

## SENQU MUNICIPALITY MUNICIPAL NOTICE

LOCAL AUTHORITY NOTICE NO...

2017

### BY-LAW ON NUISANCE CONTROL

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 Nuisance Control.

### SCHEDULE

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## **CHAPTER 1**

### **OBJECTIVES, DEFINITIONS AND APPLICABILITY OF BY-LAW**

#### **1 Objectives**

The objectives of this By-law are to provide –

- (a) measures to regulate and control conduct or behaviour which causes or is likely to cause discomfort, annoyance or inconvenience to the public or users of any public place, so as ensure that any such discomfort, annoyance or inconvenience is avoided, and where total avoidance is impossible or impractical, that it is minimised and managed; and
- (b) penalties for breach of its provisions.

## 2 Definitions

In this By-law, unless the context otherwise indicates -  
"building" has the meaning assigned thereto in section I of the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977), as amended;

"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;

"erf" means any land, whether vacant, occupied or with buildings thereon;

"municipal area" means the area of jurisdiction of the Municipality;

"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;

"noise nuisance" means any sound which disturbs or impairs or may disturb or impair the convenience or peace of any person;

"objectionable material" means garden litter, rubbish, waste material, rubble, scrap metal, article or thing, disused motor cars, machinery or other vehicles, as well as the disused parts thereof, refuse from any building operations, or any refuse capable of being dumped on any land

or premises, including new or used building materials not necessarily required in connection with bona fide building operations actually in progress on any land, and includes any solid, liquid or gas which is or may become offensive or dangerous or injurious to health or which materially interferes with the ordinary comfort or convenience of the public;

**"owner"** means -

- (a) the person in whom from time to time is vested the legal title to premises;
- (b) in the case where the person in whom the legal title is vested is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration of and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;
- (c) in the case where the Municipality is unable to determine the identity of such person, a person who is entitled to the benefit of such premises with a building thereon;
- (d) in the case of premises for which a lease of 30 years or more has been entered into, the lessee thereof;
- (e) in relation to -
  - (i) a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act 1986, (Act 95 of 1986), and without restricting the above, the developer or the body corporate in respect of the common property or a section as defined in that Act, the person in whose name such a section is registered under a sectional title deed and includes the lawfully appointed agent of such a person;
  - (ii) any legal person including but not limited to a company registered in terms of the Companies Act, 2008 (Act 71 of 2008), a Trust, a closed corporation registered in terms of the Closed Corporations Act, 1984 (Act 69 of 1984) and a voluntary association;
  - (iii) any organ of state;
  - (iv) any council or board established in terms of any legislation applicable to the Republic of South Africa; or
  - (v) any embassy or other foreign entity.

**"premises"** means any land, whether vacant, occupied or with buildings thereon, situated within the municipal area;

**"public nuisance"** means any act, omission or condition which is offensive and/or injurious and/or dangerous to health and/or which materially interferes with the ordinary comfort, convenience, peace or quiet of the public and/or which adversely effects the safety of the public;

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

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

**"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.

### **3 Applicability of By-law**

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

## **CHAPTER 2 PROHIBITED CONDUCT**

### **4 General prohibition and nuisance behaviour**

- (1) No person shall in a public place—
  - (a) act in a manner which is dangerous to life or which may damage property;
  - (b) unlawfully enter a public place to which access has been restricted in terms of this By-law or any other law;
  - (c) cause a nuisance; or
  - (d) behave in an indecent, offensive or objectionable manner.
- (2) Notwithstanding the provisions of any other by-law, no person shall –
  - (a) dump, accumulate or place or cause or permit to be dumped, accumulated or placed objectionable material in or on any street, drain, water furrow, sewer, thoroughfare, public square or commonage except at such place or places as the Municipality may from time to time set aside or approve for such purposes, provided however that the Municipality may permit public garages, workshops and other trades, subject to such conditions as may be imposed in each case, to keep, store, repair, dismantle or re-assemble any

motor vehicle or other vehicle or apparatus on premises approved by the Municipality;

- (b) deposit, leave, spill, drop or place any fruit or vegetable peels, broken bottles, glass, refuse or any objectionable material or thing which is offensive or likely to cause annoyance, danger or injury to persons in or upon any erf, street or public place;
- (c) disturb the public peace in any street or public place by making unseemly noises or by shouting, insistent hooting, wrangling or quarrelling, or by collecting a crowd or by organising any demonstration or by fighting or challenging to fight, or by striking with or brandishing or using in a threatening manner any stick or other weapon or by any other riotous, violent or unseemly behaviour at any time of the day or night, or by loitering in any street or public place or by gathering in crowds on pavements;
- (d) defoul, misuse or damage any public convenience or any convenience provided in any public building or place of public entertainment;
- (e) carry or convey, or cause or permit to be carried or conveyed through or in any street or public place, any objectionable material or thing, liquid or solid, which is or may become offensive or dangerous or injurious to health, unless such objectionable material or thing is covered with a suitable material to prevent the creation of any nuisance;
- (f) bury or dispose of any dead body in any unauthorised place;
- (g) permit the carcass of any animal, being his or her property or of which he or she is in charge, and which has died on his or her premises or elsewhere in the municipal area, to remain unburied;
- (h) commit or cause or permit to be committed, any act which may pollute any water which inhabitants of the Municipality have the right to use or which is provided or deserved for the use of such inhabitants;
- (i) bathe or wash himself or herself in any public stream, pool or water trough or at any public hydrant or fountain or at any place which has not been set aside by the Municipality for any purpose, except as part of a religious or cultural ceremony in an area where such ceremony is lawfully taking place and provided no nuisance is caused thereby;
- (j) bathe or wash any animal or article or clothing or any other article or thing in any public stream, pool or water trough or at any public hydrant or fountain

or at any place which has not been set aside by the Municipality for any purpose;

- (k) in any street or public place use any abusive or threatening language or commit any act which may or is calculated to cause a breach of the peace;
- (l) solicit alms in any street or public place or endeavour by the exposure of wounds, sores, injuries or deformities or the production of begging letters to obtain alms, or
- (m) cleanse or wash any vehicle or part in any street or public place;
- (n) perform any sexual act;
- (o) appear in the nude or expose his or her genitalia;
- (p) consume any liquor or be in a state of intoxication;
- (q) use any drugs or be under the influence of drugs;
- (r) solicit or importune any person for the purpose of prostitution, human trafficking or other illegal business;
- (s) engage in gambling or wagering;
- (t) discharge fireworks except in accordance with approval of the Municipality or other applicable law; and
- (u) lie or sleep on any bench, seating place, street or sidewalk, or use it in such a manner that it prevents others from using it.

(3) The Municipality may erect signage indicating prohibited or permissible conduct in a public place for the purposes of section 4.

## **5 Prohibition relating to vegetation, animals and objectionable material on premises**

(1) No person shall allow any tree or other growth on any premises under his or her control to interfere with –

- (a) any public service infrastructure; or
- (b) communal services infrastructure such as, but not limited to, overhead wires, storm water drainage or sewerage system.

(2) No person shall allow any premises under his or her control to be overgrown with bush, weeds or grass or other vegetation except cultivated trees, shrubs and grass to such extent that, in the opinion of the Municipality or any duly authorised employee of the Municipality, it may –

- (a) be used as a shelter by vagrants, wild animals or vermin;
- (b) threaten the public health or the safety of any member of the community;
- (c) promote the spread of fires; or

(d) become a source of annoyance, danger, inconvenience or discomfort to persons using a public road.

(3) No person shall allow any premises under his or her control to be dirty, neglected or infested with rodents, snakes, mosquitoes, flies, ticks, bugs or other insects harmful to health, or allow any offensive odours or gasses to emanate from such premises.

(4) No person shall allow the fencing of any premises under his or her control to fall into a state of disrepair or to become unsightly or dilapidated.

(5) No person shall dump, accumulate or place or cause or permit to be dumped, accumulated or placed objectionable material in or on any premises under his or her control.

(6) No person shall do work on any premises or use any building or land for purposes calculated, in the opinion of the Municipality, to depreciate or to disfigure such erf or to interfere with the convenience or comfort of the neighbours thereof or to become a source of danger to any person.

(7) No person shall carry on any trade, business or profession on any erf or land in the municipal area which may in the opinion of the Municipality be a source or become a source of discomfort or annoyance to the neighbourhood.

(8) No person shall deposit or keep or cause or suffer to be deposited or kept any night soil on any premises under his or her control, except in a proper sanitary convenience approved by the Municipality and in accordance with any by-law of the Municipality.

(9) No person shall keep or cause or suffer to be kept on any premises under his or her control any sanitary convenience of such nature that it is a nuisance or is offensive or injurious or dangerous to health.

(10) No person shall cause or permit any stream, pool, ditch, drain, gutter, watercourse, sink, bath, cistern, water closet, privy or urinal on any premises owned or occupied by him or her or under his or her control, to be or become so foul or in such a state or to be so situated or constructed as to be offensive or dangerous or injurious to health.

(11) No person shall cause or permit any foul or polluted water or any foul liquid or objectionable material to run or flow from any premises owned or occupied by him or her or under his or her control, whether occupied for trade, business, manufacturing, dwelling or any other purpose, into any street or on any land.

## **6 Prohibition relating to shop and business premises**

(1) No person shall use, cause or permit to be used –

(a) any verandah of any shop or business premises or vacant land adjoining

such shop or business premises for the purpose of storing, stacking, dumping, disposing, displaying, keeping, selling or offering for sale any goods, articles or merchandise; or

- (b) any shop or business premises or vacant land adjoining such shop or business premises or any portion thereof which is open or visible to the public for the purpose of storing, stacking, dumping, disposing, or keeping any waste material, refuse, cartons, crates, containers or other articles of a like nature

(2) No person shall enclose or cause or permit the enclosing of any verandah of any shop or business premises by means of movable or immovable structures, objections, articles or devices otherwise than by such means as the Municipality may approve;

## **7 Prohibition relating to unsightly buildings**

No person shall allow any building or structure or any portion thereof on any premises to fall into a dilapidated, neglected or unsightly state, or fail to maintain the roof-water disposal system, pipes, sewers, drains, water fittings, waste water fittings, water closet fittings and all other appurtenances forming part of or attached to any building or structure in good and sound repair, or fail to maintain the walls of any building or structure free from dampness.

## **8 Prohibition relating to excavation in public places**

(1) No person may make or cause to be made an excavation, a pit, trench or hole in a public place—

- (a) except with the written permission of the Municipality; and
- (b) otherwise than in accordance with the requirements prescribed by the Municipality or authorised in terms of the applicable By-law of the Municipality or any other law.

(2) The provisions of subsection (1) do not prevent a person from erecting an umbrella or any other similar object in a public place: Provided that the manner in which it is erected does not result in damage to the vegetation or anything forming part of the public place concerned.

## **9 Prohibition relating to municipal property**

(1) No person, unless authorised by the Municipality or in terms of any other law, may within a public place—

- (a) deface, damage, destroy or remove any property or part thereof which is affixed, placed or erected in or on a public place;

- (b) paint or draw graffiti or other form of art or hobby on any property which forms part of a public place;
- (c) erect, build or assemble any structure, including a hut, tent, screen, bulletin board, pole, stand or stage;
- (d) affix or place on any municipal property, or distribute, any printed matter; or plug, tamper with, or in any way damage any plumbing, electrical, heating or other fixtures or installations;
- (e) plant a tree or plant in a public place, or in any way cut down a tree or shrub in a public place or remove it therefrom;
- (f) climb, break or damage a tree growing in a public place; or
- (g) in any way mark or paint any tree growing in a public place or attach any advertisement or notice thereto.

(2) The provisions of subsection (1) do not apply to any person who is employed or authorised by the Municipality for the purposes of fixing, repairing, demolishing, renovating or providing any such service for or on behalf of the Municipality.

### **CHAPTER 3**

### **NOISE NUISANCE**

#### **10 Noise in public place**

(1) No person shall in a public place cause or permit to be caused any disturbance or impairment of the convenience or peace of any person by shouting, screaming or making any other loud or persistent noise or sound, including amplified noise or sound, except where such noise or sound is exempt as contemplated in section 14.

(2) No person may place or position any loudspeaker or any sound equipment at, near or outside the entrance or door of any premises or on top or the inside of a motor vehicle for the purposes of using that loudspeaker or sound equipment to—

- (a) make any public announcements, unless permission is obtained from the Municipality;
- (b) invite or lure customers or any persons into that premises or other premises;  
or
- (c) entertain any person who is in a public place.

## **11 Noise emanating from premises**

No person shall permit noise or sound from a private residence or business premises under his or her control to be audible to users outside of such premises to such an extent that it reasonably interferes with the use and enjoyment by an owner or occupier of his or her property, except for places of entertainment as defined in the planning scheme on zoned premises where noise or sound is normally associated with the normal use of such place and in accordance with the conditions of authorisation of that business.

## **12 Noise disturbance by animals**

No person shall keep on his or her premises any animal or bird which creates a disturbance or a nuisance to the neighbours by making frequent and excessive noise.

## **13 Timeframes**

Notwithstanding any sections of this Chapter, no person shall cause or permit to be caused any disturbance or impairment of the convenience or peace of any person within the following times:

- (a) from Sunday to Thursday, between 21h30 to 07h00; and
- (b) from Friday to Saturday, between 00h00 to 08h00.

## **14 Exempt noise**

The provisions of this bylaw shall not apply to -

- (a) the use, in a reasonable manner, of any apparatus or mechanism for the amplification of the human voice or of music in a public park or square in connection with any duly authorised public meeting, public celebration or other public gathering;
- (b) any duly authorised parade or performance by a military or other band.
- (c) any vehicle or equipment of the Municipality, the Police Department or any other public body engaged in carrying out a public service or carrying out work in or on a highway, park or the Municipal Public Works Yard.
- (d) the sounding of a horn or other signaling device upon any vehicle, boat or train, where such sounding is properly and necessarily used as a danger or warning signal.
- (e) persons and their agents, servants, and employees or independent contractors under contract therewith and their agents, servants, and employees who are engaged in work of an essential or emergency nature and being done for the primary purpose of ensuring the health, safety or welfare of the residents of the Municipality.
- (f) the use of bells or chimes on churches or any public body.

- (g) any delivery or collection service between the hours of 06h00 and 21h00 on each day except Sunday and any public holiday in any area zoned as a commercial, industrial or public zone in the Land Use Scheme of the Municipality.
- (h) any sound or noise caused by a farming activity carried out in a reasonable manner on farmland between the hours of 07h00 and 21h00.
- (i) any sound or noise caused by a farming activity carried out in a reasonable manner on farmland between the hours of 06h00 and 21h00 if:
  - (i) in the circumstances it is essential that the activity take place during such hours; or
  - (ii) the activity must, in accordance with sound farming practice, take place between such hours.
- (j) the use of a lawnmower between the hours of 08h00 and 21h00 on any day; and
- (k) any sound or noise caused by blasting or the operation of drills, compressors or other equipment used to prepare land for blasting between the hours of 08h00 and 17h00 on each day except Sunday or a public holiday.

## **CHAPTER 4**

### **CONSTRUCTION**

#### **15 Prohibition on undertaking of construction at certain times**

No person may engage in any construction or cause or allow such construction to occur, in a residential area–

- (a) before 07h00 and after 21h00 from Monday to Saturday; and
- (b) at any time on any Sunday or public holiday, except–
  - (i) under circumstances where such construction is necessary in order to preserve property or the life, safety or health of persons; or
  - (ii) where a written exemption from paragraphs (a) and (b) were obtained from the Municipality for a specified period of time.

#### **16 Sanitary facilities at construction sites**

Every person engaged in building operations, road construction or construction work of any nature shall, when required to do so by the Municipality, provide adequate sanitary accommodation for himself or herself and his or her employees to the satisfaction of and in accordance with any requirements specified by the Municipality.

## **CHAPTER 5**

### **CONDUCT REGARDING MOTOR VEHICLES AND OBSTRUCTION OF TRAFFIC**

#### **17 Noise nuisance prohibited**

(1) No person shall blow, or cause to be blown, a hooter of a motor vehicle in a public place in such a manner or frequency that it creates a nuisance, unless the blowing of a hooter is necessary to alert any pedestrian or any user of another motor vehicle of any danger or to alert any user of a motor vehicle to any act or to desist from an act which is connected with the flow of traffic or parking of motor vehicles.

(2) No person shall run up the revolutions of the engine of a stationary motor vehicle in such a way that it causes nuisance in a public place: Provided that a person may do so for the purposes of repairing such motor vehicle which has broken down in or near a public place.

(3) No driver or person in control of a motor vehicle shall permit any amplified sound or noise to emanate from the motor vehicle such that it is audible at a distance of more than 50 meters.

#### **18 Conduct regarding motor vehicles**

(1) No person shall in a public place -

- (a) wash or clean any motor vehicle, except in an area designated by the Municipality for that purpose; or
- (b) effect any repairs to a motor vehicle or boat, except where repairs are necessary for the purpose of removing such motor vehicle from the place where it was involved in an accident or had a breakdown.

(2) No person may in a public place—

- (a) sleep in a stationary motor vehicle except in an emergency, or where such person is the driver of a public transportation motor vehicle and is guarding a motor vehicle, or is in a designated rest area; or
- (b) reside in a motor vehicle for longer than 24 hours, unless that person sleeps for the purposes of resting after a long journey using that vehicle: Provided that a compliance officer may at any time direct that person to move the vehicle away from such place or to desist from sleeping or residing in the vehicle.

(3) Unless permitted to do so by the Municipality or in terms of any land use scheme or legislation, no person may park a heavy-duty vehicle overnight on private premises or vacant land.

## **19 Obstructing, blocking or disturbing of traffic and pedestrians**

(1) No person shall –

- (a) in a public place, intentionally block or interfere with the safe or free passage of a pedestrian or motor-vehicle, unless to the extent authorised by law; or
- (b) approach any pedestrian or a person inside a motor vehicle on any public road or public road intersection or any other public place for the purposes of begging from such pedestrian or person in a motor vehicle.

(2) Any person, who unlawfully blocks, occupies or reserves a public parking space, or begs, stands, sits, lies in a public place, or does anything which hinders or disturbs the flow of pedestrian or road traffic must immediately cease to do so when directed by a compliance officer.

## **CHAPTER 6**

### **DESIGNATED AREAS AND RESTRICTION OF ACCESS**

## **20 Designated areas**

The Municipality may in relation to any public place, to the extent empowered by law–

- (a) designate a public place or part thereof for a specific function or use at designated times or at all times, and prohibit certain activities or conduct in respect of any such public place;
- (b) develop any public place in the interest of the public;
- (c) erect, construct, establish or demolish municipal property; or
- (d) exercise any other power reasonably necessary for the discharge of its obligations in terms of this By-law relating to the management of public places or otherwise in terms of any other law.

## **21 Restricted access**

The Municipality may, by appropriate signage, restrict access to any part of a public place for a specified period of time to–

- (a) protect any aspect of the environment within a public place;
- (b) reduce vandalism and the destruction of property;
- (c) improve the administration of a public place;

- (d) develop a public place;
- (e) enable a special event which has been permitted in terms of this By-law or any other law to proceed; or
- (f) undertake any activity which the Municipality reasonably considers necessary or appropriate to achieve the purposes of this By-law.

## **CHAPTER 7**

### **ENFORCEMENT**

#### **22 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.

#### **23 Powers of compliance officer**

(1) The compliance officer may, in respect of premises, at all reasonable times enter any land or premises on which a nuisance in terms of this By-law occurs or is alleged to occur or to have occurred and—

- (a) inspect or monitor the land or premises;
- (b) question the owner, occupier or person in control of the land or premises;
- (c) serve any compliance notice to the owner, occupier or person in control;
- (d) take samples or other evidence in respect of any nuisance caused.
- (e) be accompanied by an interpreter, a police officer or any other person who may be able to assist with the inspection;
- (f) 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;
- (g) 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

- (h) 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;
- (i) 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;
- (j) 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;
- (k) require from such person an explanation of any entry in such document, book, record or written or electronic information;
- (l) 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;
- (m) 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;
- (n) 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
- (o) take photographs or make audio visual recordings or tape recordings of any take photos of any items used on the land or in the premises to cause a nuisance for the purposes of his or her investigation.

(2) 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.

(3) A compliance officer may, in respect of a nuisance caused or alleged to be caused in a

public place, instruct a person to cease an act or conduct which causes such nuisance, with immediate effect.

(4) If it appears to the compliance officer that it is not possible for the offending person to comply with his or her instructions forthwith, the enforcement officer must issue a warning notice in the form prescribed by the Municipality, instructing the offending person to cease an act or conduct causing nuisance within a reasonable time period.

(5) When issuing a warning notice the compliance officer must procure the signature of the offending person confirming receipt of a warning notice.

(6) The compliance officer must inform the offending person that–

- (a) a signature of the offending party in terms of subsection (3) does not on its own constitute an admission of guilt; and
- (b) it is an offence in terms of this By-law to refuse to sign a warning notice issued by a compliance officer.

## **24 Notice to comply**

(1) Where any material, article or thing of whatsoever nature has been accumulated, dumped, stored or deposited on any erf, or where there is an overgrowth of bush, weeds, grass or vegetation on any erf in contravention of sections 5(2)(a) and (b) and the Municipality may serve a notice on -

- (a) the person directly or indirectly responsible for such accumulation, dumping, storing or depositing;
  - (b) the owner of such material, article or thing, whether or not he or she is responsible for such accumulation, dumping, storage or depositing;
  - (c) the owner, occupier or person in control of the premises on which such accumulation, dumping, storage or depositing takes place, whether or not he or she is responsible therefore, or
  - (d) the owner, occupier or person in control of the premises on which there is an overgrowth of bush, weeds, grass or vegetation,
- requiring such persons or owners to dispose of, destroy or remove such material, article or thing or to clear such overgrowth to the satisfaction of the Municipality.

(2) Should any person or owner fail to comply with the requirements of a notice in terms of subsection (1) within the period stipulated by the Municipality, the Municipality may itself dispose of or destroy or remove such material, article or thing, or clear the overgrowth from any premises at the cost of any one or more of the persons or owners mentioned in subsection (1).

(3) Where on any premises there is a contravention of section 5 or 7 the Municipality may at its discretion serve a notice on the owner, occupier or person who is control of the premises, to abate the nuisance within a defined period to be stated in such notice.

## **25 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; or
  - (h) 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.

## **CHAPTER 8**

### **GENERAL MATTERS**

## **26 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.

## **27 Repeal of by-laws**

The By-Laws set out in the schedule to this By-law are hereby repealed as specified and to the extent as set out in the schedule.

## **28 Short title and commencement**

This By-law shall be known as the Senqu Municipality: By-law relating to Nuisance Control and shall come into operation on the date of publication thereof in the *Provincial Gazette*.

**SCHEDULE**  
**BY-LAWS REPEALED**

Notice Number and Year	Title	Extent of repeal
191 of 2005	By-Laws relating to Dumping and Littering	The whole
194 of 2005	By-Laws relating to Noise Pollution	The whole
195 of 2005	By-Laws relating to the Prevention of Nuisances	The whole
200 of 2005	By-Laws relating to Unsightly and Neglected Buildings and Premises	The whole