

PARKING BYLAWS

Be it enacted by the Council of the Endumeni Municipality, and approval of the Member of the Executive Council responsible for local government in terms of Section 156 of Constitution of the Republic of South Africa Act No. 108 of 1996, read with section 11 of the Local Government: Municipal Systems Act No. 32 of 2000, as follows:

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CHAPTER 1

DEFINITIONS

1. Definitions

In these By-laws, any word or expression which has been defined in the National Road Traffic Act, 1996 (Act No. 93 of 1996), has that meaning and, unless the context otherwise indicates—

"association" means persons who are self employed and have organised themselves into a car guard association;

"authorised official" means any inspector of licences, a traffic officer, peace officer in terms of section 334 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), or a police officer in terms of the Police Act, 1958 (Act No. 7 of 1958), and includes any other person whom the Provincial Minister of Local Government may from time to time by regulation declare to be an authorised officer;

"Council" means the Council of the Endumeni Municipality;

"nuisance" means any condition, thing, act or omission which is offensive or injurious or which tends to prejudice the safety, good order, peace of the area or part thereof or the rights of reasonable comfort, convenience, peace or quiet of any neighborhood within the area and includes any act, exhibition or publication contrary to public decency or morals;

"peace officer" shall mean a peace officer as contemplated in Section 334 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977);

"public road" means a public road as described under Section 1 of the Road Traffic Act, 1996 (Act No. 93 of 1996).

"park" means to keep a vehicle, whether occupied or not, stationary for a period of time longer than is reasonable necessary for the actual loading or unloading of persons or goods, but does not include any such keeping of a vehicle by reason of a cause beyond the control of the person in charge of such vehicle;

"parking bay" means a demarcated area within which a vehicle is to be parked in terms of these By-laws, demarcated as such upon the surface of a parking area or a floor thereof;

"parking area" means any area of land or any building set aside by the Council as a parking area or garage for the parking of vehicles by members of the public or parking area along a road, whether or not a prescribed fee has been determined for the use thereof;

"parking meter parking area" means a parking area or any part thereof where parking is controlled by means of parking meters;

"parking meter" means a device for registering and visibly recording the passage of time in accordance with the insertion of a coin or other method of payment prescribed and includes any post or fixture to which it is attached;

“parking period” means that period of time, including a period reflected on a parking meter, on any one day during which vehicles are permitted to park in a parking area or parking bay or as indicated by a road traffic sign;

“pay and display machine” means a machine installed at a pay and display parking area for the sale of tickets;

“pay and display parking area” means a parking area, or any part thereof, where a notice is erected by the Council at the entrance thereof indicating that the parking area concerned or part thereof is a pay and display parking area;

“pound” means an area of land or place set aside by the Council for the custody of vehicles removed from a parking area in terms of these By-laws;

“prescribed” means determined by resolution of the Council from time to time;

“prescribed fee” means a fee determined by the Council by resolution in terms of any other applicable legislation; and

“Ticket controlled parking area” means a parking area or any part thereof where parking is controlled by means of tickets.

CHAPTER 2

TICKET- CONTROLLED PARKING AREAS

2. Parking fees

Any person making use of a parking area or parking bay in a ticket controlled parking area must pay the prescribed fee.

3. Conditions of parking in ticket-controlled parking areas

(1) No person may park a vehicle or cause or permit a vehicle to be parked or allow it to be or to remain in a ticket controlled parking area, wherein parking is controlled by the issue of tickets—

(a) except in a parking bay and in compliance with any directions which may be given by an authorised official or where no such bay has been marked, except in a place indicated by the authorised official;

(b) after an authorised official has indicated to the person that the parking area is full;
or

(c) after the expiry of the parking period.

(2) No person may remove or cause or permit the removal of any vehicle from a parking area unless—

(a) that person has produced to the authorised official a ticket authorising him or her to park in the parking area and which was issued to that person upon entering or leaving the parking area; and

(b) that person has upon entering or leaving the parking area paid the prescribed fee to the authorised official.

(3) If a person fails to produce a ticket authorising him or her to park in a parking area, that person is deemed to have parked the vehicle from 08:00 on the day in question until the time that person wants to remove the vehicle and he or she must pay the prescribed fee for that period.

(4) No person may, after failing to produce a ticket, remove or cause or permit the removal of any vehicle parked in the parking area until that person has produced other proof, to the satisfaction of an authorised official, of his or her right to remove such vehicle.

(5) An authorised official may require a person referred to in subsection (4) to furnish prescribed security.

(6) If a vehicle has not been removed from a parking area by the end of the parking period for which the prescribed fee has been paid, a further prescribed fee is payable for the next parking period.

CHAPTER 3

PARKING METER PARKING AREAS

4. Parking fees

Any person making use of a parking area or parking bay in a parking area must pay the prescribed fee.

5. Place of parking

No person may park or cause or permit to be parked any vehicle or allow a vehicle to be or remain in a parking meter parking area otherwise than in a parking bay.

6. Conditions of parking

(1) No person may park a vehicle or cause any vehicle to be parked in a parking bay unless a coin or other prescribed object is forthwith inserted—

(a) into the meter allocated to that parking bay; or

(b) if a meter controls more than one parking bay, in the meter controlling the parking bay concerned as indicated by any marking or sign on the surface or floor of the parking bay or the surface or floor adjacent thereto; and that meter is put into operation in accordance with the instructions appearing thereon so that the meter registers and visibly indicates the parking period appropriate to the inserted coin or other prescribed object.

(2) Notwithstanding the provisions of subsection (1)—

(a) a person may, subject to the provisions of subsection (5), park a vehicle in a vacant parking bay without inserting a coin or other prescribed object, for any period indicated on the parking meter as unexpired; and

(b) if a person has ascertained that the parking meter for any parking bay is not operating properly, he or she is, entitled to park a vehicle in that parking bay without inserting a coin or other prescribed object, provided that such a person does not park the vehicle in that parking bay for a period exceeding the maximum ordinarily allowed by that parking meter.

(3) The insertion of a coin or other prescribed object into a parking meter entitles the person inserting it, to park a vehicle in the appropriate parking bay for the period corresponding with the payment so made.

(4) The period during which a vehicle may be parked in a parking bay and the coin or other prescribed object to be inserted in respect of that period into the parking meter allocated to that parking bay, must be in accordance with the prescribed fee and the period and the coin or other prescribed object to be inserted in respect thereof, must at all times be clearly indicated on the parking meter.

(5) No person may either with or without the insertion of an additional coin or other prescribed object into a parking meter, leave a vehicle in a parking bay after the expiry of the period indicated on the parking meter or return the vehicle to that bay within fifteen minutes after such expiry, or obstruct the use of that bay by any other person.

7. Proof of time

The expiry of the parking period, as indicated by a parking meter, is for the purpose of these by-laws and in any proceedings arising from the enforcement of these by-laws, deemed to be correct and may constitute evidence, on the face of it, of the expiry of the parking period.

CHAPTER 4 PAY-AND-DISPLAY PARKING AREAS

8. Parking fees

Any person making use of a parking area or parking bay in a pay and display parking area must pay the prescribed fee.

9. Parking

(1) No person may park or cause or permit to be parked any vehicle or allow a vehicle to be or remain in a pay-and-display parking area unless immediately upon entering the parking area—

(a) the person purchases a ticket issued by means of a pay and display machine in that parking area in accordance with the instructions displayed on, or within a distance of not more than one comma five meters of such machine; and

(b) the person displays such ticket by affixing it to the inside of the driver's side of the front windscreen of the vehicle in such a manner and place that the information printed on the ticket by the pay and display machine is readily legible from the outside of the vehicle.

(2) The period during which a vehicle may be parked in a pay and display parking area and the coin or other prescribed object to be inserted in respect of that period into the pay and display machine, must be indicated on such machine.

(3) Tickets issued by the pay and display machine must reflect:

(a) the date or day of issue of the ticket;

(b) the amount paid for the ticket;

(c) the departure time; and

(d) the machine code number.

(4) No person may allow a vehicle to remain in a pay and display parking area after the expiry of the departure time indicated on the ticket.

10. Proof of date and time of departure

The commencement of the parking period as recorded by a pay and display machine and as observed by an authorised official, is for the purposes of these by-laws and in any proceedings arising from the enforcement of these by-laws, deemed to be correct and may constitute evidence on the face of it of the commencement of the parking period.

CHAPTER 6

VEHICLES

11. Abandoned vehicles

(1) Any vehicle which has been left in the same place in a parking ground for a continuous period of more than fourteen days may, unless otherwise authorised by the Council, be removed by or at the instance of an authorised officer.

(2) The Council must take all reasonable steps to trace the owner of a vehicle removed in terms of subsection (1) and if, after the lapse of ninety days from the date of its removal the owner or person entitled to its possession cannot be found, the vehicle may, subject to the provisions of subsection (3), be sold by the Council by public auction.

(3) The Council must, fourteen days prior to the date of an auction sale contemplated in subsection (2), publish a notice thereof in at least two newspapers circulating within the municipal area of the Council: Provided that a vehicle may not be sold at the auction if—

- (a) at any time before the vehicle is sold, the owner or any person authorised by the owner or otherwise lawfully entitled thereto, claims the vehicle; and
- (b) every prescribed fee payable in respect thereof in terms of these by-laws and all costs referred to in subsection (4) are paid to the Council.

(4) The proceeds of a sale concluded in terms of this section must be applied first in payment of every fee referred to in subsection (3) and to defray the following:

- (a) the costs incurred in endeavouring to trace the owner in terms of subsection (2);
- (b) the costs of removing the vehicle and effecting the sale of the vehicle;
- (c) the pro-rata costs of publication in terms of subsection (3), taking into account the number of vehicles to be sold at the auction; and
- (d) the costs of keeping the vehicle in the pound which must be calculated at the prescribed rate.

(5) Any balance of the proceeds referred to in subsection (4), must be paid to the owner of the vehicle or any person lawfully entitled to receive it upon that person establishing his or her right thereto to the satisfaction of the Council and if no claim is established within one year of the date of the sale, the balance will be forfeited to the Council.

12. Vehicles of excessive size

(1) Unless a road traffic sign displayed at the entrance to a parking area indicates otherwise, no vehicle which together with any load, exceeds five meters in length, may be parked in a parking area.

(2) No person shall park a vehicle with a gross vehicle mass exceeding three thousand five hundred kilograms, or any trailer with a gross vehicle mass exceeding one thousand kilograms, on a public road or road reserve within the area of jurisdiction of the Endumeni Municipality or property of the Endumeni Municipality, for a period of more than two hours, unless—

- (a) a temporary parking permit has been issued to such a vehicle or trailer by the Municipality; or
- (b) such vehicle or trailer is parked in a parking bay specifically provided for the parking of such vehicles or trailers.

(3) No person shall park a caravan on a public road or road reserve within the area of jurisdiction of the Endumeni Municipality, for a period of more than twenty-four hours.

(4) The Municipality shall on application, issue a temporary parking permit to vehicles and trailers, which must park for specific periods on public roads or road reserves, because of agricultural activities.

(5) Any person who contravenes any provisions of this by-law shall be guilty of an offence and liable on conviction to a penalty not exceeding R1, 000.00 (One Thousand Rand).

13. Parking after parking period

No person may park a vehicle or cause or permit it to be parked in any parking area before the beginning or after the expiry of the parking period prescribed for the parking area unless that person is the holder of a ticket issued in terms of these by-laws authorising him or her to do so.

14. Defective vehicles

No person may park or cause or permit any vehicle to be parked or to be or remain in any parking area which is mechanically defective or for any reason incapable of movement unless a vehicle has, after having been parked in a parking area, developed a defect which immobilises it and the person in control of it shows that he or she took reasonable steps to have the vehicle repaired or removed within a reasonable time.

15. Parking of a vehicle in parking area

No person may park or cause or permit any vehicle other than a vehicle as defined in the National Road Traffic Act, 1996 (Act No. 93 of 1996), to be parked or to be or remain in any parking area.

16. Cleaning and repair of vehicle

No person may in any parking area clean, wash, work on or effect repairs to a vehicle except minor emergency repairs, unless the prior written permission of the Council has been obtained.

17. Tampering with vehicles and obstructions

(1) No person may in any parking area without reasonable cause or without the knowledge and consent of the owner or person in lawful control of a vehicle, enter or climb upon that vehicle or set the machinery thereof in motion or in any way tamper or interfere with its machinery or any other part of it or with its fittings, accessories or contents.

(2) No person may in any parking area—

(a) park any vehicle so that any part of it extends across any white line forming a boundary of a parking bay or that it is not entirely within the confines of the bay; or

(b) perform any act or introduce anything which obstructs or is likely to obstruct the movement of persons or vehicles.

18. Parking after parking period

No person may park a vehicle or cause or permit it to be parked in any parking area before the beginning or after the expiry of the parking period prescribed for the parking area unless that person is the holder of a ticket issued in terms of these by-laws authorising him or her to do so.

CHAPTER 6

MISCELLANEOUS

19. Refusal of admission

An authorised official may refuse to admit into a parking ground a vehicle which is by reason of its length, width or height likely to cause damage to persons or property or to cause an obstruction or undue inconvenience or which in terms of section 6 or 16 may not be parked in a parking ground.

20. Forging or defacing tickets

No person may with intent to defraud the Council, forge, imitate, deface, mutilate, alter or make any mark upon any ticket issued in terms of these by-laws.

21. Medical practitioners exempt

A medical practitioner is exempt from paying the prescribed fees, while the vehicle used by that practitioner is parked in a parking area to enable him or her to perform professional duties at any place other than a consulting room or similar place, subject to a form or token issued by the South African Medical Council for that purpose being displayed on the windscreen of the vehicle concerned in such manner that it is readily legible from outside the vehicle.

22. Parking directives

(1) No driver or person in charge of a vehicle shall park such vehicle or cause it to be parked—

- (a) in a demarcated parking bay across any painted line marking the confines of the parking bay or in such a position that the said vehicle is not entirely within the area demarcated;
- (b) in a demarcated parking bay which is already occupied or partly occupied by another vehicle;
- (c) in an area demarcated for commercial loading purposes, unless it is lawful to do so for the purpose of commercial loading.

(2) The person or driver in charge of a vehicle shall park such vehicle in a demarcated parking bay—

- (a) if the demarcated parking place is parallel to the curb or sidewalk of the public road, in such a way that it shall be headed in the general direction of the movement of traffic on the side of the road on which the vehicle is parked and so that the left hand wheels of the vehicle are substantially parallel to and within four hundred and fifty millimeters of the left hand curb: Provided that where in a one-way street such demarcated parking place is in existence on the right hand side of the road the same shall apply to the right hand wheels and the right hand curb respectively; and
- (b) if the demarcated parking place is at an angle to the curb or sidewalk of a public road, in such a manner that it is headed substantially in the general direction of the movement of traffic on the side of the road on which such vehicle is parked.

(3) Where by reason of the length of any vehicle, such vehicle cannot be parked wholly within a demarcated parking place, it shall be lawful to park such vehicle by encroaching upon a demarcated parking place adjoining the first mentioned parking place, if such be the case, and any person so parking shall be liable for payment of parking fees in respect of both the said places.

23. Offences and penalties

Any person who—

- (a) contravenes or fails to comply with any provision of these by-laws;

- (b) fails to comply with any notice issued in terms of these by-laws; or
- (c) fails to comply with any lawful instruction given in terms of these By-laws; or
- (d) who obstructs or hinders any authorised representative or employee of the Council in the execution of his or her duties under these by-laws, is guilty of an offence and liable on conviction to a fine to a fine not exceeding R1,000.00 (One Thousand Rand) or to imprisonment for a period not exceeding three months.

24. Monthly tickets

(1) Notwithstanding anything to the contrary contained in these By-laws, the Council may in respect of any parking area controlled by the issue of tickets, issue at a prescribed fee a ticket that entitles the holder to park a vehicle in that area for one calendar month or any lesser period specified therein, at the times specified in the ticket, if a parking bay is available.

(2) The Council may issue to any of its employees a ticket which entitles the holder, when using a vehicle regarding the business of the Council, to park it in a parking area specified in the ticket, if a parking bay is available in the parking area.

(3) A ticket issued in terms of subsection (1) or (2), may not be transferred to any other person or be used in respect of any vehicle other than the vehicle specified in the ticket, without the prior written permission of the Council.

(4) A ticket issued in terms of subsection (1) or (2), must be affixed by the holder of the ticket to the vehicle in respect of which it is issued in such manner and place that the written or printed text of the ticket is readily legible from the outside of the vehicle.

25. Closure of parking areas

Notwithstanding anything to the contrary contained in these by-laws, the Council may at any time close any parking area or portion thereof temporarily or permanently and must indicate the fact and the period of such closure by a road traffic sign displayed at the entrance to the parking area closed or at the portion closed, as the case may be.

26. Parking according to instruction

No person may in any parking area park a vehicle otherwise than in compliance with an instruction or direction, if any, given by an authorised official or introduce or remove a vehicle otherwise than through an entrance thereto or exit therefrom demarcated for that purpose.

27. Prohibitions relating to parking meters

No person may—

- (a) insert or attempt to insert into a parking meter a coin or object except:
 - (i) a coin of South African currency of a denomination as prescribed; or
 - (ii) an object which is prescribed as another method of payment as contemplated in section 8(1);
- (b) insert or attempt to insert into a parking meter any false or counterfeit coin or prescribed object or any foreign object;
- (c) tamper with, damage, deface or obscure a parking meter;
- (d) in any way whatsoever cause or attempt to cause a parking meter to record the passage of time otherwise than by the insertion of a coin or other prescribed object;
- (e) jerk, knock, shake or interfere with a parking meter which is not working properly or at all in order to make it do so or for any other purpose; or
- (f) obscure a parking meter or any part thereof or remove or attempt to remove it from the post or other fixture to which it is attached.

28. Prohibitions relating to pay and display machines

No person may—

- (a) insert or attempt to insert into a pay and display machine, a coin or other prescribed object which is false or counterfeit or any object other than a coin of South African currency or other prescribed object;
- (b) jerk, knock, shake or in any way interfere with, or damage or deface a pay and display machine; or
- (c) remove or attempt to remove a pay and display machine or any part thereof from its mounting.

CHAPTER 7

GENERAL PROVISIONS

29. Regulations

The municipality may make regulations not inconsistent with this by-law, prescribing -

- (a) any matter that may or must be prescribed in terms of this by-law; and
- (b) any matter that may facilitate the application of this by-law.

30. Repeal of by-laws

Any by-laws relating to Parking adopted by the municipality or any erstwhile municipal council now comprising an administrative unit of the municipality shall be repealed from the date of promulgation of this by-law.

31. Short title and commencement

This by-law is called the Parking By-Law, 2008, and takes effect on a date determined by the municipality by proclamation in the Provincial Gazette.