in the circumstances;

“approved premises” means any premises that have been approved for the operation of a child care facility and in respect of which a health compliance certificate has been issued;

“certificate of acceptability” means a certificate of acceptability issued by the Municipality in terms of the Regulations Governing General Hygiene Requirements For Food Premises and the Transport of Food made in terms of the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972) and published by Government Notice R962 of 23 November 2012;

“child” means any person under the age of 18 years and “children” has a corresponding meaning;

“child care facility” means any premises at which children are provided with temporary or partial care apart from their parents, whether for profit or otherwise, and excludes –

- (a) a boarding school;
- (b) a school hostel; and
- (c) any establishment which operates mainly for the tuition or training of children and which is controlled by an organ of state or is registered or approved by an organ of state;

“compliance officer” means a person who is authorised to implement and enforce the provisions of this By-law by virtue of his or her –

- (a) declaration as a peace officer as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977);
- (b) appointment as a police officer as contemplated in the South African Police Service Act, 1995 (Act 68 of 1995);
- (c) a traffic officer appointed in terms of section 3 of the Road Traffic Act, No. 29 of 1989 or section 3A of the National Road Traffic Act No. 93 of 1996 as the case may be;
- (d) appointment as a law enforcement officer or traffic officer by the Municipality and declaration as peace officer as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977); or
- (e) appointment by the Municipality as a compliance officer or an inspector;

“compulsory school-going age” means the age at which it is compulsory for a child to enter grade 1 in terms of the applicable law;

“Council” means the Senqu municipal council, a municipal council referred to in section 157(1) of the Constitution;

“form” means a form approved by the Municipality for the purposes of this By-law;

“fee” means any fee, charge or deposit determined for purposes of this By-law, by the Municipality in terms of the Senqu Municipality: Tariff By-law, 2017;

“health compliance certificate” means:

- (a) in the event of a child care facility where a maximum of six children are to be accommodated, the certificate issued by the Municipality for the purposes of registration in terms of this By-law; or
- (b) in the event of a child care facility where seven or more children are to be accommodated, a certificate issued by the Municipality for the purposes of registration in terms of the Act,

and which confirms that the premises, and the facilities and services available on those premises, comply with this By-law;

“health compliance certificate holder” means a person to whom a health compliance certificate has been issued in terms of this By-law, and includes -

- (a) a legal person;
- (b) a partnership;
- (c) an association;
- (d) a trust; and
- (e) a person acting on behalf of a health compliance certificate holder;

“Municipality” means the Senqu Municipality and includes the Council, any executive councillor, or committee established by the Municipality, or any employee thereof, or duly authorised agent thereof acting in connection with this By-law by virtue of a power vested in the Municipality and delegated to such employee or agent;

“National Building Regulations” means the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977);

“person in charge” includes –

- (a) the owner of a child care facility;
- (b) the principal of a child care facility; and
- (c) any person who is apparently in control of a child care facility;

“play area” means a portion of a premises set apart for children to play;

“premises” means any land or building or part of any land or building in or on which a child care facility is operated; and

“suitable” means that which is suitable in the reasonable opinion of the Municipality.

3 Applicability of By-law

This By-law applies to all areas which fall under the jurisdiction of the Municipality.

CHAPTER 2

HEALTH COMPLIANCE CERTIFICATE

4 Application for a health compliance certificate

- (1) No person may operate a child care facility on any premises unless he or she has been—
 - (a) issued with a health compliance certificate where the facility provides care for six or less children; or

- (b) registered in terms of the Act where the facility provides care for seven or more children.
- (2) Application for a health compliance certificate in terms of this By-law must be made to the Municipality in writing by completing and submitting an application form and payment of the applicable fee.
- (3) The Municipality may, before considering such application, require that it be furnished with any information in connection with the application concerned which it may deem necessary.
- (4) Subject to subsection (5) the Municipality may issue a health compliance certificate if he or she is satisfied that the—
 - (a) premises on which it is proposed to operate the child care facility; and
 - (b) facilities and services available on those premises, comply with this By-law.
- (5) The health compliance certificate issued in terms of subsection (4) may be issued either unconditionally or on such conditions that the Municipality may deem necessary.
- (6) Every health compliance certificate must contain the following minimum information:
 - (a) the maximum number of children which may be cared for on the approved premises;
 - (b) the maximum number of children of different age groups which may be cared for on the approved premises;
 - (c) the minimum and the maximum ages of the children permitted to be cared for on the approved premises;
 - (d) the hours during which the child care facility may operate; and
 - (e) the date upon which the health compliance certificate expires.
- (7) A health compliance certificate must be displayed on every approved premises in such a way that it is clearly visible at all times to any person entering the premises.
- (8) A health compliance certificate is issued in respect of specific approved premises, which means that a health compliance certificate—
 - (a) becomes invalid if a health compliance certificate holder dies or ceases to operate a child care facility from the approved premises;
 - (b) is not transferable to any other person;
 - (c) is not transferable to, or valid for, any other child care facility or premises which the health compliance certificate holder may own, have an interest in or subsequently own or acquire an interest in;

- (d) is not transferred when the holder of the health compliance certificate disposes of the child care facility concerned or of the approved premises; and
- (e) may not be bequeathed by the health compliance certificate holder to any heir or legatee.

(9) If a health compliance certificate holder wishes to move his or her child care facility to premises other than the approved premises, he or she must apply for and obtain a new health compliance certificate in respect of those new premises.

(10) If a health compliance certificate holder wishes to make alterations to premises to which a health compliance certificate relates, he or she must—

- (a) bring his or her intention to the attention of the Municipality before commencing the alterations; and
- (b) apply for and obtain a new health compliance certificate before beginning to operate a child care facility from those altered premises.

(11) A health compliance certificate issued in terms of this section may be cancelled by the Municipality after one month's written notice of its intention to cancel the health compliance certificate has been given to the health compliance certificate holder concerned, and after consideration by the Municipality of any representations which may be submitted in pursuance of such notice.

(12) The cancellation of a health compliance certificate takes effect on the date specified in the cancellation notice issued by the Municipality, which date shall not be less than 60 days after the date upon which the notice of cancellation was given.

(13) Application for annual renewal of a health compliance certificate must be made to the Municipality in writing by completing and submitting an application form and paying the applicable fee not later than one month before the health compliance certificate expires.

CHAPTER 3

GENERAL REQUIREMENTS FOR PREMISES

5 Compliance with National Building Regulations

(1) Every structure on premises on which any child care facility is operated or is to be operated must comply with the requirements of the National Building Regulations.

(2) The Municipality shall be entitled to approve an informal structure on any premises on which a child care facility is operated or is to be operated, provided that the structure—

- (a) is stable;

- (b) is waterproof;
- (c) is sufficiently ventilated;
- (d) is constructed of materials which are safe;
- (e) is supplied with a portable fire extinguisher or other appropriate fire-fighting equipment;
- (f) does not contain any physical features which present or might present a risk to children; and
- (g) complies with any other additional requirements determined by the Municipality from time to time.

(3) The Municipality may at any time amend the list in subsection (2) to keep in accordance with the safety and well-being of children.

6 Indoor play areas

(1) A separate indoor play area must be provided on every premises on which a child care facility is operated.

(2) The indoor play area must—

- (a) be used for play only;
- (b) provide not less than 1,5 m² of free floor area per child;
- (c) separate children under the age of three years from children over the age of three years (movable partitions may be used to create this separation);
- (d) have exterior walls and a roof which is impermeable to wind and rain;
- (e) have windows which open to provide sufficient natural light and cross-ventilation;
- (f) have a floor which has a smooth, impermeable surface that is easy to wash; and
- (g) have sufficient safe indoor play equipment.

7 Outdoor play areas

(1) An outdoor play area must be provided on every premises on which a child care facility is operated.

(2) The outdoor play area must—

- (a) comprise of not less than 2 m² of outdoor area per child;
- (b) be, in the opinion of the Municipality, a safe area for children of the age concerned to play;

- (c) not have any excavations, steps, projections, levels or surfaces that may, in the opinion of the Municipality, be dangerous or may constitute a hazard; and
 - (d) have sufficient safe outdoor play equipment.
- (3) If no outdoor play area is available at a premises, the health compliance certificate holder may, subject to the approval of the Municipality, substitute an additional indoor play area of 1.5 m² per child for the outdoor play area.

8 Toilets

- (1) Adequate toilets must be provided for the children on every premises on which a child care facility is operated.
- (2) Where a sewer reticulation system or other sewage disposal system approved by the Municipality, and a supply of water, are available on the premises, one approved toilet must be provided for every 20 children.
- (3) Where neither a sewer reticulation system nor other sewage disposal system approved by the Municipality, and no supply of running water, are available on the premises, then the following must be provided:
 - (a) an approved toilet on the premises or immediately adjacent to the premises;
or
 - (b) an approved chemical toilet or other acceptable alternative that is hygienic or safe for every 8 children.
- (4) Where containers are provided as contemplated in subsection (3)(b)—
 - (a) the contents of the containers must be disposed of regularly during the day into an approved toilet;
 - (b) the containers must be kept in a clean and sanitary condition at all times;
 - (c) the container must be of a size suitable for use as a toilet and must be placed under a properly constructed seat; and
 - (d) the container must have a tight-fitting lid which is applied when the containers are removed for emptying.
- (5) Toilets must have an adequate—
 - (a) supply of toilet paper, soap and paper towels available and accessible to the children; and
 - (b) number of bins with self-closing lids for the disposal of paper, paper towels, tissues and other waste materials.

9 Washing facilities

(1) Adequate washing facilities must be provided for the children on every premises on which a child care facility is operated.

(2) Where a sewer reticulation system or other sewage disposal system approved by the Municipality, and a supply of running water, are available on the premises, hand washbasins must be provided as follows:

- (a) one hand washbasin must be provided for every 20 children;
- (b) hand washbasins must be placed at a height convenient for children; and
- (c) hand washbasins must be supplied with running water.

(3) Where neither a sewer reticulation system or other sewage disposal system approved by the Municipality, nor a supply of running water, are available on the premises—

- (a) the washing facilities must be supplied with a minimum of 25 litres of potable water a day in a potable water container which—
 - (i) can be closed; and
 - (ii) must be accessible for supply to the hand washbasins: Provided that water is dispensed from the container for use in the hand washbasin and that no children wash in the container;
- (b) one suitable container must be supplied for every 20 children; and
- (c) a container or containers must be placed at a height convenient for children.

(4) Washing facilities must have an adequate:

- (a) supply of soap and paper towels available and accessible to the children; and
- (b) number of bins with self-closing lids for the disposal of paper, paper towels, tissues and other waste materials.

(5) If water supply to the child care facility is interrupted for any reason, the person in charge of the child care facility must—

- (a) implement an alternate water supply arrangement within 24 hours of interruption of water supply; or
- (b) close the child care facility until water supply is restored.

10 Kitchens

(1) Every child care facility which provides meals to children from a kitchen on the premises must have a separate approved area set aside, with due regard for the safety of children,

as a kitchen for the preparation of food and the washing up and rinsing of crockery, cutlery, pots, pans and other kitchen utensils.

(2) The kitchen must—

- (a) have a double bowl sink;
- (b) have a hot water supply;
- (c) have a separate hand washbasin;
- (d) be arranged so that the utensils and other kitchen equipment are inaccessible to children; and
- (e) meet the requirements of the Regulations Governing General Hygiene Requirements For Food Premises and the Transport of Food made in terms of the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972) and published by Government Notice R962 of 23 November 2012.

(3) No person may provide meals to children in a child care facility from a kitchen on the premises unless he or she has been issued with a certificate of acceptability by the Municipality in respect of that kitchen.

(4) If any child at a child care facility is bottle-fed,—

- (a) the bottles must be clearly marked with the name of the child;
- (b) the bottles must be supplied with suitable lids or caps;
- (c) any filled bottles brought from home must be suitably stored in the kitchen in a cooler box or refrigerator in such manner as to prevent contamination and spoilage; and
- (d) the child's bottles must be suitably rinsed in the kitchen.

(5) The children must not have access to a kitchen contemplated in subsections (1), (2) or (3), or to any storage space or storage facility contemplated in subsection (4).

(6) Where there is no formal kitchen as stated in subsection (2), an area must be demarcated and set aside for the above activities to take place.

11 Storage

(1) Any premises on which a child care facility is operated must have adequate and suitable storage space and storage facilities for—

- (a) food, crockery, cutlery and kitchen utensils, if a kitchen is provided;
- (b) the personal belongings of each child; and
- (c) the personal belongings of the staff of the child care facility.

(2) The storage facilities must be lockable and reasonable steps must be taken to ensure that children do not have access to any storage space or storage facility contemplated in subsection (1).

12 Seating and resting

- (1) Any premises on which a child care facility is operated must—
 - (a) if seating is provided, have suitable and safe seating; and
 - (b) if tables are provided, have suitable and safe tables which are the correct size to ensure that each child sits comfortably.
- (2) If full day care is provided at a child care facility, every child at the facility must have an approved resting or sleeping mat or mattress which is—
 - (a) marked with the name or symbol of the child to whom the mat or mattress is allocated;
 - (b) made of suitable waterproof material; and
 - (c) covered with a removable washable cover which is also marked with the name or symbol of the child to whom the mat or mattress is allocated.
- (3) If blankets are provided at the child care facility, then they must be marked with the name or symbol of the child to whom the blanket is allocated.
- (4) Reasonable steps must be taken to ensure that a child does not share a sleeping mat or mattress, or any blanket, with another child.
- (5) Washing of linen, blankets or duvet covers must be done on a weekly basis or each time it is soiled.

13 Fencing

- (1) Any premises on which a child care facility is operated must be enclosed with approved fencing so as to prevent—
 - (a) a child from leaving the premises on his or her own accord;
 - (b) the entrance of domestic animals onto the premises; and
 - (c) unauthorised access or entry.
- (2) Fencing around a child care facility must meet the following requirements:
 - (a) the fencing must be not less than 2m high;
 - (b) horizontal members must be placed at intervals which make it difficult for a child to climb; and
 - (c) the fence must be constructed of material which cannot reasonably cause harm to children.

(3) A fence referred to in subsection (2) must have a gate which is self-closing and self-locking and a gate will only be regarded as self-locking for the purposes of subsection (2) if it cannot be readily opened by an unauthorised person

(4) A gate which closes by means of a latch only, with no other means of securing the gate, will not be regarded as self-locking for the purposes of subsection (2).

(5) If a pool is permitted on any premises on which a child care facility is operated, the pool must be—

- (a) built in accordance with an approved plan, supported by an acceptable certificate from an engineer or other competent person;
- (b) provided with an approved net;
- (c) fenced in the manner contemplated in subsection (2); and
- (d) provided with a suitable twin gate system with gates that are self-closing and self-locking, and which may close by means of a latch.

(6) A portable pool is not permitted on any premises on which a child care facility is operated.

CHAPTER 4

ADDITIONAL REQUIREMENTS FOR TOILETS

14 Toilets: Children older than three years

(1) Toilets for children over the age of three years must be in an approved, screened-off and roofed area of the premises, separate to toilet facilities for children who are younger than three years.

(2) Separate toilets must be provided for boys and girls of school-going age.

15 Toilets: Children under three years

(1) Toilets for children who are under three years of age, or who are still in nappies, must include an approved separate nappy-changing area.

(2) The nappy-changing area must have—

- (a) a nappy-changing unit with an impermeable surface that can be easily cleaned;
- (b) at least one hand washbasin;
- (c) access to water: Provided that if no running water is available on the premises, an approved source of clean potable water must be available and accessible to the nappy-changing area on a daily basis;

- (d) disposable material for the cleaning of children who are in nappies;
- (e) approved facilities for the cleaning of cloth nappies if children in cloth nappies attend the child care facility;
- (f) approved separate containers for the storage of clean nappies and soiled nappies and other waste, as well as an approved area for the storage of containers containing soiled nappies and other waste; and
- (g) approved facilities for the cleaning of cloth nappies.

CHAPTER 5

ADDITIONAL REQUIREMENTS FOR PREMISES: AFTER CARE CENTRE

16 Separate facilities for after-care centre

If a child care facility cares for children of compulsory school-going age and children under compulsory school-going age on the same premises, facilities available for the children of compulsory school-going age must be separate from the facilities available for the children under compulsory school-going age.

17 Indoor study area

(1) An indoor study area consisting of 1.5 m² of free floor area per child must be provided on any premises on which a child care facility operates an after-school centre for children of compulsory school-going age.

- (2) The indoor study area must have—
 - (a) exterior walls and a roof which is impermeable to wind and rain;
 - (b) windows which open to provide sufficient natural light and cross-ventilation; and
 - (c) a floor which has a smooth, impermeable surface that is easy to wash.

CHAPTER 6

STAFF FACILITIES

18 Staff toilet and hand-washing facilities

(1) Any premises on which a child care facility is operated must have toilet and hand-washing facilities for the staff of the child care facility.

- (2) The staff toilet and hand-washing facilities must be—
 - (a) easily accessible to the staff;

- (b) separate from the toilet and wash facilities used by the children; and
- (c) provided with soap and towels at all times.

19 Bathroom facilities of staff resident on the premises

If any staff member of a child care facility resides on the premises on which the child care facility is operated, the toilet and bathroom facilities for the staff must be easily accessible from their living quarters.

CHAPTER 7

SAFETY AND MEDICAL CARE

20 Sickbay

(1) Every premises on which a child care facility is operated must have an area set aside as a sickbay for the treatment and care of any child who becomes ill or who is injured until such time as the child is collected by his or her parents or guardian.

(2) The sickbay may only be used for the treatment of ill or injured children and may not, in the ordinary course of events, be used for the treatment or care of children who have become ill or injured outside the hours of operation of the child care facility.

(3) The sickbay must be equipped with—

- (a) an approved, fully lockable and fully equipped first-aid unit, which must be kept out of the children's reach; and
- (b) a bed or a mattress.

(4) In addition, every sickbay must have an approved method for washing hands and every premises on which a child care facility is operated must have a working telephone available to notify parents or guardians of illness or injury and, where applicable, to summon medical assistance.

21 Medical care for children

(1) The person in charge of a child care facility must—

- (a) if a child becomes ill, or suffers an injury, requiring medical attention—
 - (i) notify the child's parent or guardian immediately; and
 - (ii) summon medical assistance or take the child to his or her medical practitioner;
- (b) if a child becomes ill, or suffers an injury, but does not require medical assistance, provide the necessary care and treatment in the sickbay;

- (c) if a child has a notifiable disease, notify the relevant authority immediately;
 - (d) if a child is under compulsory school-going age, ensure that he or she has completed the basic immunisation schedules as determined by the National Immunisation Programme;
 - (e) comply with the provisions of the regulations relating to the exclusion of children from school on account of an infectious disease, made under the Health Act, 1977 (Act No. 63 of 1977); and
 - (f) report cases of head lice to parents and ensure that children are not allowed back on the premises until the head lice have been eradicated.
- (2) The person in charge of a child care facility may only allow medication to be administered to a child in terms of written consent from the child's parents, which—
- (a) identifies the medication;
 - (b) specifies the dosage and frequency at which the medication must be administered; and
 - (c) specifies the period for which the medication must be administered.

22 Safety

The person in charge of a child care facility must ensure that—

- (a) the children are under constant adult supervision and adequately protected against fires, hot water installations, electrical fittings and appliances, heating appliances and any other object or thing which may be dangerous or cause injury to any child;
- (b) adequate fire extinguishers are provided and that the premises otherwise comply with the National Building Regulations;
- (c) if the children are under compulsory school-going age, any slats or rails forming part of a fence, security gate, playpen, bed, cot, balustrade or any other object or structure whatsoever are—
 - (i) not more than 75 mm apart;
 - (ii) suitably installed and maintained in a good state of repair;
 - (iii) painted only with non-toxic paint; and
 - (iv) not less than 1m high, with the exception of fences which must, in terms of section 13(2), be not less than 2m high;

- (d) all medicines, pesticides, detergents and other substances that may be harmful to children are locked in a storage facility and are stored so as not to be accessible to any child;
- (e) no noxious or poisonous plants or shrubs grow on the premises;
- (f) no animal is kept on the premises without the approval of the Municipality;
- (g) no person known or suspected to be suffering from an infectious or contagious disease or who has been in contact with such a person is allowed on the premises while that person is, in the opinion of the Municipality, capable of transmitting the infectious or contagious disease;
- (h) if the children are under compulsory school-going age, no swimming pool, sand pit or other structure is permitted on the premises without the approval of the Municipality; and
- (i) any reasonable measures that may, in the opinion of the Municipality, be necessary to protect the children from any physical danger are taken.

23 Maintenance

Any person in charge of a child care facility must ensure that every part of the premises on which the child care facility is operated, including any outdoor area and all structures and equipment, is maintained in good repair and in a clean and tidy condition.

24 Refuse

Any person in charge of a child care facility must provide—

- (a) an adequate number of bins with liners, inside the premises, for the disposal of paper, paper towels, tissues and other waste materials;
- (b) an approved refuse area, which is roofed and is graded to a gully and fenced; and
- (c) adequate refuse bins within the refuse area for the storage of refuse pending removal by the Municipality or an approved contractor.

25 Staff

(1) Any person in charge of a child care facility must ensure that—

- (a) every employee working on the premises is physically clean and in a state of good health;
- (b) no person on the premises uses tobacco, any tobacco product, alcohol or any drug or other harmful substance in the presence of any child; and

- (c) no person on the premises is under the influence of alcohol, drugs or any other harmful substance.
- (2) All employees must be subjected to criminal clearance checks before employment can be secured with the child care facility.
- (3) At least one member of staff must be suitably qualified to administer first aid.
- (4) The ratio of child care workers to children must be as follows:
 - (a) 0-2 years, requires 1 care worker, 1 assistant to 8 children;
 - (b) 2-3 years, requires 1 care worker, 1 assistant to 15 children;
 - (c) 3-6 years, requires 1 care worker, 1 assistant to 20 children; and
 - (d) six years and older require 1 care worker to 30 children.

26 Meals

Any person in charge of a child care facility must ensure that, if meals are provided for children, the meals meet the requirements of the relevant authority.

27 Transport

- (1) Any person in charge of a child care facility must, if transport is provided to children to or from the premises or elsewhere, ensure that—
 - (a) the doors of the vehicle have child locks, such that they cannot be opened from inside the vehicle by a child;
 - (b) no child is transported in the front seat of a vehicle or placed under the seat of a vehicle;
 - (c) no baby in a carry cot is placed under a seat of a vehicle;
 - (d) the vehicle in which any child is transported is not overloaded in terms of any applicable legislation;
 - (e) the driver of the vehicle in which any child is transported is licensed to transport passengers in accordance with the applicable legislation;
 - (f) the vehicle in which any child is transported is licensed to transport passengers, has car seats and seat belts and is roadworthy in accordance with the applicable legislation; and
 - (g) the vehicle is fitted with seat belts and car seats which, given the age of the children transported, comply with the applicable legislation.
- (2) If children under compulsory school-going age are transported, then the person who operates the child care facility must ensure that while being transported, the children are supervised by at least one adult apart from the driver of the vehicle.

(3) Any person in charge of a child care facility must ensure compliance with the provisions of subsections (1) and (2) regardless of whether transport is provided by that person, the child care facility, or by a third party on behalf of that person or the child care facility.

CHAPTER 8

ADMINISTRATIVE REQUIREMENTS

28 Applications for admission

(1) The person in charge of a child care facility must ensure that every child's parent or guardian makes written application for the child to attend the facility.

(2) Every application for a child to attend a child care facility must include the following minimum information:

- (a) the child's full names and surname;
- (b) the child's date of birth;
- (c) the child's age;
- (d) the child's identity number, where applicable;
- (e) the child's sex;
- (f) the name of each parent or guardian;
- (g) the residential address and telephone numbers (landline and, if applicable, cell phone) of each parent or guardian;
- (h) the place of work and work telephone numbers of each parent or guardian;
- (i) the name, address and telephone numbers of a responsible person, other than a parent or guardian, who may be consulted in emergencies; and
- (j) the name, address and telephone number of the child's medical practitioner.

(3) Every application for a child to attend a child care facility must include the parent's or guardian's consent to the owner consulting the child's medical practitioner when the child is in need of medical attention.

(4) The person in charge of a child care facility must ensure that the date on which the child is admitted to the facility and the date on which the child ceases to be cared for at the facility are recorded on the application form.

29 Medical reports

The person in charge of a child care facility must, at the same time that the application form is completed, obtain from the parent or guardian of each child admitted to the child care facility a report which contains the following minimum information:

- (a) the child's general state of health and physical condition;
- (b) the nature and dates of any operations that the child has undergone;
- (c) the nature and dates of any illnesses or communicable diseases that the child has suffered from;
- (d) the details of allergies that the child suffers from;
- (e) information about any medical treatment that the child is undergoing or has undergone; and
- (f) if the child is under compulsory school-going age, the details of any immunisation that the child has received.

30 Registers

The person in charge of a child care facility must keep—

- (a) a general register in which is recorded the details listed in sections 28(2) and 29 regarding every child presently admitted at the facility; and
- (b) an attendance register in which is recorded the presence or absence of each child on a daily basis and, in the case of absence, the reasons for the absence.

31 Incident book

The person in charge of a child care facility must keep a journal, diary or other similar book in which important or significant events relating to the child care facility and the children, including illnesses and accidents, and the details of medications administered, are recorded.

32 Communication book

The person in charge of a child care facility must ensure that each child is issued with a communication book which is sent home with the child each day and which provides the basis for communication between the child care facility and parents.

33 Retention of records

- (1) The person in charge of a child care facility must keep records for the following time periods:
 - (a) application forms and medical forms: a minimum of 2 years after the date on which the child ceases to be cared for at the facility; and
 - (b) general registers, attendance registers and journals: a minimum of 2 years after the date of the last entry in each of those documents.

(2) The records must be retained in a safe place allowing ready access by the person who operates the child care facility and reasonable steps must be taken to prevent damage to or destruction of the records.

34 Suspension or termination of operation

A health compliance certificate holder must notify the Municipality in advance and in writing if he or she intends suspending or terminating the operation of the child care facility to which his or her health compliance certificate relates.

CHAPTER 9

ENFORCEMENT

35 Appointment of compliance officer

(1) The Municipality may appoint or designate a person or employee to serve as a compliance officer for purposes of compliance and enforcement monitoring of this By-law.

(2) A compliance officer shall take all lawful, necessary and practicable measures to enforce the provisions of this By-law.

(3) The Municipality shall issue each compliance officer with a written appointment stating that he or she has been appointed for purposes of this By-law or with an identification card that contains the municipal logo, department and name of the officer.

36 Powers and functions of compliance officer

(1) A compliance officer may, subject to subsection (2) and (3), at any reasonable time, and without prior notice, enter any land property, building or premises for purposes of ensuring compliance with this By-law.

(a) on which a child care facility is being operated; or

(b) if he or she has reasonable grounds to suspect that a child care facility is being operated on the premises,

in order to carry out such examination, inquiry or inspection on the premises as he or she may deem necessary.

(2) An inspection of a private dwelling may only be carried out by a compliance officer at a reasonable time and after reasonable notice has been given to the owner or occupier of the land or building and after obtaining the consent of the owner or lawful occupier or person in control of the building, or with a warrant issued in terms of the Criminal Procedure Act, 1977.

(3) The compliance officer is not required to give any notice to enter land or a building, other

than a private dwelling, and may conduct an inspection or take enforcement action without the consent of the owner or occupier of such land or building and without a warrant if:

- (a) he or she believes on reasonable grounds that a warrant would be issued to him or her on application; and
- (b) the delay in obtaining the warrant would defeat the object of the inspection and enforcement action.

(4) A compliance officer shall show proof of his or her written appointment or identification card contemplated in section 35(3) when required to do so by any person affected by the exercising of a power or show proof that he or she is a law enforcement officer.

(5) A compliance officer may not investigate a matter in which he or she has a direct or indirect personal interest.

(6) In ascertaining compliance with this By-law, a compliance officer may:

- (a) be accompanied by an interpreter, a police officer or any other person who may be able to assist with the inspection;
- (b) question any person who is or was on that property, who in the opinion of the compliance officer, may be able to furnish information on a matter to which this By-law relates;
- (c) question any person about any act or omission in respect of which there is a reasonable suspicion that it might constitute:
 - (i) an offence in terms of this By-law; or
 - (ii) a breach of an approval or a term or condition of such approval
- (d) question a person about any structure, object, document, book or record or inspect any written or electronic information or object which may be relevant for the purpose of investigating any matter in connection with this By-law;
- (e) examine any book, record or other written or electronic information and make a copy thereof or an extract therefrom and remove such document, book, record or written or electronic information in order to make copies or extracts;
- (f) require a person to produce or to deliver to a place specified by him or her, any document, book, record, or any written or electronic information referred to in paragraph (e) for inspection;
- (g) require from such person an explanation of any entry in such document, book, record or written or electronic information;
- (h) inspect any article, substance, plant or machinery which is or was on the property, or any work performed on the property or any condition prevalent

on the property, or remove for examination or analysis any article, substance, plant or machinery or a part or sample;

- (i) seize any book, record or other document, details or any article, substance, plant or machinery or a part or sample thereof which in his or her opinion may serve as evidence at the trial of any person charged with an offence under this By-law, provided that the user of the article, substance, plant or machinery concerned, as the case may be, may make copies of such book, record or document before such seizure;
- (j) direct any person to appear before him or her at such time and place as may be determined by him or her and question such person either alone or in the presence of any other person on any matter to which this By-law relates; and
- (k) take photographs or make audio visual recordings or tape recordings of any person or anything for the purposes of his or her investigation.

(7) When a compliance officer removes or seizes any article, substance, plant or machinery, book, record or other document as contemplated above, he or she shall issue a receipt to the owner or person in control thereof and return it as soon as practicable after achieving the purpose for which it was removed or seized.

(8) Where a compliance officer enters any land in terms of subsection (1), a person who controls or manages the land shall at all times provide such facilities as are reasonably required by the compliance officer to enable him or her to perform his or her functions effectively and safely under this By-law.

(9) A compliance officer who enters and searches any property or private dwelling under this section, shall conduct such search with strict regard for decency and order and with regard for each person's right to dignity, freedom, security and privacy.

37 Offences and penalties

- (1) A person shall be guilty of an offence if such person
 - (a) fails to comply with a decision taken or condition imposed by the Municipality in terms of this By-law.
 - (a) wilfully and with intent provides false or misleading information in connection with an application contemplated in this By-law;
 - (b) unlawfully prevents a compliance officer entry to his or her premises or causes or permits any other person to prevent entry;

- (c) obstructs or hinders a compliance officer in the performance of his or her duties or causes or permits any other person to so obstruct or hinder the compliance officer;
- (d) refuses or fails to provide to a compliance officer such information as is required to allow a compliance officer to perform a function in terms of this By-law;
- (e) furnishes false or misleading information to an official of the Municipality when called upon to furnish information;
- (f) impersonates a compliance officer;
- (g) contravenes or fails to comply with any provision of this By-law;
- (h) supplies particulars, information or answers in an application or on knowing it to be false, incorrect or misleading;
- (i) contravenes any provision or condition in respect of his or her health compliance certificate; or
- (j) contravenes or fails to comply with any order or notice lawfully issued under this By-law.

(2) Any person convicted of an offence in terms of this By-law, shall be liable upon conviction to a fine or imprisonment or to both such fine and imprisonment.

(3) A person convicted of an offence under this By-law who, after conviction, continues with the conduct in respect of which he or she was so convicted, is guilty of a continuing offence and upon conviction is liable to a fine or to imprisonment, or to both such fine and imprisonment, in respect of each day on which he or she so continues with that conduct.

38 Withdrawal of health compliance certificate

The Municipality may, in its discretion, withdraw a health compliance certificate and a certificate of acceptability where applicable—

- (a) if the health compliance certificate holder is convicted of a breach of any of the provisions of this By-law; or
- (b) if a change in legislation necessitates a withdrawal.

CHAPTER 10

GENERAL MATTERS

39 Appeals

Any person may appeal against any decision taken under this By-law by giving written notice

of the appeal in accordance with the provisions of section 62 of the Municipal Systems Act, 2000.

40 Exemptions

(1) Any person may, in writing, apply for exemption from the provisions of this By-law to the Municipality.

(2) An application in terms of subsection (1) above must be made on the approved form and be accompanied by the applicable fee and a memorandum motivating why an exemption should be granted by the Municipality.

(3) The Municipality may grant a temporary exemption in writing from one or all of the provisions of this By-law, provided that the Municipality:

- (a) is satisfied that granting the exemption will not prejudice the objectives referred to in section 1; and
- (b) grants any exemption subject to conditions that promote the attainment of the objectives referred to in section 1.

(4) The Municipality must not grant an exemption under subsection (1) until the Municipality has:

- (a) taken measures to ensure that all persons whose rights may be significantly detrimentally affected by the granting of the exemption, are aware of the application for exemption and how to obtain a copy of it;
- (b) provided such persons with a reasonable opportunity to object to the application; and
- (c) duly considered and taken into account any objections raised.

(5) The Municipality may:

- (a) from time to time review any exemptions granted in terms of this section; and
- (b) on good grounds withdraw any exemption.

41 State and Municipality bound

This By-law is binding on the State and the Municipality except in so far as any criminal liability is concerned.

42 Transitional provisions in respect of existing child care facility

(1) A compliance officer may grant an extension of time to a person who was operating a child care facility before the date of commencement of this By-law so that such person may comply with the provisions of this By-law within 9 months of the date of commencement.

(2) The Municipality may, in any case where reasons to its satisfaction are given, extend the period stated in subsection (1) by not more than a further 12 months.

43 Repeal of by-laws

The By-Laws Relating to Childcare Services published in the *Provincial Gazette* by Notice Number 203 of 2005 is hereby repealed.

44 Short title and commencement

This By-law shall be known as the Senqu Municipality: Child Care Services By-law, 2017 and shall come into operation on the date of publication thereof in the *Provincial Gazette*.