

## **BY-LAWS FOR THE SETSOTO LOCAL MUNICIPALITY**

### **COMMONAGE BYLAW**

The Municipality of Setsoto Local Municipality hereby publishes the Commonage By-Laws set out in the Schedule hereto. These By-Laws have been adopted by the Municipal Council on 28 August 2007 and are promulgated by the municipality in terms of section 156(2) of the Constitution of the Republic of South Africa, 1996 and in accordance with section 13(a) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000).

### **SCHEDULE**

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#### **Definitions**

1. In these by-laws, unless the context otherwise indicates, words referring to -

- (a) the singular include the plural and vice versa;
- (b) any one gender include both genders, and -

"animal" means cattle, sheep, goat, horse, mule, donkey, pig, and ostrich or the hybrid of such animal; and

"animals" will have a corresponding meaning

"commonage" means land or portion of land which is owned by the municipality and set aside by the municipality for the purposes of establishing grazing camps for animals or plots for gardening or other economic activity;

"municipal area" means land situated inside the area of jurisdiction of the Municipality of which the Municipality is the owner, but outside the boundaries of any residential area;

"Municipality" means the SETSOTO Local Municipality established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with these by-laws by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

"Municipal Manager" means the person appointed in terms of section 82 of the Local Government: Municipal Structures Act 1998 (Act No. 117 of 1998);

"permit holder" means the person to whom a permit has been issued by the Municipal Manager in terms of these by-laws;

#### **Reserving Land as Commonage**

2. The Municipality may by resolution, subject to the provisions of any law or any restrictions regarding the use of land in the title deed of that land:
  - (1) reserve suitable municipal land as commonage,
  - (2) at any time add defined municipal land to the commonage so reserved, and
  - (3) at any time, partly or wholly withdraw any land which forms part of the commonage.

#### **Grazing permit required to graze animals on commonage**

3. No person shall graze animals on the commonage of the Municipality, unless;
  - (1) he is the holder of a grazing permit issued by the Municipality, subject to the conditions of such permit stipulating the camp number in the commonage and the number and kind of animal to be kept in the camp;
  - (2) the animal is the progeny of a female animal grazed in terms of a grazing permit contemplated in subsection (1) and is not older than 8 months, and
  - (3) he has paid the commonage fees determined by the Municipality in respect of the period for which the grazing permit was issued.

#### **Application for and issue of grazing permit**

4. (1) An application for a grazing permit must -
  - (a) be directed to the Municipal Manager;
  - (b) be in writing on the form issued by the Municipality;
  - (c) contain adequate proof that the applicant is a permanent resident within the area of jurisdiction of the Municipality; and
  - (d) contain such further particulars as the Municipality may require.
- (2) The Municipal Manager must take into account the availability, condition of land and grazing capacity in the commonage of the Municipality to accommodate the required number of animals for which application is made;
- (3) After due consideration of the application, the Municipal Manager must -

- (a) issue the permit as applied for by the applicant;
  - (b) issue a permit for a lesser number of animals than applied for; or
  - (c) notify the applicant in writing that his or her application was unsuccessful and state the reasons therefore.
- (4) An aggrieved person may in terms of section 62(4)(c)(1) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), appeal to the Municipal Council against a finding of the Municipal Manager.
- (5) A permit for the grazing of animals on the municipal commonage is issued —
- (a) on payment of the fees determined by the Municipality;
  - (b) subject to the conditions set out in the permit, and;
  - (c) is valid for a period of twelve months or less and all permits shall lapse on the last day of June of each year: Provided that a permit may be renewed.
- (6) The Municipality may withdraw a permit for the grazing of animals on the municipal commonage if the permit holder contravenes or fails to comply with —
- (a) a condition subject to which the permit was issued;
  - (b) any provision of this By-law; or
  - (c) a lawful direction by the Municipal Manager or of the veterinary surgeon appointed by the Municipality.
- (7) A permit to graze animals on the commonage of the Municipality is not transferable.

**Plot Permit Required to Undertake Gardening or Other Economic Activity on Commonage**

5. No person shall undertake gardening or any other economic activity on any plot set aside for this purpose on the commonage of the Municipality, unless;
- (1) he is the holder of a plot permit issued by the Municipality, subject to the conditions of such permit stipulating the plot number in the commonage and the kind of economic activity to be conducted on that plot, and
  - (2) he has paid the commonage plot fees, determined by the Municipality, in respect of the period for which the permit was issued.

**Application for and Issue of Plot Permit**

6. (1) An application for a plot permit must -
- (a) be directed to the Municipal Manager;
  - (b) be in writing on the form made available by the Municipality for this purpose;

- (c) contain adequate proof that the applicant is a permanent resident within the area of jurisdiction of the Municipality; and
  - (d) contain such further particulars as the Municipality may require.
- (2) When considering an application, the Municipal Manager must take into account the availability and condition of plots on the commonage of the Municipality to accommodate the required economic activity for which application is made;
- (3) After due consideration of the application, the Municipal Manager must -
- (a) issue the permit as applied for by the applicant, or
  - (b) notify the applicant in writing that his application was unsuccessful and state the reasons therefore.
- (4) An aggrieved person may in terms of section 62(4)(c)(1) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), appeal to the Municipality against a finding of the Municipal Manager.
- (5) A plot permit for gardening or any other economic activity on the municipal commonage is issued —
- (a) for a period of one year or less and all plot permits shall lapse on the last day of June of each year;
  - (b) subject to the conditions set out in the permit, and;
  - (d) subject to prior payment of the fees determined by the Municipality.
- (6) The Municipality may withdraw a plot permit for gardening or other economic activity on the municipal commonage if the permit holder contravenes or fails to comply with —
- (a) a condition subject to which the permit was issued;
  - (b) any provision of this By-law; or
  - (e) a lawful direction by the Municipal Manager.
- (7) A plot permit to undertake gardening or other economic activity on the commonage of the Municipality is not transferable.

**Management and Maintenance of Commonage**

7. (1) The Municipal Manager is responsible for the proper management of all land forming part of the commonage.
- (2) The Municipality will have the right to gather all animals on the commonage from time to time to ascertain if the animals are registered with the Municipality. All animals, which are not registered, will be impounded.
- (3) It is the owner's responsibility to mark and register his animals.

**Appointment of Veterinary Surgeon**

8. The Municipality may appoint a veterinary surgeon when necessary, to fulfil the functions prescribed by or under any law relating to animals.

## **Functions of the Municipal Manager**

9. The Municipal Manager —
- (1) may divide each piece of land reserved as commonage in terms of paragraph 2, in separate camps suitable for the grazing of animals or gardening plots, allocating a number to each camp and garden plot;
  - (2) may provide, in each camp or plot such facilities as may be necessary for the maintenance of animals or gardening in that camp or plot;
  - (3) must compile proper maps of each piece of land reserved as part of the commonage, indicating at least the boundaries of camps, plots, gates and waterholes;
  - (4) must allocate the animals of each permit holder to a specific camp or camps and notify such permit holder accordingly;
  - (5) must develop and implement a proper programme of rotation of grazing periods or cycles on land reserved as commonage by the Municipality; and
  - (6) must keep proper records, open for public inspection, regarding-
    - (i) all permit holders;
    - (ii) dates of expiry of all permits;
    - (iii) payments made or exemptions granted to permit holders,and any other matter which, in the opinion of the Municipal Manager, needs to be recorded, and
  - (7) must ensure that rotational grazing take place to rest camps certain times of the year in order to stop overgrazing.

## **Prohibited Actions**

10. (1) A person is not allowed to keep an animal which is not a domestic animal in a residential area or on the boundaries thereof;
- (2) A person is not allowed to keep any animal on the commonage of which he is not the bona fide owner;
- (3) A person is not allowed to kill and or slaughter any animal on the commonage, save for the purpose of disposing of the carcass of a dead animal.
- (4) A person is not allowed to utilise any of the Municipality's water resources without prior written approval from the Municipality;
- (5) A person shall not erect any hut, shelter, kraal, habitation or structure of any kind nor occupy, camp or squat on any portion of the commonage or in any street, or road, thoroughfare or public place without the consent of the Municipality;
- (6) A person shall not without prior permission of the Municipality, accumulate, dump or deposit or cause to be accumulated, dumped or deposited on any portion of the commonage any scrap or waste;

(7) A person shall not on grazing camps of the commonage dig or remove trees, soil, clay, sand, gravel or boulders without a valid and current permit issued by the municipality;

(8) A person shall not make bricks, or erect brick-, lime- or charcoal kilns, on any land within the municipal area, or on land under control of the municipality, without the prior written consent of the Municipality, except on land denoted for such purposes in terms of an, approved spatial development plan and zoning scheme and further subject to payment of the fees determined by municipality;

(9) A person shall not cut, damage, burn, destroy, gather or remove any plants, shrubs, trees, timber, firewood, brushwood, manure or any grass growing or being upon any portion of grazing camps on the commonage without prior written permission of the Municipality;

(10). A person shall not interfere with or cause damage to any fence, gate, drinking trough, water tap or other appliance or thing, or set fire to the pasture or any bush, tree, shrub on the commonage;

(11) A person shall not make use of any road over the commonage other than such roads as shall be allowed open by the municipality from time to time;

(12) A person shall not deposit or in any way leave any poison for whatever purpose on the commonage without the written permission of the municipality;

(13) The municipality may cause traps to be set for vermin on the commonage and any person interfering with or damaging such traps in any way or letting loose or removing or causing to be loosened or removed any vermin from such traps or in any way disposing of any bodies from such a trap without the prior approval of the municipality, shall be guilty of an offence;

(14). A person shall not kill, catch, capture or hunt or attempt to kill, any game on the commonage;

(15) A person shall not set traps of whatsoever description on the commonage without the prior written consent of the municipality;

(16) A person shall not remove any bees, hives or honey from the commonage without the written permission of the Municipality;

(17) A person shall not hunt, shoot, catch, disturb or kill any wild bird on the commonage or destroy or disturb the nest of any wild bird, nor shall any person remove the eggs or young thereof from such nest, and

(18) If the Municipality is of the opinion that it is in the public interest, it may, for such period and subject to such conditions as it may deem fit, exempt any person, group or category of persons in writing from compliance with any prohibited action in terms of this paragraph.

### **Liability**

11 (1)The permit holder indemnifies the Municipality from liability, cost or claim that result from negligent or wilful conduct of the permit holder that cause the animal or animals to cause death, injury or damage to a person, property or other animals in the commonage;

(2) The permit holder shall be liable for any damage or claims, which originate from damage caused by his animal or animals outside the commonage.

(3) All expenses incurred in respect of Section 9(1) and 9(2) may be recouped from the applicant.

#### **Transitional Arrangements**

12. Any permission obtained, right granted, condition imposed, activity permitted or anything done under a repealed law, shall be deemed to have been obtained, granted, imposed, permitted or done under the corresponding provision of this By-law.

#### **Penalties**

13. (1) Any person who contravenes or fails to comply with any provision of this By-law or any requirement or condition hereunder shall be guilty of an offence.

(2) Any person convicted of an offence in terms of subsection (1) shall be liable to a fine not exceeding R10 000-00 or to imprisonment for a period not exceeding one year, or to both a fine and such imprisonment.

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

14. Any by-laws relating to commonages adopted by the Municipality or any municipality now comprising an administrative unit of the Municipality is repealed from the date of promulgation of these by-laws.

#### **Date of Commencement**

15. These by-laws will take effect on 1 December 2008.

#### **Short title**

16. This By-law shall be called the Commonage By-law 2 of 2008