

## SENQU MUNICIPALITY MUNICIPAL NOTICE

LOCAL AUTHORITY NOTICE NO...

2017

### BY-LAW ON PUBLIC AMENITIES

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 Public Amenities.

### SCHEDULE

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## **CHAPTER 1**

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

#### **1 Objectives**

The objectives of this By-law are to –

- (a) give effect to the right of the Municipality to make by-laws contained in Part B of Schedule 5 of the Constitution; and
- (b) provide, in conjunction with any other applicable law, a legal framework within which the Municipality can manage and regulate activities within public amenity areas.

#### **2 Definitions**

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

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

**“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;

**"craft"** means any boat or other vessel which is not a surf craft or wind-surfer;

**"heely"** means a shoe fitted with one or more wheels embedded in the sole at the heel allowing the wearer to move by shifting his or her weight to his or her heels;

**"jet ski"** means a motorised device, not exceeding 3m in length and carrying not more than two people, used or designed exclusively for recreational purposes and "jet skiing" has a corresponding meaning;

**"life-saver"** means any person employed or appointed in the capacity by this Municipality and includes any member of the South African Surf Life-Saving Association or of any affiliated life-saving club or association of life-savers;

**"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;

**"notice on the spot"** means an adequate notice in any of the official languages generally in use in the Municipality erected or posted in a prominent position and maintained in a legible state;

**"promenade"** means any public walkway, used as such by the public within a recreation area;

**"public amenity"** means -

- (a) any land, square, caravan park, camping site, swimming-bath, public resort, recreation site, nature reserve, zoological, botanical or other garden, park or

hiking trail including any portion thereof and any facility or apparatus therein or thereon, but excluding any public road or street;

- (b) any building, structure, hall, room or office including any part thereof and any facility or apparatus therein and municipal infrastructure, which is the property of, or is possessed, controlled or leased by the Municipality or any other organ of state, to which the general public has access, whether on payment of an admission fee or not;

**"public amenity area"** means the area adjacent to the recreation area designated as such by the Municipality by notice on the spot and includes any amenity as contemplated by Item 1 of Schedule 5B of the Constitution or reserve declared as such by the Municipality;

**"shore"** means the land adjacent to the waterline; and

**"wind-surfer"** means a rudderless device which is fitted with a sail, is propelled on the surface of the water by the action of the wind and is designed to carry one person and "wind-surfing" and "wind-surf" have a corresponding meaning.

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

- (1) This By-law shall apply to all public amenities within the municipal area.
- (2) In the event of any conflict with any other by-law which directly or indirectly, within the jurisdiction of the Municipality, regulates public amenities, the provisions of this By-law shall prevail to the extent of the inconsistency.

## **CHAPTER 2**

### **OFFENCES**

#### **4 Offences relating to nuisances and offensive behaviour**

- (1) Any person shall be guilty of an offence who -
  - (a) deposits or discharges upon the shore area or in the any public amenity water area or in any bathing pool, any offal, rubbish or anything liable to be a nuisance or a danger to public safety or public health; or
  - (b) whilst suffering from any infectious or contagious disease enters or remains on the shore or in the water or in any bathing pool; or
  - (c) whilst upon or in the shore, public amenity or in any bathing pool -
    - (i) uses any obscene, offensive or indecent language; or
    - (ii) behaves in an offensive, improper or disorderly manner; or

- (iii) wilfully or negligently does any act which causes discomfort to other users of the shore or public amenity or any bathing pool, or is likely to cause a breach of the peace.
- (2) No person shall in or at a public amenity -
  - (a) dump, drop or place any refuse, rubble, material or any object or permit it to be done, except in a container provided for that purpose in or at the amenity;
  - (b) pollute or contaminate in any way the water in any water feature, swimming bath, dam, river or water-course;
  - (c) perform any act that may detrimentally affect the health or safety of any visitors to a public amenity.
- (3) No person shall, without the written consent of the Municipality having first been obtained erect or establish in or on a public amenity any structure, shelter or anything else, except a caravan or tent erected for camping purposes on a site specifically set aside therefore by notice.

## **5 Prohibition of bathing within areas considered unsafe**

- (1) Bathing at any public amenity may be prohibited either as a permanent or as a temporary measure on the grounds that it is unsafe.
- (2) Bathing at any public amenity may be prohibited by a lifesaver on duty, for so long as he or she may consider the condition of the water unsafe.
- (3) Any permanent prohibition under this By-law shall be indicated by notice on the spot and any temporary prohibition by any other recognisable and intelligible marker at both ends of the prohibited area.
- (4) This permanent prohibition extends to preserving the quality of water intended for human consumption.

## **6 Offences relating to bathing**

Any person who -

- (a) bathes in or from any area in which bathing has been prohibited in terms of section 5;
  - (b) hangs onto, sits upon or causes to sink any safety ropes provided for the protection of bathers, or in any way interferes with such safety ropes or other appliances provided for the assistance of bathers in distress;
  - (c) enters or remains in any bathing pool contrary to a reasonable prohibition by the person having authority over or placed in charge of such bathing pool as evidenced by a notice on the spot,
- shall be guilty of an offence.

## **7 Damage to property**

Any person who interferes with, misuses or damages any building, closet, shelter, changing booth, or other amenity or infrastructure and service thereto provided for the use of the public, or who disregards, or, in contravention of directions as to the use to which the same may be put, fails to observe the terms of notices in any of the official languages, affixed to any such building, structure or amenity by the Municipality or any person having authority to maintain such building, structure or amenity on the water-line or public amenity, shall be guilty of an offence.

## **8 Animals in public amenity area**

(1) Any person who, within a designated public amenity area of the Municipality, causes or allows any dog or other animal belonging to him or her or in his or her charge to enter or remain within such area or in any bathing pool whereon or wherein the Municipality has by notice on the spot prohibited the presence of dogs or animals shall be guilty of an offence.

(2) Any dog not under control or apparently not under control of any person may, if found within a designated public amenity area of the Municipality contrary to subsection (1), may be impounded by any member, employee or servant of the Municipality and may be removed to a pound.

(3) Any person who causes or allows any horse, pony or other animal belonging to him or her or in his or her charge to enter or remain within a designated public amenity area within the area of jurisdiction of the Municipality except with permission given in writing and subject to such terms and conditions as the Municipality may deem fit to impose, shall be guilty of an offence.

## **9 Firearms**

Any person who discharges a firearm from any designated public amenity area shall be guilty of an offence: Provided that it shall not be an offence if a firearm is used with permission given in writing and subject to such terms and conditions as the Municipality may deem fit to impose for -

- (a) firing of blank cartridges during competitions or during sport meetings organised on or in the designated public amenity area and;
- (b) for the collection of specimen of water life or birds or animals for scientific purposes.

## **10 Interference with notice boards**

Any person, other than a person authorised to do so by the Municipality, who moves, defaces or otherwise interferes with any notice board, notice or marker erected, posted or

placed on the designated public amenity area by the Municipality, or by its direction, in terms of this By-law shall be guilty of an offence.

#### **11 Prohibition of entertainment and trade**

Any person who, for reward or gain conducts an entertainment or business or trade of any sort on the designated public amenity area without the written permission given by the Municipality on such terms and conditions as in each case may by the Municipality be deemed fit, shall be guilty of an offence.

#### **12 Vehicles on or in designated public amenity area**

(1) Any person who, without the written consent of the Municipality introduces into or rides or drives any motor vehicle, animal-drawn vehicle, bicycle, roller skates, heely or similar shoe or skateboard, onto the designated public amenity areas, which excludes public roads, thoroughfare or parking area, shall be guilty of an offence.

(2) Subsection (1) shall not apply in respect of the person in charge of any ambulance whilst lawfully in use as such, or in respect of any vehicle used in lieu of an ambulance in time of emergency, or of any vehicle used by any organ of state, or service utility in pursuance of official duties.

#### **13 Life-saving devices**

(1) Any person, other than a lifesaver or, a member, employee or servant of the Municipality, who, save in time of emergency, touches, handles or in any way makes use of or damages any life-line, lifebuoy, or any other life-saving appliance, installed or maintained upon the shore, or any public bathing or boating area designated public amenity, shall be guilty of an offence.

(2) Any person who impairs or impedes the operation of any life-saving appliance or device while it is in use on the shore or in the water of a bathing or boating area of a designated public amenity, shall be guilty of an offence.

#### **14 Control of boats**

(1) The Municipality may within the municipal area- -

- (a) set aside by notice on the spot, a place or places on the shore and any area for the launching, landing, beaching, keeping, letting or hiring of boats, jet skis or craft;
- (b) set aside by notice on the spot, a place or places for the exclusive use of different types of boats or craft or for the use only of boats or craft belonging to members of boat clubs
- (c) prohibit the use or operation of any boat, jet ski or craft, or type thereof, from certain parts of the shore, and may differentiate between

boats, jet skis or craft belonging to or used by members of boat clubs and those belonging to or used by non-members of such clubs;

- (d) make the operation or use of boats, jet skis or craft or certain types thereof, within or from any part of the shore or any part of water, subject to its written permission granted on such terms and conditions as it may deem fit to impose; and
- (e) authorise any lifesaver or person appointed in terms of by 19 to prohibit the use of any boat, jet ski or craft within the shore or the water for so long as he or she may consider the condition of the water unsafe or that the use of such boat, jet ski or craft is likely to cause discomfort or injury to other users or is likely to lead to a breach of the peace.

(2) Any person who launches, lands, beaches, keeps, lets or hires or otherwise uses any boat, jet ski or craft contrary to subsection (1) of this By-law shall be guilty of an offence unless such act is done in an emergency or in order to save life.

(3) Fishing is prohibited in an area designated for boating.

## **15 Control of wind-surfing**

(1) Wind-surfing in any part of water within the municipal area may be prohibited by the Municipality

- (i) either temporarily or permanently, or
- (ii) temporarily by a lifesaver or a person officially appointed by the Municipality on the grounds that it is unsafe or is likely to cause discomfort or injury to other users of the shore or water or a breach of the peace.

(2) Any permanent prohibition shall be indicated by notice on the spot at both ends of the prohibited area and any temporary prohibition shall periodically be brought to attention by the use of a public address system or by personal warning.

(3) Any person who windsurfs in contravention of any prohibition contemplated herein shall be guilty of an offence.

## **16 Control of camping**

(1) The Municipality may, by notice on the spot, prohibit camping on any part of the shore or any designated public amenity area.

(2) Any person who erects a tent or camps on the shore or any designated public amenity area without the written permission of the Municipality, shall be guilty of an offence.



## **17 Control of anglers**

(1) No person shall fish or angle from any part of the shore or any designated public amenity area within the municipal area that the Municipality, by notice on the spot, declares to be an area in which fishing or angling is prohibited. Where fishing or angling is not so prohibited no person shall throw, cast or swing any line or gear in such a manner as to cause danger or annoyance to any other person.

(2) No person shall leave any bait, fishhook or refuse on the shore.

(3) Boating is prohibited in a designated fishing area.

(4) Any person failing to abide by or comply with the foregoing shall be guilty of an offence.

## **18 Control of fires**

Any person who kindles a fire on the shore or any designated public amenity area without obtaining the prior written permission of the Municipality, which permission may be given subject to such terms and conditions as the Municipality may deem fit to impose, shall be guilty of an offence.

## **19 Control of piers and other structures**

Any person, other than a member, employee, or servant of the Municipality whilst on duty, who enters upon any pier or other structure erected for the protection of the shore within the municipal area, except with the prior written permission of the Municipality, shall be guilty of an offence.

## **20 Promenade**

(1) No person may bring onto or drive or ride on any promenade any bicycle, skateboard, roller skate, heely or similar shoe, skateboard, quad bike, motor cycle, vehicle or transport device provided that this is not applicable to people confined to a wheelchair.

(2) Any person failing to abide by or comply with the foregoing shall be guilty of an offence.

## **21 Penalty**

Any person who-

- (i) contravenes or fails to comply with any provisions of this By-law;
- (ii) fails to comply with any lawful direction of a compliance officer or municipal official given to him or her in terms of this By-law;

shall be guilty of an offence and on conviction liable to a fine or imprisonment or to both a fine and imprisonment.

## **22 Observance of By-law**

Any person who behaves in a manner that is in contravention of a provision of this By-law shall immediately cease such behaviour when directed to do so by a compliance officer or authorised municipal official.

## **CHAPTER 3**

### **GENERAL MATTERS**

## **23 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, as amended.

## **24 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.

## **25 Law of tickets**

All admission tickets issued by the Municipality will make reference to the appropriate sections of this By-law and this shall be deemed compliant with the law of tickets.

## **26 Repeal of by-laws**

The By-laws relating to Public Amenities published in the *Provincial Gazette* by Notice Number 196 of 2005 are hereby repealed.

## **27 Short title and commencement**

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