

BITOU MUNICIPALITY
PUBLIC AMENITIES BY-LAW

In terms of and under the provisions of section I56 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), the Bitou Municipality, enacts as follows:—

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1. Definitions

In these By-laws, unless the context otherwise indicates—

“**animal**” means any equine, bovine, sheep, goat, pig, fowl, camel, dog, cat, or other domestic animal or bird, or any wild animal, bird or reptile, which is in captivity or under the control of a person;

“**authorised official**” means-

- (a) any person authorised by the Municipality to perform any act, function or duty in terms of, or exercise any power under these By-laws; or
- (b) any person appointed by the Municipality in terms of a written contract to perform any act, function or duty in terms of, or exercise any power under these By-laws to the extent authorised in such contract;

“**bath**” means a swimming bath owned by or under the lawful management or control of the Municipality and available for use by the public and includes all dressing-rooms, cubicles and other facilities used in connection therewith;

“**bathing area**” means the beach and seashore and the sea for a distance of 200m seaward situated within the area of jurisdiction of the Bitou Municipality;

“**beach**” means the sea-shore as defined in section 1 of the Sea-shore Act, 1935 (Act No. 21 of 1935) and includes any area adjoining the high-water mark;

“**camp**” or “**camping**” means to occupy land by picnicking thereon or by standing thereon with a caravan or vehicle or erecting thereon a tent or approved temporary structure and using such caravan, vehicle, tent or temporary structure for the purpose of habitation or sleeping or as a shelter or protection against the weather;

“**camping area**” means land vesting in and set aside by the municipality as a public picnic, camping or caravan park site or a similar facility approved by the municipality on private land;

“**consume**” in relation to an alcoholic beverage, means to drink from, use or possess an opened container, which contains an alcoholic beverage;

“**dive**” means to remain under water for any length of time while using goggles, flippers, a snorkel, aqualungs, scuba equipment, a weighted belt or any other equipment;

“**erect**” in relation to a notice board means construct, post, affix or place;

“**fire-arm**” means any gun, shotgun, rifle, pistol, revolver, air-rifle, or black powder gun;

“**garden**” means any piece of land under the control of the Municipality and maintained by it as a garden for the use by the public;

“**life-saver**” means a person employed or appointed in that capacity by the Municipality, or any member of the Surf Life- Saving Association of South Africa, or of an affiliated life-saving club or association of lifesavers;

“**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 official thereof, or any employee thereof 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 a person appointed in terms of section 55 of the Local Government: Municipal Systems Act No. 32 of 2000 as amended;

“**National estate**” has the meaning given to it in section 1 of the National Heritage Resource Act, 1999 (Act No. 25 of 1999);

“**notice board**” includes a sign, poster or other device on which the Municipality displays information;

“**official**” means or a peace officer authorised by the Municipality to perform the function of an official, or a Provincial Nature Conservation Officer or Marine and Coastal Management Officer;

“**official**” means a person appointed by the municipality to exercise control over admission to a public entity;

“**park**” means any piece of land under the control of the Municipality and maintained by it as a park for the use of the public;

“**person**” includes an association or organisation;

“**public amenity**” means—

- (a) an land, square, camping site, swimming -bath, beach, bathing area, sport field, public resort, public open space, recreation site, river, nature reserve, zoological, botanical or other garden or park or hiking trail, including any portion thereof and any facility or apparatus therein or thereon, which is the property of, or is possessed, controlled or leased by the Municipality and to which the general public has access, whether on payment of admission of fees or not, but excluding a public road or street;
- (b) a building, structure, hall room or office, including any part thereof or any facility or apparatus therein, which is the property of, or is possessed, controlled or leased by the Municipality and to which the general public has access, whether on payment of admission of fees or not; and
- (c) a public amenity contemplated in paragraphs (a) and (b) if it is lawfully controlled or managed in terms of an agreement between a person and the Municipality;

“**public gathering or procession**” means a procession or gathering of more than 10 people;

“**public place**” means any square, building, park, recreation or sporting ground or open space which:

- (a) is vested in the municipality;
- (b) the public has the right to use; or
- (c) is shown on a general plan of a township filed in a deeds registry or a Surveyor-General’s office and has been provided for or reserved for the use of the public or the owners of erven in such township.

“**sea shore**” means water and land between the low-water mark and the high-water mark;

“**sea**” means water and land below the low water mark, and includes a tidal river;

“**vehicle**” means any vehicle driven by mechanical, animal, natural or human power, and includes any cycle, craft or aircraft, but does not include a wheeled chair or a perambulator drawn or propelled by hand and used solely for the conveyance of a child or invalid.

CHAPTER 1: GENERAL PROVISIONS RELATING TO PUBLIC AMENITIES

2. Number of visitors

The Municipality, may from time to time, determine-

- (a) the maximum number of persons who or vehicles which may be present between 8:00 and 22:00 in or at a public amenity; and
- (b) different numbers of persons or different classes of vehicles, as contemplated in paragraph (a), for different public amenities,

in respect of those public amenities which the Municipality, in terms of any law, may establish or administer.

3. Admission to public amenity

- (1) A public amenity is open to the public at the times, dates and subject to such conditions regarding the entry to and activities that may be undertaken upon the public amenity, including conditions regarding the driving of a motor vehicle and different classes of motor vehicles in a public amenity, as determined by resolution by the Municipality from time to time in respect of different amenities.
- (2) The Municipality may from time to time grant to any person or persons, during such hours and for such period as he or she may deem fit, the exclusive use of a public amenity for games, a public meeting, fete, show or other function or entertainment.
- (3) The Municipality may for reasons of maintenance, development, security, safety or public health, temporarily or permanently—
 - (a) close a public amenity or a portion thereof; or
 - (b) suspend all or any activities thereon.
- (4) Where a person in a public amenity has committed an offence in terms of these By-laws, an official may order such person to leave the public amenity, and a person so ordered to leave—
 - (a) must forthwith leave the amenity by the shortest route available to the public; and
 - (b) may not enter any public amenity during a period of six months immediately succeeding the relevant order, unless—
 - (i) the Municipality has authorised him or her thereto in writing; or
 - (ii) he or she has not, within three months of being so ordered, been prosecuted and found guilty of an offence similar to the offence contemplated above.
- (5) Where an official on reasonable grounds suspects that a person wishing to enter a public amenity intends to commit an offence in terms of these By-laws or any other law in or at the public amenity, he or she may refuse entry to such person.

4. Entrance fees

- (1) (a) The Municipality may by resolution levy from time to time different entrance fees and issue entrance tickets in respect of—
 - (i) persons of different ages;
 - (ii) groups of persons; or
 - (iii) different classes of vehicles,which entitle the persons, groups or vehicles to enter a public amenity.
- (b) The Municipality may grant concessions in respect of entrance fees which have to be paid.
- (2) An entrance fee must be paid at the entrance to a public amenity, except where another place is indicated on a notice board erected in terms of section 5(1).
- (3) An entrance fee must be paid in respect of each day or portion of the day during which a person, group or vehicle is or remains in a public amenity and is valid for the day.
- (4) If a person leaves a public amenity before 10:00 on a day, which is not the day of arrival in the public amenity, he or she does not have to pay an entrance fee for the day on which he or she leaves.
- (5) (a) Subject to the provisions of paragraph (b), a fee is not repayable.
- (b) Where a person has paid a fee for a number of days and he or she cannot remain in the public amenity for the full number of days, the fee paid for the number of days which he or she cannot remain in the public amenity, may be repaid to him or her if the Municipality approves.
- (c) The fee to be repaid in terms of paragraph (b), is the fee, which has been paid in respect of each full day or a portion of a day, which has not been used, and for these purposes, “full day” means a period of 24 hours commencing at 10:00 each day.
- (6) An official may require a person in a public amenity to produce immediately the entrance ticket, which was issued to him or her, and a person who fails to produce the entrance ticket commits an offence.
- (7) A person who enters a public amenity without having paid the entrance fee commits an offence.

5. Notice boards

- (1) (a) The Municipality may erect a notice board at the entrance to or in the immediate vicinity of a public amenity, on which any of the following are displayed:
 - (i) the times, dates and conditions which are applicable to entry into and use of the public amenity;
 - (ii) the fees that must be paid to enter the public amenity; and
 - (iii) if the public amenity or a portion of the public amenity is closed, or if all or any activities upon the public amenity is suspended.

- (b) Where no notice board has been erected, no activities may be undertaken upon the public amenity, except if the person has been given consent as contemplated in section 6.
- (2) No person other than an official or other person authorised to do so in these By-laws may move, alter the contents of, deface or otherwise tamper with a notice board erected by the Municipality in terms of these By-laws.
- (3) A person commits an offence if he or she, in contravention of the information displayed on a notice board, enters into or uses a public amenity-
 - (a) at times and dates other than the times and dates displayed;
 - (b) in contravention of a condition displayed;
 - (c) when the public amenity or a portion of the public amenity is closed; or
 - (d) when all or any activities upon the public amenity are suspended.
- (4) The signs erected in terms of these By-laws or any other law shall serve as sufficient notice of the prohibitions or restrictions applicable in the area concerned.

6. Consent required for certain activities

- (1) No person may, without the written consent of the Municipality first having been obtained, at, in or upon a public amenity–
 - (a) arrange, hold, present or attend-
 - (i) public entertainment;
 - (ii) a meeting;
 - (iii) a public gathering or procession, exhibition or performance; or
 - (iv) an auction;
 - (b) from the general public, collect money or any other goods for charity or any other purpose;
 - (c) display or distribute a pamphlet, placards, painting, book, handbill or a printed, written or painted work;
 - (d) conduct any trade, occupation or business;
 - (e) display, sell or rent out or present for sale or rent any wares or articles;
 - (f) tell fortunes for compensation;
 - (g) play any musical instrument or sing;
 - (h) have in his or her possession a firearm, air pistol, bow, crossbow knife, slingshot, or fireworks; or
 - (i) disturb a historical or cultural site.

- (2) No person may, without the written consent of the Municipality first being obtained, bring onto a public amenity and consume an alcoholic beverage.
- (3) The Municipality may by way of notice, designate a public amenity or portion thereof, where alcoholic beverages may be consumed.
- (4) The Municipality may by way of notice determine specific conditions in relation to designated areas where alcoholic beverages may be consumed which includes but is not limited to:
 - a. time and dates where such designated areas are applicable,
 - b. types of alcoholic beverages which may be consumed,
 - c. any other condition which in the discretion of the Municipal Manager is deemed to be appropriate.

- (5) (a) No person may, without the written consent of the Municipality first having been obtained, cook, prepare or sell food of any kind in a public amenity.
 - (b) A person who has obtained such consent may cook, prepare or sell such food at a designated area set aside for this purpose only and must ensure that the preparation and cooking of food is done in a clean and sanitary manner so as not to give rise to excessive smoke, other nuisances or entail any danger to health.

- (6) (a) No person may, without the written consent of the Municipality, first having been obtained, kindle a fire in a public amenity, except for the purpose of barbecuing food.
 - (b) A person who has obtained such consent may kindle such fire only at a designated area set aside for this purpose and may not leave any fire which he or she has kindled or used without completely extinguishing the fire or the embers of the fire.

- (7)(a) No person may, without the written consent of the Municipality first having been obtained, erect or establish in or on a public amenity any fence, structure, dam, shelter or anything else.
 - (b) A person who has obtained such consent may erect such fence, structure, dam, shelter or anything else at a designated area set aside for this purpose only.

- (6) No person may, without the written consent of the Municipality first having been obtained, bring into, or have in his or her possession in a public amenity a firearm, and the Municipality may grant consent in the following instances only:
 - (a) for the firing of blank cartridges during organised competitions, such as by life-savers, or during sports meetings;
 - (b) in connection with the collection of specimens of marine life, or birds or animals for scientific purposes;
 - (c) for the lawful culling of animals; or
 - (d) to signal distress in the instance where a proposed activity may require a distress signal to be given by means of a firearm.

- (7) A person who wishes to obtain the consent of the Municipality as contemplated in subsection (1) or (2) must complete and submit to the Municipality the relevant application form as set out in the Schedules to these By-laws, and the Municipality may grant consent, which consent will be

indicated on the said form, subject to any such conditions as he or she deems necessary and subject to the prescribed fee as contemplated in section 8 having been paid, and a person who wishes to sell food must, in addition to the provisions of these By-laws, comply with the provisions of any applicable by-laws in force in the Bitou municipal area relating to—

- (a) the licensing and control of undertakings that sell food to the public; or
 - (b) the hawking of food by street traders, vendors or pedlars.
- (8) A person who has been granted consent in terms of subsection (7) must at all times when undertaking an activity for which consent has been granted, retain such authorisation for consent in his or her possession, and must forthwith produce such authorisation on request of an official.
- (9) A person who contravenes a provision of subsection (1) to (6) or (8) commits an offence.

7. Permit

- (1) Notwithstanding the provisions of section 2, 3(1), 3(3), and 4(1), the Municipality may, on written application submitted to it and subject to any such conditions it may deem necessary to imposed, issue a permit free of charge—
- (a) to a group of people, such as, but not limited to, a group of bona fide students; or
 - (b) to a person who is undertaking scientific, educational or similar research.
- (2) The holder of a permit issued in terms of subsection (1) may, subject to any other conditions imposed in that subsection—
- (a) if he or she is the holder of a valid hunting licence, hunt, catch, kill or remove, subject to the provisions of paragraph (e), fauna under the supervision, control and in accordance with the instructions of an official, in or from a public amenity;
 - (b) pick, collect or remove, subject to the provisions of paragraph (f), fauna, in or from a public amenity;
 - (c) take or remove, subject to the provisions of paragraph (f), anything of historical or scientific importance in or from a public amenity;
 - (d) have in his or her possession diving equipment, a weapon, explosive, trap, poison, axe, saw, knife or gardening tool, living or dead fauna, or flora;
 - (e) remove from a public amenity any flora or carcass which has been plucked or hunted only if the official has-
 - (i) inspected such flora or carcass;
 - (ii) if such control official considers it necessary or desirable, measured the dimensions or mass, or taken a sample of such flora or carcass; and
 - (iii) in writing authorised the permit holder to remove such flora or carcass.

- (3) The holder of a permit issued in terms of subsection (1) must, on arrival at the public amenity concerned, display such permit to the control official, and a person who fails to do so, commits an offence.
- (4) The holder of a permit who undertakes an activity in contravention of a condition imposed on him or her commits an offence.

8. Prescribed fees

The Municipality shall by resolution, determine fees and may from time to time review the prescribed fees payable in terms of these By-laws.

9. Animals

- (1) A person may bring an animal upon a public amenity only when permitted to do so, which permission must be displayed on a notice board erected in terms of section 5(1).
- (2) Where a person is, in terms of a resolution, taken in terms of section 3(1), permitted to bring an animal upon a public amenity, he or she must have direct and physical control over the animal by means of a leash or other device, and may not bath, wash or allow such animal to enter or remain in any pond, fountain or ornamental water.
- (3) The Municipality may by way of notice determine certain public amenities as free roaming areas, where animals may be of a leash or other device, provided that such animal must be under verbal control of the owner or handler.
- (4) No animals classified as dangerous dogs in terms of the Public Nuisance and Keeping of Animals by-law will be permitted upon a public amenity.
- (5) A person who contravenes a provision of this section commits an offence.

10. Prohibited behaviour

- (1) No person-
 - (a) may loiter or linger about in a public amenity if he or she-
 - (i) leads the life of a loiterer;
 - (ii) lacks any determinable and legal refuge;
 - (iii) leads a lazy, debauched or disorderly existence;
 - (iv) habitually sleeps in a public street or public place; or
 - (v) habitually begs for money or goods or persuades others to beg for money or goods on his or her behalf;
 - (b) who-
 - (i) is in a state of intoxication or under the influence of any drug may enter or remain in a public amenity, and such person shall not be admitted to a public amenity;

- (ii) knows that he or she is suffering from a communicable disease as defined in section 1 of the Health Act 63 of 1977, may enter upon or remain in a public amenity;
- (c) may in or at a public amenity—
- (i) break, damage, destroy, tamper with, misuse, disfigure or use in a manner contrary to a notice erected in respect of such thing, anything (whether movable or immovable) of historical or scientific importance, or which is part of the national estate, or of which the management or control is vested in the Municipality, or remove such movable thing from the amenity, or fail to observe a notice which was erected by the Municipality in respect of such thing, or fail to observe an instruction by a person permitted to maintain such thing;
 - (ii) throw a rock, stone or object or roll down a rock, stone or object from a mountain, hillside, slope of cliff;
 - (iii) except if authorised to do so under section 7(2)(b), pull out, pick, cut or damage any flora growing in the amenity, or have such flora in his or her possession;
 - (iv) walk, stand, sit or lie on a flowerbed;
 - (v) write, paint, draw graffiti or a representation on a structure or path;
 - (vi) excavate soil, sand or stone or remove organic or inorganic objects;
 - (vii) interfere with water flow, obstruct water, divert a stream or drain a wetland;
 - (viii) deface or disfigure anything provided by the Municipality by pasting or affixing in any way any bills, papers, place cards, notices or any- thing else;
 - (ix) wash, polish or repair a vehicle, except emergency repairs to a vehicle;
 - (x) burn refuse so as to cause an unpleasant or offensive smell or the production of smoke nuisance;
 - (xi) except in a container provided for that purpose, dump, discard, drop, leave or place any litter, refuse, rubble, stone, sand, soil material, bottles, wood, metal, manure, offal, fish, filth or any object or thing that may cause injury to any person or be prejudicial to the health of the inhabitants of the municipality, or permit or cause it to be done;
 - (xii) misuse; pollute or contaminate in any way a water source, water supply, a dam or river with fuel, oil, garbage, offal, bilge, sewerage, refuse, stone, sand, soil or rubble of any kind;
 - (xiii) wash any crockery or laundry or hang out clothes, except at places indicated by notice for that purpose;
 - (xiv) use or try to use anything provided by the Municipality in such amenity for any purpose other than that for which it is designed or determined by notice;
 - (xv) discard of a burning or smouldering object or throw it out of a vehicle;

- (xvi) behave or conduct himself or herself in an improper, indecent or unbecoming manner such as by making an improper gesture, inciting or urging someone to perform a disorderly or indecent act;
 - (xvii) cause a disturbance, use foul, lewd, dirty or indecent language, behave or conduct himself or herself in an unruly or violent manner, fight, shout, argue, beg, use loud speakers, radio reception devices, television sets, or similar equipment, or perform any act with the purpose of disturbing the good order or which may constitute a danger or nuisance to others;
 - (xviii) defecate, urinate or undress, except in a building or on premises intended for that purpose;
 - (xix) lie on a bench or seating place provided by the Municipality or use it in such a manner that other users or potential users find it impossible to make use thereof;
 - (xx) play or sit on play-park equipment, except if the person concerned is a child under the age of 13 years;
 - (xxi) swim, walk or play in a fish-pond, fountain, dam, artificial feature or pond;
 - (xxii) having an open wound on his or her body, enter any bath provided by the Municipality;
 - (xxiii) perform any act that may detrimentally affect the health of another person;
 - (xxiv) enter or use a toilet facility intended or indicated as such by notice for members of the opposite sex;
 - (xxv) stay or sleep over night other than in terms of section 12;
 - (xxvi) hunt, injure, disturb, feed, kill, hurt, follow, disturb, ill-treat or catch an animal, or displace, disturb, destroy or remove a bird, nest or egg, or skin or gut a live animal, except if authorised to do so under section 7(2)(a);
 - (xxvii) fire a firearm, air-rifle or air-pistol, except if the necessary consent as contemplated in section 6(6) has been obtained, or discharge a bow, fireworks or use a slingshot or catapult;
 - (xxviii) in any way whatsoever prejudice the safety, convenience of rights of other persons;
 - (xxix) obstruct or interfere with any official appointed by the Municipality, including a lifeguard, in the proper execution of his or her official duties;
 - (xxx) play or conduct a game of any nature whatsoever in a manner that causes annoyance or endangers public safety;
 - (xxxi) expose his or her body or clothe indecently;
- (d) may enter or leave a public amenity other than by way of the official entry and exit point; or

- (e) may release any wild animal, bird or flora into a public amenity;
- (2) A person who contravenes a provision of subsection (1) commits an offence.

11. Vehicles

- (1) Where a person is permitted in terms of a resolution contemplated in section 3(1) to drive a vehicle in a public amenity or a portion of a public amenity, he or she may not–
 - (a) travel with the vehicle elsewhere than on a road constructed by the Municipality; or
 - (b) drive the vehicle or cause or permit it to be driven at a speed in excess of the speed indicated on a notice board erected by the Municipality in terms of section 5(1).
- (2) The provisions of subsection (1) do not apply to an emergency vehicle while lawfully in use as such, or a vehicle used in an emergency, or a vehicle used by an official in the discharge of his or her duties.
- (3) A person who contravenes a provision of subsection (1) commits an offence.

12. Camping in public amenity

- (1) Where in terms of a resolution contemplated in section 3(1) a person is permitted to camp in a public amenity, the person may camp in a designated area set aside for that purpose only.
- (2) A person who contravenes a provision of subsection (1) commits an offence.

13. Municipality may supply or sell fauna and flora

- (1) The Municipality may sell fauna or flora, which is found cultivated or bred in a public amenity, whether alive or dead, to a local nature reserve, state institution, government department, private nature reserve or to a member of the public, or exchange such flora or fauna for flora or fauna of a such institution, department, member of the public or private nature reserve.
- (2) No person may remove any fauna or flora obtained in terms of subsection (1) from the public amenity concerned, unless an official, has in writing, authorised the removal thereof.
- (3) A person who contravenes subsection (2) commits an offence.

CHAPTER 2: ENFORCEMENT OF BY-LAWS

14. Appointment of official

- (1) The Municipality may appoint and authorise such person as it may deem fit as an official who is vested with powers, duties and functions conferred or imposed in section 15, and the official may exercise or perform such powers, duties and functions in respect of any public amenity as defined in these By-laws.
- (2) Upon appointment, the Municipality must issue the official with an identity card, which must state the name, and function of the official and which includes a photograph of the official.

- (3) An official, acting within the powers vested in him or her by these By-laws, must, on demand by a person, produce the identity card and proof of identity.

15. Powers of official

- (1) An official appointed and authorised under section 14 must enforce compliance with the provisions of these By-laws and may-
- (a) investigate an act or omission which on reasonable suspicion may constitute an offence in terms of the provisions of these By-laws;
 - (b) on reasonable suspicion that
 - (i) an offence in terms of these By -laws has been or being committed on, in or in respect of such premises, land, waters or other place;
 - (ii) a provision of these By-laws or a condition of a permit, authorisation or other instrument issued in terms of these By-laws has been or is being breached on, in or in respect of such premises, land, waters or other place; or
 - (iii) a thing which may serve as evidence of such offence or breach is kept on or in such premises, land waters or other place; any time enter upon such place, land, premises or building;
 - (c) under authority of a warrant, enter and search any vehicle, vessel, aircraft, or search any pack-animal, on reasonable suspicion that that vehicle, vessel, aircraft or pack-animal is being or has been used, or contains or conveys a thing which is being or has been used to commit-
 - (i) an offence in terms of these By-laws or a conservation regulation;
 - (ii) a breach of a provision, a condition of a permit, authorisation or other instrument issued in terms of these By-laws; or
 - (iii) contains or conveys a thing which may serve as evidence of such offence or breach;
 - (d) for the purpose of implementing paragraph (c) order the driver of a vehicle or vessel to stop;
 - (e) seize-
 - (i) any item in respect of which, on reasonable suspicion, an offence in terms of these By-laws has been or is being committed;
 - (ii) any vehicle, vessel, tool, weapon, animal or other thing which on reasonable suspicion, has been or is being used in the commission of an offence in terms of these By-laws; or
 - (iii) anything which, on reasonable grounds, may be used as evidence in the prosecution of any person for an offence in terms of these By-laws;

and where anything is seized in terms of paragraph (e), the person in control of the item, vehicle, vessel, tool, weapon, animal or other thing must take it to the place designated by the official, and the official must keep it at the designated place pending any criminal proceedings in terms of these By-laws;

- (f) request a person to provide such information as he or she deems necessary;
 - (g) for the better exercising of any power or the performance of any function or duty assigned or granted to him or her, take along an assistant who, while acting under the lawful order of the official, has the same powers, functions and duties as the official;
 - (h) dispose of flora of the public amenity;
 - (i) in the course of development and maintenance of a public amenity, allow the lighting of fires or the removal of vegetation;
 - (j) exclude members of the public from any part of a public amenity at any time for the purpose of carrying out development work or maintenance in the public amenity;
 - (k) if in the interest of a user of a public amenity, suspend temporarily an activity taking place in an amenity;
 - (l) in respect of any boat, demand from the operator or owner thereof the production of the registration certificate of the boat;
 - (m) demand from a person the production of an article or object which the person is required, in terms of these By-laws, to have in respect of a boat;
 - (n) if the operator thereof appears to be incapable of safely operating or being in charge of a boat by reason of his or her physical condition or mental condition howsoever arising, board or come alongside any boat and-
 - (i) temporarily forbid the person to continue to operate the boat; and
 - (ii) make such arrangements for the safe disposal and placing of the boat as may be necessary or desirable in the circumstances;
 - (o) if a boat is unsafe, require a person to remove immediately from the river or lagoon his or her boat and appurtenances, and take possession of and suspend the identification number, and the boat may not be returned to the river before it is re-inspected and found to be in a safe condition;
 - (p) remove from the river or lagoon an unattended fishing rod and line if found in or near a navigation channel or if it is a danger to the safety of another person;
 - (q) require a person forthwith to leave a public amenity for such period as he or she may instruct if the person contravenes a provision of these By-laws
- (2) A person commits an offence if he or she-
- (a) threatens, resists, hinders or obstructs, or uses foul, abusive or insulting language towards or at an official in the exercise of his or her powers or execution of his or her duties; or
 - (b) falsely holds himself or herself out to be an official;
 - (c) furnishes false or misleading information when complying with a request of an official; or
 - (d) fails to comply with a request of an official.

CHAPTER 3: MISCELLANEOUS PROVISIONS

16. Appeal

- (1) A person whose rights are affected by a decision of a Municipality or official acting in terms of these By-laws may appeal against that decision by giving written notice of the appeal and reasons to the Municipal Manager within 21 days of the date of the notification of the decision.

A person whose rights affected by a decision of a Municipality or official acting in terms of these by-laws may appeal against that decision by giving written notice of the appeal and reasons. An appeal can be lodged 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.

- (2) The appeal authority contemplated in subsection (3) must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.
- (3) When the appeal is against a decision taken by—
 - (a) a staff member other than the Municipal Manager, the Municipal Manager is the appeal authority;
 - (b) the Municipal Manager, the Executive Mayor is the appeal authority; or
 - (c) a political structure or political officer bearer, the Municipal Council or a Committee appointed by Council is the appeal authority.
- (4) The appeal authority must commence with an appeal within six weeks of receipt of the notice of appeal and decide the appeal within 30 days.

17. Penalties

A person who has committed an offence in terms of these By-laws is, on conviction, liable to a fine or in default of payment, to imprisonment for a period not exceeding 6 months, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment, and in the case of a successive or continuing offence, to a fine for every day such offence continues, or in default of payment thereof, to additional imprisonment for a period not exceeding 1 month for every day such offence continued.

18. Limitation of liability

The Municipality is not liable for any damage or loss caused by—

- (a) the exercise of any power or the performance of any duty in good faith under these By-laws; or
- (b) the failure to exercise any power, or perform any function or duty in good faith under these By-laws.

19. Use of fees, fines and forfeitures

All fees, fines and forfeitures recovered under these By-laws shall be allocated and used by the Municipality expressly for the maintenance of public amenities.

20. Authentication and service of notices and other documents

- (1) A notice issued by the Municipality in terms of these By-laws is deemed to be duly issued, if an officer authorised by the Municipality has signed it.
- (2) Any notice or other document that is served on a person in terms of these By-laws is regarded as having been duly served-
 - (a) when it has been delivered to that person personally;
 - (b) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of 16 years;
 - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic, and an acknowledgment of the posting thereof from the postal service is obtained;
 - (d) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided by paragraphs (a), (b) or (c);
 - (e) if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the land or business premises to which it relates;
 - (f) in the event of a body corporate, when it has been delivered at the registered office of the business premises of such body corporate; or
 - (g) when it has been delivered, at the request of that person, to his or her e-mail address.
- (3) Service of a copy is deemed to be service of the original.
- (4) When any notice or other document is served on the owner, occupier, or holder of any property, or right in any property, it is sufficient if that person is described in the notice or other document as the owner, occupier, or holder of the property or right in question, and it is not necessary to name that person.

21. Repeal of by-laws

Any by-law relating to Public Amenities 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.

22. Short title and commencement

These By-laws will be known as the Bitou Municipality Public Amenities By-laws and will come into operation on the date of publication in the Provincial Gazette.

SCHEDULE 1

[(Section 6(7))]

APPLICATION FOR CONSENT TO UNDERTAKE CERTAIN ACTIVITIES

I/ We(full name of applicant), hereby apply in terms of the Bitou Municipality Public Amenities By-laws, for consent to undertake the following activity/ies:

.....
..... (Full description of activity)

At the(description of public amenity)

for the purpose of.....
(Supply the reason/s for undertaking the activity)

Date:
(Applicant)

Signed:
(Applicant)

Address of applicant:

.....
.....
.....
.....

CONSENT

Subject to the conditions imposed, above-mentioned person is hereby granted consent to undertake the activity as specified in the application.

CONDITIONS

.....
.....
.....
.....

Date:

Name:
(Municipal Official)

Signature
(Municipal Official)

SCHEDULE 2

[Section 7(1)]

APPLICATION FOR PERMIT

I/We(full name of applicant) hereby apply in terms of the Bitou Municipality Public Amenities By-laws, for consent to undertake the following activity/ies:

.....
.....(full description of activity)

at the(description of public amenity)

For the purpose of.....
(Supply the reason/s for undertaking the activity)

Date:
(Applicant)

Signed:
(Applicant)

Address of applicant:

.....
.....
.....
.....

CONSENT

Subject to the conditions imposed, above-mentioned person is hereby granted consent to undertake the activity as specified in the application.

CONDITIONS

.....
.....
.....
.....

Date:

Name:

(Municipal Official)

Signature
(Municipal Official)