

SENQU MUNICIPALITY

LOCAL AUTHORITY NOTICE NO...

2017

BY-LAW ON CORPORATE IDENTITY

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 Corporate Identity.

SCHEDULE

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CHAPTER 1

PURPOSE, DEFINITIONS AND APPLICABILITY OF BY-LAW

1 Objectives

The objectives of this By-law are to provide a legal framework to control unauthorised use of the municipal logo.

2 Definitions

In this By-law any word or expression to which a meaning has been assigned in this By-law has the meaning so assigned to it and unless the context otherwise indicates:

“authorised person” means a person authorised by the Municipality to implement the provisions of this By-law;

“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;

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

“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;

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

“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 duly authorised agent or any legal entity duly authorised or contracted by the Municipality to provide an electricity service within the jurisdiction of the Municipality; and

“**person**” includes a juristic person and an organ of state.

3 Applicability of By-law

In the event of any conflict with any other by-law which directly or indirectly regulates corporate identity, the provisions of this By-law shall prevail to the extent of the inconsistency.

CHAPTER 2

USE OF SYMBOL BY MUNICIPALITY

4 Logo usage instruction manual

(1) The Municipality shall develop a logo usage instruction manual which shall be adhered to by any municipal employee using the logo as required within the scope of his or her employment.

(2) The logo usage instruction manual must, amongst others, contain directives on:

- (a) The font to be used;
- (b) colour palette;
- (c) switching of colours;
- (d) use of logo on similar coloured background;
- (e) re-arrangements of elements of the design; and
- (f) distortion of the logo.

5 Use of logo at official function of Municipality

If the logo is used at an official function where an office bearer or the municipal manager is a guest of honour, the logo shall be displayed at a prominent place at the ceremony.

CHAPTER 3

USE OF LOGO OF MUNICIPALITY

6 Prohibition on use of logo other than by Municipality

(1) No person, other than a person authorised by the Municipality, shall use the logo of the Municipality referred to in this By-law as his or her coat of arms or logo, either on its own or in conjunction with other symbols without the prior written approval of the Municipality.

(2) No person, other than a person authorised by the Municipality, shall use the logo of the Municipality referred to in this By-law on or in a document or product developed by that person in order to create the impression that the Municipality is part of or supports the development of that document or product.

7 Application for use of logo of Municipality

(1) A person who is desirous to use the logo of the Municipality for whatever purpose shall apply to the Municipality on the applicable form for approval.

(2) An application for the use of the logo of the Municipality shall be accompanied by the applicable fee and reasons and the circumstances under which and place, if applicable, where the logo will be used

(3) The Municipality may grant an approval for the use of the logo subject to such conditions of use as it considers necessary, including the application of the logo usage guidelines.

CHAPTER 4

LAW ENFORCEMENT

8 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.

9 Powers and functions of a 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.

(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 8(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.

10 Offences and penalties

- (1) A person shall be guilty of an offence if such person -
- (a) Does not comply with the conditions of an approval granted in terms of this By-law;
 - (b) who uses the logo of the Municipality in an unauthorised manner;
 - (c) who, after the service of a notice, continues using the logo of the Municipality in an unauthorised manner;
 - (d) unlawfully prevents an authorised person and a compliance officer entry to his or her premises or causes or permits any other person to prevent entry;
 - (e) obstructs or hinders an authorised person or a compliance officer in the performance of his or her duties or causes or permits any other person to so obstruct or hinder the authorised person or compliance officer;
 - (f) refuses or fails to provide to an authorised person or a compliance officer such information as is required to allow a compliance officer to perform a function in terms of this By-law;
 - (g) furnishes false or misleading information to an authorised person the Municipality when called upon to furnish information;
 - (h) impersonates an authorised person or a compliance officer;
 - (i) contravenes or fails to comply with any provision of this By-law; or
 - (j) supplies particulars, information or answers in an application or on knowing it to be false, incorrect or misleading.

(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.

11 Service of notice

(1) The Municipality may serve a notice on any person who is using the logo of the Municipality in an unauthorised manner, to refrain from doing so with immediate effect.

(2) Any notice or other document that is served on a person in terms of this By-law is regarded as having been served-

- (a) when it has been delivered to that person personally;

- (b) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of sixteen years;
- (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic and an acknowledgement of the posting thereof from the postal service is obtained;
- (d) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided by paragraphs (a), (b) or (c); or
- (e) if that person's address and agent or representative in the Republic is unknown, when it had been posted in a conspicuous place on the property or premises, if any, to which it relates.

12 Compliance with notice

Any person on whom a notice duly issued or given under this By-law is served shall, within the time specified in such notice, comply with its terms.

CHAPTER 5

GENERAL PROVISIONS

13 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.

14 Repeal of by-laws

The By-Law relating to Corporate Identity published in the *Provincial Gazette* by Notice Number 204 of 2005 is hereby repealed.

15 Short title and commencement

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