

BITOU MUNICIPALITY



DRAFT RIVER BY-LAWS

BY-LAW RELATING TO THE MANAGEMENT AND USE OF RIVERS

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996, the Bitou Municipality enacts as follows:-

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SCHEDULE 1: EQUIPMENT RE4QUIRED ON BOATS AND VESELS

1. In this by-law, unless inconsistent with the context –

“Authorised officer” means any person authorised by the municipality to perform the functions of an authorised officer under this by-law or a member of the South African Police”.

“boat” or “vessel” means any conveyance capable of floating on or in water or designed to navigate on or in water and includes, but is not limited to a sailing boat, sailing board, rowing boat, canoe, paddle ski, power boat, jet-driven boat, jet-ski, fishing boat, flat-bottomed boat, ferry, houseboat, pleasure boat, water cycle and raft;

“bow” means the front part of the vessel;

“by- law” means this by-law and any amendments thereto;

“due date” means 30 June of every year or such other date as may be determined by the municipality;

“helmsman” means a person who steers or controls a boat or vessel;

“houseboat” includes any vessel or boat, irrespective of whether or not it is propelled under its own power, capable of being occupied by more than one person, which is equipped with facilities for day or night accommodation and on which food preparation facilities and toilet or washing facilities have been provided, but excludes a sailing boat and a cabin boat not equipped with ablution or cooking facilities;

“licensee” shall mean the person in whose name a boat or vessel has been registered as required in terms of this by-law;

“municipality” means the Municipality of Bitou established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, duly authorised agent or any employee acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, agent or employee;

“Municipal Manager” means the Municipal Manager of the municipality;

‘Vicinity of the river’ includes the properties adjacent to or in the immediate vicinity of the river;

‘operate’ or ‘control’ or any like expression, in relation to a boat or vessel means to launch, use, sail, navigate or moor a boat or vessel to be launched, used, sailed, navigated or moored on the river, or to have a boat or vessel, or to permit a boat or vessel to be, on the river;

‘permission’ means the written permission of the municipality ;

“pleasure boat” includes any vessel or boat, irrespective of whether or not it is propelled under its own power, capable of being occupied by more than one person, which is used for the entertainment of passengers by means of sunset trips, receptions or any other kind of entertainment.

‘port’ means the left side of the boat or vessel as seen from the stern;

‘power boat’ means a boat or vessel propelled by means of a motor or other mechanical apparatus, either in – or outboard, irrespective of whether or not such motor or apparatus is the main source of power;

“publish” in respect of the provisions of section 17(1) means-

(a) to publish a notice in the Provincial Gazette and a local newspaper; and

(b) to display the notice so published on the notice boards of the municipality;

‘registered boat’ means a boat or vessel issued with an identification number in accordance with section 6 of this by-law;

‘river’ means any river within the area of jurisdiction of the municipality;

‘rowing boat’ means a boat or vessel designed to be propelled by means of oars without any mechanical assistance;

‘sail’ or ‘underway’ means the situation of a boat or a vessel when it is not anchored or moored or on dry land;

“sailing boat” means any boat or vessel which is capable of being powered by wind under sail;

“SAMSA” means the South African Maritime Safety Authority;

‘starboard’ means the right side of the boat or vessel seen from the stern;

‘stern’ means the back of the boat or vessel;

‘visible’ means visible by somebody with reasonable eyesight during a dark night when the atmosphere is clear;

‘water area’ means the area between the high water mark on both banks of the river and its mouth at any specific time;

‘water ski’ means to ski or skate in the water with or without the assistance of any kind of skating apparatus and where the water-skier is towed by a boat or vessel by means of a towing rope;

‘water-skier’ or ‘skier’ means a person who is water-skiing.

CHAPTER 1: MANAGEMENT AND USE OF BOATS ON RIVERS

2. Operation or use of boats on the river

- (1) No person shall operate or control any power boat which is more than three (should read seven) (or in accordance to SAMSA regulations for unregulated vessels) metres in length with a motor of more than 15 horse power on a river, unless-
 - (a) such boat has been registered and licensed by the municipality; certificate of fitness
 - (b) a temporary permit has been issued for such boat for that particular river where the boat is to operate; and
 - (c) the person who operates that boat up to seven meters, but under 15hp is in possession of a valid skipper’s ticket or a certificate of competence as issued by SAMSA.
 - (d) No person under the age of sixteen years may operate or control a boat or a vessel equipped with an motor of 15 horse power or more, unless such person is accompanied by a person who is in possession of a valid certificate of competence.
- (3) Any person who operates a boat as contemplated in subsection (1) on a river must be in possession of a certificate of competence issued by SAMSA to operate such boat on the river.
- (4) Where any licensee of a boat as contemplated in subsection (1) allows any other person who does not possess a certificate as contemplated in subsection (3), or who, in the opinion of an authorised officer, is not competent to operate or control such boat safely or with due regard to others or the environment, such officer may direct the licensee not to allow such person to operate or control such boat.
- (5) Any person who contravenes a provision of this section commits an offence.

3. Prohibited behaviour

- (1) No person may operate a boat or vessel on a river-
 - (a) in a manner which an authorised officer regards as reckless or negligent;
 - (b) while under the influence of intoxicating liquor or narcotic drug, or while the percentage of alcohol in his blood is 0.2 or more, expressed in grams per hundred millilitres of blood;
 - (c) while suffering from an infirmity which renders him unfit to do so;

- (d) in a manner an authorised officer regards as dangerous to public or to the occupants of such boat or vessel or in a manner calculated to endanger or damage any property or facility, regard being had to all the circumstances of the case;
 - (e) in a manner which in the authorised officer's opinion constitutes a nuisance;
 - (f) without reasonable consideration of the rights of other persons using such river;
 - (g) while it is leaking oil, petrol, pollutant or any toxic or noxious substance;
 - (h) if the load or number of persons on board exceeds the carrying capacity as stated on the boat or vessel's registration, certificate of fitness (COF) or stated on the license;
 - (i) if the boat or vessel is not registered and licensed by the municipality as required in terms of this by-law and the identification number issued in respect thereof is not permanently fixed in a manner determined by the municipality as well as the registration number in regards to the COF
 - (j) in contravention of any usage zone on a river as determined by the municipality.
- (2) No person may, in the water area, without the prior written consent of the municipality-
- (i) offer for reward or profit any show or entertainment or conduct any business or trade or charter any boat or vessel for reward;
 - (ii) keep or use any boat or vessel for the transport of passengers or goods for payment or reward;
 - (iii) hold or arrange any fishing competition; or
 - (iv) hold or arrange any race, meeting or regatta.
- (3) When the municipality grants its authority in terms of subsection (2), it may set the conditions which it sees fit in the circumstances in any particular case, to ensure the safety of the public.
- (4) No person may, while in the water area-
- (a) use indecent, offensive or improper language;
 - (b) behave in an offensive, improper or disorderly manner;
 - (c) wilfully or negligently do anything which will cause inconvenience to any other person using the water area, or which may disturb the peace.
- (5) No person may-
- (a) fish from any bridge or within 20 metres either side of slipway;
 - (b) scuba dive, spearfish or use fish nets other than a landing net or casting net in a river without a permit; unless in the case of emergency situations ie. sea rescue or police divers.
 - (c) swim within 20 metres either side of a slipway;
 - (d) catch fish without a license.
 - (e) operate any hovercraft, water jet-driven craft (including but not limited to jet-ski's), or seaplanes or any form of parachuting on any part of the water area of a river; or
 - (f) place any form of obstruction on or near the surface of a river.
- (6) The municipality may restrict the size of any motor used on any river or any part of any river.
- (7) The municipality may designate any river or any portion of any river into usage zones for environmental or safety reasons.
- (8) The provisions of subsection (i) only applies to a boat as contemplated in section 2(1).
- (9) A person who contravenes the provisions of this section commits an offence.

4. Equipment required on board a boat or vessel

- (1) No person may use any boat or vessel on a river, unless the equipment as listed in Schedule 1 is on board such boat or vessel or required equipment for vessels operating in sheltered waters
- (2) All life-saving apparatus on board a boat or vessel must be in good working condition and within easy reach for immediate and effective use.
- (3) The batteries and fuel of any boat or vessel must be kept in separate compartments and no fuel line may run through battery compartments. Both compartments must be sufficiently ventilated.
- (4) All people under the age of 16, all those who cannot swim, at night time or when under the direction of the operator must wear a life jacket or buoyancy aid at all times.
- (5) A person who contravenes a provision of this section commits an offence.

5. Rules for Boating

- (1) No person may leave a boat or vessel unattended in the water area unless it has been properly anchored, moored or removed to dry land at a safe height above the water level and varying tidal level.
- (2) Notwithstanding the aforesaid, no boat or vessel may be left unattended in the water area for a period in excess of 24 hours, except in designated harbour, mooring or safe anchorage areas.
- (3) No boat or vessel may be moored or launched at any place other than that indicated or approved by the municipality and an authorised officer or the municipality may move any boat or vessel or moor it at any other place without the consent of the owner if he deems it to be in the public interest. Such movement shall be at the sole risk of the owner of the boat or vessel. Only SAMSAs authorized surveyors reserve the right regarding safe boating and control of safe boating in rivers (i.e. as honorary rangers?)
- (4) No boat or vessel may be moored to any other boat or vessel or to a marker, buoy or other navigational aid, except in an emergency
- (5) The helmsman of any boat or vessel must ensure that he can at all times exercise full control over the boat or vessel while it is underway.
- (6) The helmsman of any boat or vessel towing a line, cable or rope for any purpose whatsoever, must ensure that he does not thereby endanger or cause any inconvenience to another person.
- (7) No person may operate a boat or vessel or allow it to be operated in such a manner that it endangers or creates a nuisance to any other boat or vessel or the occupants thereof or other persons or property or installations in the water or at the water's edge including any boats or vessels moored to any jetty;
- (8) No power boat, which is under way and no person who is water-skiing in the water area, may approach closer than 20 meters from any spot where people are swimming or closer than 10 meters from the side of the river bank or closer than 10 meters from any other boat or vessel or any such other distance as determined by the municipality unless;
 - (a) circumstances are such that the said distances cannot be maintained;
 - (b) assistance is being given in an emergency situation; or
 - (c) the power boat or any water-skier towed by it is landing or leaving the shore;

Provided that when the prescribed distances are not maintained, the power boat must immediately reduce its speed to less than 10 km per hour OR in the case of no speedometer maintain a no wake speed.

(9) No person may be on the bow, forward deck or gunwale of any power boat which is under way unless sufficient safety rails or guard rails have been installed, and no person may jump or dive from any power boat which is under way, except when assistance is being given in an emergency or when it is necessary to moor or to land the power boat.

(10) Where it is possible, a powerboat must be piloted in such a manner that the median line of the water area shall always be on the port side of the boat. Powerboats must proceed in an anti-clockwise direction, keeping to the right hand side of the water area.

(11) A power boat must keep clear of sailing boats and boats or vessels propelled by oars or paddles.

(12) In the case of powerboats, whenever two boats approach each other head-on or approximately head-on, each must alter course to starboard in such a manner that it passes the other on its port side and, subject to the provisions of subsection (8) at such a distance and at such a speed that the wake of either of the vessels shall not endanger the other.

(13) In the case of powerboats, no boat may pass another boat which is proceeding in the same direction, unless it is safe to do so. Such boat must, when it does so, pass the other boat on the port side unless it is clearly unsafe to do so or there is insufficient room to manoeuvre, and, subject to the provisions of subsection (8), at such a distance and at such a speed that its wake shall not endanger the other vessel or any towed skier. Slower traffic should thus operate closer to the right hand side of the water area to allow as much room as possible on their port side.

(14) A boat which is being passed shall maintain its speed and direction until the passing boat is safely past.

(15) In the case of powerboats, whenever two boats approach each other in a manner other than referred to in subsections (12) and (13), the boat which has the other on its port side must maintain its speed and direction and the boat which has the other on its starboard side must keep clear and alter course to starboard so as to pass behind the other boat and must, if necessary, stop or reverse to avoid a collision.

(16) Whenever two sailing boats are approaching one another in such a way as to involve risk of collision, the following right-of-way rules apply:

(a) when each has the wind on a different side, the sailing boat which has the wind on the port side (starboard tack), shall keep clear by altering course to pass behind the other, or by going about, or by stopping;

(b) when both have the wind on the same side, the sailing boat which is to windward (upwind) must keep clear of the vessel which is to leeward (downwind).

(c) For the purpose of this subsection, the windward side is the side opposite which the mainsail is carried.

(17) To avoid collisions, a power boat must give way to other classes of boats or vessels, and a rowing boat or canoe must give way to a sailing boat when circumstances require it, notwithstanding the provisions of subsections (11), (12), (13), (14) and (15); provided that this by-law shall not give the right to the helmsman of any boat or vessel to unnecessarily obstruct or interfere with the course of any other vessel. It is the duty of every user of the water area to take

(18) all possible steps to avoid an accident, irrespective of whether they have right-of-way as provided for in this section.

(18) The helmsman of any boat or vessel must maintain a safe and cautious speed in any area where people are swimming, boats or vessels are moored, where angling is taking place or where buoys are placed and must at all times, and especially whenever visibility is obstructed due to

fog or other causes, operate the boat or vessel under his control in such a manner that people, other boats or vessels or other property are not endangered.

(19) No boat or vessel may follow closer than 100 meters in the wake of a water-skier.

(20) Boats or vessels leaving a slipway or jetty must give way to incoming or passing boats or vessels. A vessel launching has right of way over a vessel returning

(21) No boat, vessel or any vehicle which is propelled by means of a propeller above the water, or by means of a water jet, shall be used in the water area.

(22) Except in the case of an emergency, no airplane may land in or take off from the water area.

(23) No boat or vessel may be left on any slipway except for purposes of repair.

(24) No person may operate a boat or allow it to be operated in such a manner that excessively large waves are generated.

(24) No person may be towed behind a boat on any apparatus where in the opinion of an authorised officer, the towing of such apparatus poses a danger to the user or any other river users.

(25) Any person who contravenes a provision of this section commits an offence.

6. Rules for water-skiing where allowed

(1) No person may water-ski unless wearing an effective life-belt or ski-vest or approved flotation device.

(2) No steel or other metal cable or wire may be used to tow a water-skier.

(3) The helmsman of any boat or vessel which tows a water-skier must, before such water-skier is taken in tow, ensure that the water-skier is familiar with the distress signal for water-skiers, namely drawing the hand across the throat, as well as with the other standard communication signals used in water-skiing.

(4) No water-skiing is allowed between sunset and sunrise and the municipality may also prohibit water-skiing at other times or in certain zones.

(5) No boat or vessel may tow a water-skier unless a second person older than 12 years is present in the boat or vessel to observe the water-skier.

(6) No water-skier may drop-off a water-ski except at a spot where the discarded water-ski does not constitute a danger to any other user of the river.

(7) As soon as a water-skier has dropped the towline, the towing boat must stop until the observer or other passenger has taken the towline on board. The boat must then travel at slow speed to reach the place where the tow will be resumed, or to take the skier on board, or to return to the place where the skier has gone ashore, as the case may be.

(8) Water-skiing shall be permitted in demarcated areas only.

(9) The operator of a boat towing a skier must display a red flag measuring a minimum of 500mm by 500mm to indicate any of the following conditions:

(a) a skier down in the water, or preparing to ski;

(b) a tow line extended from the boat; and

(c) a ski in the water in the vicinity of the boat.

(10) Any person who contravenes a provision of this section commits an offence.

CHAPTER 2: REGISTRATION AND LICENCING OF BOATS

7. Registration and licensing of boats

- (1) Any person who intends to operate a power boat, house boat or pleasure boat on a river must apply in writing on the prescribed form to the municipality for registration and a license for such a boat and in such application must advise the size of the boat, the method of propulsion, motor size and its intended use and what safety equipment the boat is equipped with.
- (2) Any such application must be accompanied by the fees, as determined by the municipality, for the river upon which the applicant intends operating his boat which shall be refundable if the application is not approved.
- (3) A boat in respect of which an application for a license has been made, must be made available for examination by an authorised officer at a date, place and time determined by the authorised officer unless such applicant is advised by the authorised officer that such examination is not required.
- (4) The municipality may, in the interests of safety and environmental sustainability or to ensure compliance with this by-law, limit the number of boats on a river by limiting the licenses to be issued in any given year in respect of any river.
- (5) The municipality may, in the interests of safety or to ensure compliance with this by-law, approve or refuse such application and may, in approving it, impose such conditions as to the manner of operation of or repairs or alterations to such boat as it may deem necessary
- (6) The municipality must refuse to approve an application if it is satisfied that the operation of the boat will –
 - (a) be a source of pollution in a river or the vicinity of a river;
 - (b) cause a nuisance;
 - (c) constitute a danger to persons using it, or to the public or any section of the public;
 - (d) be inappropriate with the area and nature of the river; or
 - (e) create wakes or waves which may create a nuisance to riparian owners or cause unacceptable risk of damage to the environment.
- (7) The registration of a boat is not transferable from any person to another or from one boat to another except where a licensee of a registered boat in terms of this by-law transfers his registration number and license to another boat belonging to him with the written permission of the municipality.
- (8) The registration must specify the licensee, the maximum number of persons permitted to be carried in the boat, the type and overall length of the boat the maximum power of the motor and the identification number allocated to the boat
- (9) The municipality must provide reasons in the event of it refusing to register or license a boat.
- (10) The municipality reserves the right to limit the number of registrations per licensee.
- (11) Any person who contravenes a provision of this section or who makes a false declaration in any application commits an offence.
- (11) A certificate of fitness and certificate of competency will be a requirement for gaining such licences

8. Validity of licenses, issuing of temporary permits and displaying of tokens

- (1) The license of a power boat shall expire as determined by the Municipal Manager for each river in question,
- (2) For the purposes of operating a power boat on a river when such boat has not been licensed and may otherwise not be operated in terms of the provisions of this by-law, application

may be made to the municipality for the issuing of a temporary permit for the river in respect of which the applicant intends to operate the boat which temporary permit shall be valid for a period as approved by the municipality and against payment of the prescribed fee. No such temporary permit shall be valid for a period in excess of thirty days.

(3) The licensee of a boat must forthwith affix the license or temporary permit or cause it to be affixed to such boat in a manner acceptable to the municipality;

9. Automatic lapsing or cancellation of licenses and registrations

(1) A license and a boat's registration shall lapse automatically if such boat has been removed by or on the authority of the municipality in terms of section 15 (4) on account of pollution caused by the discharge of petrol or oil in a river.

(2) If the municipality is of the opinion that a boat no longer qualifies for licensing in terms of this by-law or in terms of any conditions on which the license was issued, the license may be cancelled after notice of thirty days to that effect has been given to the licensee, at the address on the license.

10. Cancellation of licenses

(1) The municipality may cancel any license if –

(a) it is satisfied that the boat in respect of which such license was issued is no longer seaworthy, or is a source of pollution in the vicinity of a river, or is operated in a manner which constituted a nuisance or danger to other boats or vessels or to the public or any section of the public;

(b) the boat is transferred, sold or disposed of or if the municipality is satisfied that the licensee has ceased to exercise control over the said boat or to supervise it; or

(c) the licensee has been convicted of an offence relating to the operation or control of a boat in terms of this by-law;

(d) any information provided in any application form is incorrect.

(2) If the municipality cancels any licenses in terms of this by-law, an authorized officer must forthwith notify the licensee in writing of such cancellation, at the address appearing on the application form

CHAPTER 3: FIXING OF TARIFFS AND FEES

11. Fixing of tariffs, fees and levies

(1) The municipality may determine tariffs, fees and levies for the registration and licensing of boats and the provision of discs and tokens in respect of rivers or any particular river.

(2) In fixing tariffs, fees and levies in terms of subsection (1), the municipality may distinguish between various classes of boats or vessels making use of a river or any facilities, or in respect of their size, method of propulsion or use, or may make any other distinctions which, in the opinion of the municipality, are relevant in fixing such tariffs or fees.

(3) Any application for the licensing of a boat and the use of any facilities by a boat or vessel or for a temporary permit shall be accompanied by the prescribed fees as determined by the municipality.

(4) All income derived from permits for recreational activities must be allocated to the control of recreational activities and or maintenance of public infrastructure in and around the river from which the income was derived.

CHAPTER 4: POLLUTION OF RIVERS

12. Pollution of rivers

- (1) No person, except with the permission of the municipality and in compliance with the provisions of the Sea-Shore Act, 1935 (Act 21 of 1935), may allow any sewer pipe or tank to discharge into a river or allow any other waste water from any other source to drain into the river.
- (2) No substance such as petrol, oil or any toxic or noxious substance may be disposed of in a river.
- (3) No bottles, cans, garbage or refuse of any kind whatsoever may be thrown into the water or onto abutting land or any facility except in receptacles furnished for that purpose.
- (4) No person may by any act or omission, whether directly or indirectly, allow a nuisance or the creation or continuation of a source of danger, or allow any interference with the convenience or comfort of persons in the vicinity of a river.
- (5) No person may dispose of any fish remains in the river.
- (6) A person who contravenes any provision of this section commits an offence.

CHAPTER 5: POWERS OF AUTHORISED OFFICERS

13. Powers of authorized officers

- (1) Any person who operates an unlicensed boat on a river or contravenes any provision of this by-law, may be ordered by an authorized officer to remove such boat forthwith from the river or to cease such contravention, and non-compliance with such order shall constitute an offence.
- (2) Any authorized officer shall have the right to board a boat or vessel at any time and to inspect it for the purposes of ensuring compliance with the provisions of this by-law.
- (3) Any authorized officer may, in the water area –
 - (a) investigate and test any boat or vessel or part thereof or any equipment thereon in order to determine whether the boat or vessel is suitable for navigation on or in the water and whether the provisions contained in this by-law have been complied with;
 - (b) call for any information regarding the boat or vessel from the helmsman and may, if the helmsman is unable to furnish the information, order him to remove the boat or vessel forthwith from the water until such time as the request can be complied with;
 - (c) require the helmsman to furnish his name and address or the name and address of the licensee and any other information required for identification purposes;
 - (d) require any other person in the boat or vessel other than the helmsman, to furnish his name and address as well as any other information required for identification of the helmsman or the licensee;
 - (e) if it appears to him that the helmsman of any boat or vessel, owing to physical or mental condition, irrespective of how this originated, is not capable of steering the boat or vessel or of being in control of it, forbid the helmsman temporarily from continuing to steer or being in control of the boat or vessel and may make arrangements which in his opinion are necessary or advisable for the safe disposal of the boat or vessel;
 - (f) if it appears to him that the load or number of persons transported in any boat or vessel is more than that stated on the registration certificate or more than can be transported in reasonable safety under prevailing conditions, forbid the helmsman

- of such a boat or vessel to proceed until the load or the number of persons has been reduced in the manner he considers necessary or advisable;
- (g) if it appears to him that any boat or vessel or part thereof is un-navigable in or on the water, order the helmsman to remove the boat or vessel forthwith from the water area until such time as the boat or vessel or part thereof has been made navigable in or on the water;
 - (h) if it appears to him that any of the equipment prescribed by this by-law is not on board the boat or vessel or in good working condition or easily available for immediate use on board, order the helmsman to remove the boat or vessel forthwith from the water area until such time as all the provisions of this by-law have been complied with
 - (i) remove any fishing rod or line that has been left unattended, from a river, if in his opinion the rod or line constitutes a threat to the safety of others.
- (4) No person may-
 - (a) obstruct or interfere with any authorized officer whilst the latter is engaged in the execution of his duties; and
 - (b) No person may refuse to furnish his or her correct name and address when requested to do so by an authorized officer.
 - (5) A person who contravenes any provision of subsection (4) commits an offence.

14. Delegation of power

The municipality may delegate and or transfer any powers conferred on it under this by-law with the exception of the power to levy or determine fees, to any person or persons or organization.

15. Removal of boats from the river

- (1) If the owner of an unlicensed boat fails to remove such boat from a river after having been instructed to do so by the municipality or any authorized officer, the municipality may remove such boat forthwith.
- (2)
 - (a) In the event of the municipality canceling any license, or if any license expires or lapses in terms of this by-law, the owner of the boat, the license of which has expired or lapsed or has been cancelled, must immediately remove such boat from the river;
 - (b) If the owner of a boat, the license of which has expired or lapsed or has been cancelled, fails to remove such boat for vessel from a river within thirty days after such license has expired or lapsed or after notification to him of the said cancellation, the municipality may remove such boat forthwith.
- (3) Any boat in or on a river for which the fees as prescribed by the municipality are in arrears for more than thirty days, may be removed from the river by the municipality after written notice has been given to the owner or licensee.
- (4) Where the municipality is entitled to remove a boat, an authorized officer may make any arrangements considered necessary by him to ensure the removal of such boat or vessel and the municipality may recover the cost of such removal from the owner or licensee.
- (5) If a boat or vessel removed from the river in terms of the provisions of subsections (1), (2)(b) or (4) is not claimed within ninety days after such removal, or in the case of a boat or vessel referred to in subsection (3), within ninety days after the said written notice has been given and all fees in arrears have been paid, the municipality may seize such boat or vessel by Court Order to claim fees in arrears.

CHAPTER 6: HOUSEBOATS

16. Houseboats

- (a) No person may, in the water area, keep or use any houseboat without the prior written approval of the municipality ;
- (b) The owner of any houseboat wishing to use it on the river must apply to the municipality by completion of the prescribed form and payment of the prescribed fee. The application must contain full details pertaining to the construction, size, method of propulsion, intended use and area of operation. Furthermore, the applicant must satisfy the municipality that the houseboat has sufficient facilities to store any rubbish, waste or sewerage generated on board the houseboat;
- (c) The municipality may request any further detail pertaining to the houseboat which it deems necessary to enable it to decide whether to grant authorization or not;
- (d) The houseboat, in respect of which the application has been made, must be submitted for examination by an authorized officer of the municipality at a date, place and time appointed by the authorizing officer;
- (g) The municipality, in granting authorization to keep or use a houseboat on a river may impose such conditions as it deems necessary in the interests of safety or to limit the impact of the houseboat on other users of the river;
- (h) The municipality is entitled, at its sole discretion to limit the number of houseboats operating on the river;
- (i) Any authorization granted by the municipality shall be valid for a period of 12 months, where after it shall automatically lapse. Thereafter the owner of the houseboat must submit an application for permission as provided herein;
- (j) The owner of a houseboat used on a river must ensure that all persons operating the houseboat shall have the necessary skill to control the houseboat;
- (k) No houseboat shall be allowed to remain anchored at any place on the river for a period longer than 24 hours, without the written permission from the municipality;
- (l) Every houseboat shall be required to obtain the relevant safety certification from the South African Maritime Safety Authority (SAMSA);
- (m) Remaining on board the vessel for more than 48 or 72 hours will require relevant permission by the competent authority
- (n) Cleaning portapotties will only be allowed at designated areas and not in the river-black water disposal
 - (1) Grey water disposal

CHAPTER 7: SPECIFIC PROVISIONS RELATING TO CERTAIN RIVERS

17. Management plans for specific rivers

- (1) The municipality must compile and publish management plans for the control and use of the following rivers in its area of jurisdiction-
 - (a) Keurbooms
 - (b) Bitou
- (2) The management plans contemplated in subsection (1) must provide for rules, including, but not limited to-
 - (a) the use of boats or vessels on the rivers and the sizes and numbers to be allowed;
 - (b) safety on the rivers;
 - (c) pollution of rivers;
 - (d) erection of structures and facilities;

- (e) demarcation of areas for usage;
 - (f) the organization of public events and regattas; and
 - (g) protection of fish, bird- or animal life and vegetation.
- (3) The management plans contemplated in subsection (1) must be subject to a public participation process involving communities and interest groups.
- (4) A person who fails to comply with any directives, conditions or rules laid down in a management plan contemplated in subsection (1) commits an offence.

CHAPTER 8: GENERAL PROVISIONS

18. Exemption from liability

- (1) The municipality shall not be liable for any injury which is sustained by any person using a river or any other facilities or for damage to any property thereon, whatever the cause may be.
- (2) The municipality as a whole, individual Councillors, any person in the service of the Council, any authorized officer or any person or organization to whom the municipality has delegated any powers in terms of section 13 of this by-law shall not, except in the event of any willful act or omission on the part of the municipality or the said person or organization, be liable for any loss or damage which results from any loss of or damage to property which is caused by or arises out of or in connection with anything which is done or performed in good faith in exercise or performance of a power or duty conferred or imposed in terms of this by-law.

19. Exemptions

- (1) Any person may by means of a written application, in which the reasons are given in full, apply to the municipality for exemption from any provision of this by-law.
- (2) The municipality may:
- (a) grant an exemption in writing and the conditions in terms of which, if any, and the period for which such exemption is granted must be stipulated therein;
 - (b) alter or cancel any exemption or condition in an exemption; or
 - (c) refuse to grant an exemption.
- (3) An exemption does not take effect before the applicant has undertaken in writing to comply with all conditions imposed by the municipality under subsection (2); however, if an activity is commenced before such undertaking has been submitted to the municipality, the exemption lapses.
- (4) If any condition of an exemption is not complied with, the exemption lapses immediately.

20. Appeal

A person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision.

21. Penalties

A person who has committed an offence in terms of this by-law is liable upon conviction to a fine or imprisonment, or either such fine or imprisonment or to both such fine and such imprisonment and, in the case of a continuing offence, to an additional fine or an additional period of imprisonment or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued and, a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as result of such contravention or failure.

22. Revocation of by-laws

The provisions of any by-laws previously promulgated by the municipality or by any of the disestablished municipalities now incorporated in the municipality, are hereby repealed as far as they relate to matters provided for in this by-law, and insofar as it has been made applicable to the municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Local Government: Municipal Structures Act, Act 117 of 1998.

23. Short title and commencement

This by-law may be cited as the by-law relating to the Management and use of Rivers, and commences on the date of publication thereof in the Provincial Gazette.

SCHEDULE 1

(Section 4)

Equipment required	Type of boat or vessel
1. A life jacket or buoyancy aid must be available on board	Any boat or vessel, excluding a canoe, paddle-ski, paddle-boat, or rowing boat.
2. Life- buoy or other floating device	On all vessels
3. Sufficient oars, paddles or pole or alternative propulsion to land boat or vessel	Any boat or vessel
4. A pump or other bailer	Any boat or vessel, on all vessels that are not wet decks that have self draining apparatus (scuppers) (unless boat or vessel has been designed to float with the number of persons on board even if waterlogged- this is irrelevant as all vessels on rivers must have 30% buoyancy)
5. There must be a minimum of 3 people involved in skiing operations, the skier, an observer (12 years or older) and a qualified skipper who is in control of the vessel	Power boat used to tow a water-skier There must be a red flag onboard to indicate when the skier is down.
6. Whistle or siren to be employed for prevention of collisions	Power boat
7. Fire extinguisher	House boat
8. Flame arrestor for each carburetor of any petrol motor on the boat or vessel, except an outboard motor	
9. Silencer on the exhaust	Any motor driven boat or vessel
10. Lights which must be visible for a distance of at least 2 nautical miles for whitelight or 1 nautical mile for coloured lights if boat or vessel is used between the hours of sunset and sunrise: (a) white light visible from all angles (360 degrees) (b) port and starboard lights visible for 112.5degrees	Sailing boats whilst underway plus a 135 degree stern light or in the case of a power driven vessel 360 degree while light along with the coloured lights Vessels other than a power boat

(a) lantern or flashlight to be shown to prevent collisions	
11. Container for refuse	Any boat or vessel, excluding a canoe, paddle-ski or sailboard
12. Anchor with at least 50 metres and at least 3 meters of chain	Any boat or vessel, excluding a canoe, paddle-ski, jet-ski or sailboard
13. Marking of safety equipment	All registered markings of the vessel (survey number) must also be reflected on the safety equipment and on the trailer.
14. Flares or alternate means of communication	Cell phone will also be sufficient
15. First aid kit	Any boat or vessel, excluding a canoe, paddle-ski, jet-ski or sailboard
16. Capsize rope	In the case of capsize or swamp in order to rig and allow people to hold onto the vessel
17. Air bellows and patch repair kit for inflatable or RIB vessels	Any boat or vessel, excluding a canoe, paddle-ski, jet-ski or sailboard
18. 1 litre of drinking water per person on board	Any boat or vessel, excluding a canoe, paddle-ski, jet-ski or sailboard
19. Spares and tools	Any boat or vessel, excluding a canoe, paddle-ski, jet-ski or sailboard
20. Alternative steering mechanism	In case of steering failure
21. All vessels must have sufficient buoyancy to keep the vessel partially afloat when completely swamped or capsize.	Any boat or vessel, excluding a canoe, paddle-ski, jet-ski or sailboard
22. Regulation 37 vessels	As required in the attached document