

PUBLIC ROADS AND MISCELLANEOUS BY-LAW

The Municipal Manager of Greater Giyani Municipality hereby, in terms of section 13(a) in conjunction with section 75 (1) of the Municipal Systems Act, 2000 (Act No. 32 of 2000), publishes the Public Roads and Miscellaneous By-Law for the Greater Giyani Municipality, to be approved by the Council, as set out hereunder.

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CHAPTER 1

INTERPRETATION

Definitions and interpretation

1. (1) In these By-laws, any word or expression that has been defined in the National Road Traffic Act, 1996 (Act No. 93 of 1996) including any regulations made thereunder or the Gauteng Provincial Road Traffic Act, 1997 (Act No. 10 of 1997) including any regulations made thereunder, has that meaning and, unless the context otherwise indicates -

"Authorised Official" means -

- (a) a member of the South African Police Services (SAPS) established in terms of section 64A of the South African Police Service Act, 1995 (Act No. 68 of 1995); or
- (b) any person or official authorised in writing as such by the Council.

"Council" means -

- (a) the Metropolitan Municipality of the City of Johannesburg established by Provincial Notice No. 6766 of 2000 dated 1 October 2000, as amended, exercising its legislative and executive authority through its municipal Council; or
- (b) its successor in title; or
- (c) a structure or person exercising a delegated power or carrying out an instruction, where any power in these by-laws has been delegated or sub delegated, or an instruction given, as contemplated in section 59 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000); or
- (d) a service provider fulfilling a responsibility under these by-laws, assigned to it in terms of section 81(2) of the Local Government: Municipal Systems Act, or any other law, as the case may be.

"Demarcated Space" means a space so laid out and marked on the roadway as a place within which a vehicle is to be parked;

"Municipal Store" means the municipal store of the Council;

"Parking Meter" means a device for registering and visibly recording of a parking period in accordance with the insertion of a coin or other prescribed object therein and includes a post or fixture to which it is attached;

"Parking Period" means that period of parking in a demarcated space which is permitted by the insertion into the parking meter allocated to such space of a coin or other object as prescribed;

"Prescribed" means determined by resolution of the Council from time to time;

"Prescribed Fee" means a fee determined by the Council by resolution in terms of section 10G(7)(a)(ii) of the Local Government Transition Act, 1992 (Act No. 209 of 1993), or any other applicable legislation;

"Public Road" means a square, road, sidewalk, island in a road, subway, avenue, bridge, public passageway and any thoroughfare shown on the general plan of a township or in respect of which the public has acquired a prescriptive or other right of way and which is 4 vested in the Council in terms of section 63 of Local Government Ordinance, 1939 (Ordinance No 17 of 1939) or any other law;

"Storekeeper" means the person in the service of the Council who holds the position of storekeeper or a person acting in that capacity;

"Token" in respect of a trolley, means a sign on which the name or trade name and the address of the owner appears;

"Trolley" means a push trolley, push cart or any table, stand or basket on wheels;

"Watercourse" means a watercourse as defined in section 1 of the National Water Act, 1998 (Act No. 36 of 1998);.

(2) If any provision in these by-laws vests or imposes any power, function or duty of the Council in or on an employee of the Council and such power, function or duty has in terms of section 81(2) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), or any other law been assigned to a service provider, the reference to such employee must be read as a reference to the service provider or, where applicable, an employee of the service provider authorised by it.

(3) The provisions of the Code of Practice for work in the road reserve set out in Schedule 2 to these By-laws, form part and parcel of these By-laws for all purposes.

CHAPTER 2 ✓

PUBLIC ROADS AND MISCELLANEOUS

Ropes, wires or poles across public road

2. No person may place any rope, wire or pole on, under or across any public road, or hang, or place anything whatsoever thereon, without the prior written permission of the Council.

Damage to trees

3. No person may climb upon, or break or damage or in any way mark or paint on any tree on any public road within the municipal area of the Council, and no person may, without the prior written permission of the Council, lop, top, trim, cut down or remove any such tree unless the person is authorised to do so in terms of these By-laws or any other law.

Barbed wire, dangerous and electrical fencing

4. (1) No owner or occupier of land -

(a) other than an owner or occupier of an agricultural holding or farm land, may along any public road erect or cause, or permit to be erected, any barbed-wire fence or any railing, paling, wall or other barrier which, by reason of spikes or other sharp or pointed protrusions or otherwise by reason of the nature of its construction or design, is or may become a danger to any member of the public using such public road;

(b) including an owner or occupier of an agricultural holding or farm land, may along any public road erect or cause, or permit to be erected, or after one year from the date of commencement of these By-laws, have along a public road any electrified fence, railing or other electrified barrier unless -

(i) the fence, railing or other barrier is erected on top of a wall built of brick, cement, concrete or similar material, which wall may not be less than 1,8 metres high; and

(ii) the fence, railing, or other barrier is designed and installed in accordance with any relevant specifications determined by the Council and any standard issued in terms of the Standards Act, 1993 (Act No. 29 of 1993); or

(c) may erect, or cause, or permit to be erected, any electrified fence, railing, wall or other electrified barrier referred to in paragraph (b) without the prior written permission of the Council, in terms of the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977).

(d) The full technical details of the proposed electrified fence, railing, wall or other electrified barrier must accompany any application for permission submitted to the Council.

Protection of public roads

5. No person may place upon or off-load on a public road any material or goods that are likely to cause damage to a public road unless the person has taken

reasonable precautions to protect the surface of the public road against damage.

Cleanliness of public roads

6. (1) No person may spill, drop or place or permit to be spilled, dropped or placed, on a public road any matter or substance that may interfere with the cleanliness of the public road, or cause or is likely to cause annoyance, danger or accident to any person, animal, vehicle or other traffic using the public road, without removing it or causing it to be removed from the public road immediately.

(2) If the person referred to in subsection (1), fails to remove the matter or substance, the Council may remove such matter or substance and recover the cost of removal from that person.

Article placed in building facing public road

7. No person may place any article likely to cause injury or damage to any person or property if it were to fall on a public road, in any near a public road without taking all reasonable steps to prevent it falling onto the public road.

Damaging of Council's property

8. Subject to the provisions of section 10, no person may deface, tamper, damage, remove, or in any way interfere with any of the Council's property or work on or along any public road.

Cleaning and repairing on public roads

9. No person may clean or repair any part of a vehicle or wash, dry or paint any article or object on any public road except in the case of an emergency breakdown of a vehicle, when emergency repairs may be done.

Excavations in public roads

10. (1) No person may make or cause to be made any hole, trench, pit or tunnel on or under any public road or remove any soil, metal or macadam therefrom without the prior written permission of the Council, unless such person is authorised to do so in terms of these By-laws or any other law.

(2) A person, who requires the permission in terms of subsection (1), must comply with the requirements contained in Schedule 2 to these By-laws.

(3) A person referred to in subsection (2) must pay the prescribed fee.

(4) A person referred to in subsection (2) must, if applicable, pay the prescribed fee for lane rental provided for in Schedule 2 to these By-laws.

Defacing, marking or painting public roads

11. No person may in any way deface, mark or paint any public road or part of a public road or any structure related to such road, without the prior written permission of the Council.

Races and sports events

12. (1) An application for consent to hold a race or sports event on any public road in terms of regulation 317(2) of the National Road Traffic Regulations, 2000, under the National Road Traffic Act, 1996 (Act No. 93 of 1996), must be submitted in writing to the Council on the prescribed form at least 60 days prior to the envisaged event.

(2) The applicant must pay the prescribed deposit for the costs to be incurred by the Council during and after the race or sports event, to the Council prior to commencement of the race or sports event and an adjustment must be made after the conclusion of the race or sports event as soon as the Council has determined actual costs incurred by it.

Loitering on public roads

13. (1) No person may -

(a) lie, sit stand, congregate, loiter or walk, or otherwise act, on any public road in a manner that may obstruct traffic;

(b) jostle or loiter at or within 20 metres of the entrance of any place of public worship during the time of divine service or during an assembly at the place of worship or departure from such place of the congregation so as to obstruct or annoy any person going to, attending at, or leaving such place of worship.

(2) Any person contravening subsection (1) must, upon instruction by an authorised official, discontinue doing so.

Loitering and toutting at places of public entertainment

14. (1) No person may loiter or, except when forming part of a queue, congregate on any public road within 20 metres of the entrance to any place of public entertainment so as to obstruct traffic or persons proceeding to, attending at, or departing from such place of entertainment.

(2) No person may, without the prior written permission of the Council tout or solicit a driver of any motor vehicle who parks a motor vehicle at a place of entertainment for the purpose of or under pretext of looking after or watching over the motor vehicle during the assembly thereat or the departure therefrom.

Public decency

15. (1) No person may appear unclothed or indecently clothed on any public road.

(2) No person may on or in view of any public road urinate, excrete, behave in any indecent manner by exposing his or her person or otherwise, make use of any indecent gesture, or commit, solicit or provoke any person to commit any riotous, disorderly or indecent act.

(3) No person may on any public road sing any obscene or profane song, or use any profane, foul, indecent or obscene language.

(4) No person may on any public road in any way loiter or solicit or inconvenience or harass any other person for the purpose of begging.

(5) No person may on a public road use any threatening, abusive or insulting words or gestures or behaviour with intent to cause a breach of the peace or whereby a breach of the peace is likely to be occasioned.

Trolleys

16. (1) The owner of a trolley must affix a prescribed token in a conspicuous position on the trolley.

(2) The owner or the person who controls or has the supervision over a trolley or who offers it to be used by any person, or who uses it for any purpose whatsoever, may not leave or abandon it or permit it to be left or abandoned on any public road.

(3) Any trolley which has been left or abandoned on any public road, may be removed, or caused to be removed, by an authorised official and be placed under the care of the storekeeper.

(4) The storekeeper must store any trolley which has been placed under his or her care in terms of subsection (3), at the municipal store and the Council must publish once a month in respect of eleven months of a year calculated from the first day of January, a notice in two newspapers circulating within the municipal area, which states-

(a) the name of the owner of every trolley being stored, if known;

(b) the number of trolleys being so stored;

(c) that the trolley may be claimed by the owner from the Council on payment of the prescribed storage charge;

(d) that any trolley which has not been claimed after a period of three months from the date of publication of the said notice, may be sold by the Council by public auction; and

(e) that the proceeds of the public auction will accrue to the Council.

Public road collections

17. (1) No collection on a public road may be organised or held without the prior written permission of the Council.

- (2) Application for such permission must be made on a form provided for this purpose by the Council.
- (3) Every application must be accompanied by proof that the organisation or person intending to hold the public road collection is authorised to collect a contribution in terms of the Nonprofit Organisations Act, 1997 (Act No. 71 of 1997), or the Fund-raising Act, 1978 (Act No. 107 of 1978), as the case may be.
- (4) The Council may grant permission referred to in subsection (1) to an organisation or person to hold a collection on a specified public road, date and at a specified time and reserves the right to determine the number of collections which may be held on any one day on the public road so specified.
- (5) Every organisation or person, holding a public road collection is entitled to use his, her or its own identifiable collection boxes and if any organisation or person does not possess any boxes, the Council's collection boxes may be used upon payment of the prescribed fee.

Control of stormwater and watercourses on public road

18. (1) No person may, without prior written permission of the Council, which permission may be conditional or unconditional -

(a) lead or discharge any water on or over or across a public road; or (b) by any means whatever, raise the level of water in any river, dam or watercourse so as to cause interference with or endanger any public road.

(2) The Council may, subject to any laws which may be applicable and after obtaining consent of the owner and the occupier, if any, of the land concerned -

(a) deviate any watercourse, stream or river if the deviation is necessary for the protection of a public road or structure related to a public road or for the construction of a structure connected with or belonging to a public road;

(b) divert stormwater from or under any public road onto private property other than land occupied by buildings, other structures or improvements; and

(c) pay reasonable compensation as agreed between the owner or occupier and the Council, for any damage caused as a result of any action taken in terms of paragraph (a) or (b) or failing such agreement, compensation determined by arbitration in terms of the Arbitration Act, 1965 (Act No 42 of 1965).

Obstruction on public roads

19. No person may deposit or cause to be deposited or leave or cause to be left any sand, stone, earth, bricks, timber, lime, cement or other building or excavated material of whatever nature on any portion of any public road, sidewalk or footway unless it is deposited within an enclosure in respect of which the prior written permission of the Council has been obtained.