

SENQU MUNICIPALITY MUNICIPAL NOTICE

LOCAL AUTHORITY NOTICE NO...

2017

BY-LAW ON STREET LIGHTING

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 Street Lighting.

SCHEDULE

TABLE OF CONTENTS

CHAPTER 1	2
OBJECTIVES, DEFINITIONS AND APPLICABILITY OF BY-LAW	2
2 Objectives	2
3 Definitions	2
4 Applicability of By-law	3
CHAPTER 2	4
GENERAL LIGHTING REQUIREMENTS	4
5 Shielding of outdoor light fixtures	4
6 Limiting trespassing of light beyond property line	4
7 Nonconforming light fixtures	4
CHAPTER 3	4
NEW CONSTRUCTION	4
8 Submission contents	4
9 Additional submission	5
10 Construction development plan certification.	5
11 Lamp or fixture substitution.	5
CHAPTER 4	5
DUTIES OF MUNICIPALITY	5
12 Compliance with national laws and standards	5
13 Installation of street lighting on property other than municipal property	5
14 Metering and surge protection	6
CHAPTER 5	6
LAW ENFORCEMENT	6
15 Appointment of compliance officer	6
16 Powers and functions of a compliance officer	6
17 Compliance notice	8
18 Offences and penalties	8

CHAPTER 6	9
GENERAL MATTERS.....	9
19 Appeals.....	9
20 Exemptions.....	9
21 Repeal of by-laws.....	9
22 Short title and commencement.....	9

CHAPTER 1

OBJECTIVES, DEFINITIONS AND APPLICABILITY OF BY-LAW

1 Objectives

- (1) The objectives of this By-law are to
- (a) preserve, protect, and enhance the lawful night-time use and enjoyment of any and all property through the use of appropriate lighting practices and systems in the municipal area of the Municipality; and
 - (b) standardise lighting systems to be designed, constructed, and installed to: control glare and light trespass, minimize obtrusive light, conserve energy and resources while maintaining safety, security and productivity, and curtail the degradation of the night-time visual environment.

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:

“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;

"direct light" means light emitted directly from the lamp, off of the reflector or reflector diffuser, or through the refractor or diffuser lens, of a luminaire;

"foot-candle" means a unit of luminance amounting to one lumen per square foot;

"fully-shielded lights" means outdoor light fixtures shielded or constructed so that no light rays are emitted by the installed fixture at angles above the horizontal plane as certified by a photometric test report and includes full cut-off lights;

"glare" means a harsh uncomfortably bright light emitting from a luminaire shining into the cone of vision causing reduced vision or momentary blindness when shining into one's cone of vision;

"installed lighting" means attached lighting that is attached or fixed in place, whether or not connected to a power source;

"light trespass" means the shining of light, produced by a luminaire, not exceeding 0.5 foot-candle 1 meter beyond the property line on which it is located;

"lumen" means the unit used to measure the actual amount of light, which is produced by a lamp;

"luminaire" means the complete lighting system, including the lamp and the fixture;

"lux" means the SI unit of luminance and one lux is one lumen per square meter;

"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;

"outdoor lighting fixture" means an outdoor artificial illuminating device, whether permanent or portable, used for illumination or advertisement, including searchlights, spotlights or floodlights, whether for architectural lighting, parking lot lighting, landscape lighting, security lighting, billboards or street lighting;

"shielded" means a fixture that is shielded in such a manner that light rays emitted by the fixture, either directly from the lamp or indirectly from the fixture, are projected within the property on which the light is mounted;

"sky glow" means when light emitting from a luminaire shining into the sky and reflected by humidity and dust;

"up-light" means any light from a luminaire that shines above the horizontal at angles above the horizontal plane, causing illumination of the sky;

"watt" means the unit used to measure the electrical power consumption of a lamp;

"zone of vision" means the central area that the eye can see clearly without moving and is surrounded by the peripheral vision.

3 Applicability of By-law

In the event of any conflict with any other by-law which directly or indirectly, within the jurisdiction of the Municipality, regulates street lighting, the provisions of this By-law shall prevail to the extent of the inconsistency.

CHAPTER 2

GENERAL LIGHTING REQUIREMENTS

4 Shielding of outdoor light fixtures

- (1) All outdoor lighting fixtures shall be shielded, to minimize up-light.
- (2) Building mounted incandescent type fixtures shall be shielded or activated by motion sensor.
- (3) Outdoor floodlighting shall be shielded in such a manner that the lighting system will not produce light trespass.

5 Limiting trespassing of light beyond property line

- (1) All light fixtures shall be located, aimed and or shielded so as no direct light trespasses beyond the property line on which the light is mounted.
- (2) Lighting on Municipal property is limited to a higher trespass of 0.5 footcandle at 3 meters beyond the property line, but the direct light must be aimed at the designated design area.

6 Nonconforming light fixtures

- (1) In addition to other exemptions provided in the By-law, an outdoor lighting fixture not meeting these provisions shall be allowed if the fixture is extinguished by an automatic shutoff device between sundown and sunrise.
- (2) No outdoor recreational facility, whether public or private, shall be illuminated after sundown except when the facility is in use.
- (3) The use of searchlights or laser source light or any similar high intensity light for outdoor advertising or entertainment, except in emergencies by police and fire personnel or at their direction; or for meteorological data gathering purposes is prohibited.

CHAPTER 3

NEW CONSTRUCTION

7 Submission contents

- (1) The applicant for any permission which may be required in terms of the National Building Regulations and Building Standards Act, 103 of 1977 in connection with proposed work involving outdoor lighting fixtures shall submit, as part of that application for such permission evidence that the proposed work shall comply with this By-law.
- (2) The submission referred to in subsection (1) must contain but is not limited to the following, all or part of which may be part or in addition to the information required elsewhere in the by-laws of the Municipality:

- (a) Plans indicating the location on the premises, and the type of illuminating devices, fixtures, lamps, supports, reflectors, and other devices; and
- (b) a description of the illuminating devices, fixtures, lamps, supports, reflectors, and other devices and the description may include, but is not limited to, catalogue cuts by manufacturers and drawings, including sections where required, photometric data, such as that furnished by manufacturers, or similar showing the angle of cut off or light emissions, a map of the lighting distribution with intensity levels and a summary of calculations.

8 Additional submission.

(1) The plans, descriptions and data referred to in section 7 shall be sufficiently complete to enable the official duly authorised by the Municipality to readily determine whether compliance with the requirements of this By-law will be secured.

(2) If such plans, descriptions and data cannot enable this ready determination, by reason of the nature or configuration of the devices, fixtures, or lamps proposed, the applicant shall additionally submit as evidence of compliance to enable such determination such certified reports of tests as will do so provided that these tests shall have been performed and certified by a recognised testing laboratory.

9 Construction development plan certification.

If any development proposes to have installed street or other common or public area outdoor lighting, the final plan shall contain a statement certifying that the applicable provisions of the Senqu Municipality: Street Lighting By-law, 2017 will be adhered to.

10 Lamp or fixture substitution.

Should any outdoor light fixture or the type of light source therein, be changed after permission has been granted, a change request must be submitted to the building official for his approval, together with adequate information to assure compliance with this By-law, which must be received prior to substitution.

CHAPTER 4

DUTIES OF MUNICIPALITY

11 Compliance with national laws and standards

(1) The Municipality shall install and maintain street lighting in accordance with the requirements of the Electricity Regulation Act, 2006 (Act No. 4 of 2006) and other national laws and standards

(2) The Municipality shall ensure that street lighting which is installed is energy efficient, switched off during the day and is fitted with energy efficient bulbs.

(3) The Municipality shall endeavour to reduce lighting of unoccupied buildings after working hours and substitute incandescent lights with energy efficient alternatives.

12 Installation of street lighting on property other than municipal property

(1) The Municipality shall not erect or supply street lighting on property which is not owned by the Municipality.

(2) The owner of property may request that the Municipality supply and erect street lighting in a public place where no street lighting is provided and the Municipality may supply and erect that street lighting at the owner's cost and that street lighting shall be connected to the existing municipal infrastructure.

13 Metering and surge protection

The Municipality shall ensure that all street lighting is metered and surge protected.

CHAPTER 5

LAW ENFORCEMENT

14 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.

15 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 12(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.

16 Compliance notice

(1) If, after investigation, a compliance officer finds that any provision of this By-law is being contravened, he or she shall give notice by hand delivery or by certified mail, return-receipt requested, of such contravention to the owner or to the occupant of such premises, demanding that contravention be ceased or the installation corrected within 30 days of the date of hand delivery or of the date of mailing of the notice.

(2) If the contravention is not ceased or the installation corrected within the 30 day period, the compliance officer may institute action to enjoin, restrain, or abate any violations of this By-law and to collect the penalties for such violations.

17 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 6

GENERAL MATTERS

18 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.

19 Exemptions

The following are exempt from the requirements of this By-law:

- (a) All residential outdoor light fixtures using any incandescent lamp or lamps of 100 total watts or less;
- (b) navigational and general life safety lighting systems.

20 Repeal of by-laws

The By-Laws Relating to Street Lighting published in the *Provincial Gazette* by Notice Number 199 of 2005 are hereby repealed.

21 Short title and commencement

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