

The Council of the Okhahlamba Local Municipality has in terms of section 156 of the Constitution, 1996 (Act No. 108 of 1996), read in conjunction with sections 11 and 98 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), made the following By-laws:

OKHAHLAMBA LOCAL MUNICIPALITY

BY-LAWS RELATING TO THE CONTROL OF PARKING ATTENDANTS/CAR GUARDS

1. DEFINITIONS

(1) Unless the context otherwise indicates—

"approved administrator" means any person or entity approved by the Council as an administrator and co-ordinator of parking attendants and/or car guard activities in relation to any demarcated area;

"authorised officer" means an inspector of licences, a traffic officer, a 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 South African Police Services Act, 1995 (Act No. 58 of 1995), and includes any other person whom the Minister of Local Government may, from time to time by regulation, declare to be an authorised officer;

"Council" means a municipal council referred to in section 157(1) of the Constitution, 1996 (Act No. 108 of 1996);

"demarcated area" means an area designated or reserved in terms of the town planning scheme and used as public parking areas or in such other areas as may be specifically approved by the Council for the use of parking attendants or car guards;

"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 neighbourhood within the area and includes any act, exhibition or publication contrary to public decency or morals;

"parking attendant/car guard" means a person who, whether for fixed or agreed remuneration or benefit, or otherwise, offers a service of guarding or protecting one or more vehicles in a demarcated area, or guiding or assisting persons desirous of parking or removing their vehicles from such demarcated area in entering or leaving any parking space or place;

"public road" means a public road as defined in section 1 of the Road Traffic Act, 1989 (Act No. 29 of 1989); and

"town planning scheme" means the town planning scheme(s), in course of preparation, applicable to the Okhahlamba municipal area, as constituted from time to time, and includes any development control document or regulations substituted therefore.

- (2) Words applying to any individual shall include persons, companies and corporations, and the masculine gender shall include females as well as males, and the singular number shall include the plural and *vice versa*.

2. CO-ORDINATION OF ACTIVITIES

The Council may appoint one or more approved administrators to oversee and co-ordinate the activities of parking attendants and car guards in demarcated areas on such terms and conditions as the Council may agree with such approved administrators.

3. AREAS WHERE PARKING ATTENDANTS/CAR GUARDS MAY RENDER SERVICES

- (1) The provision of the services of parking attendants/car guards is only permitted in demarcated areas.
- (2) Except in those areas referred to in section 3 (1), no person may offer or render service as a parking attendant/car guard, whether for agreed remuneration or in expectation of a reward or benefit, in or on:
 - (a) any public road under the jurisdiction or in the ownership of Council; or
 - (b) any off-street parking area normally used by the public or to which the public has the right of access.
- (3) For the purposes of section 3(1), the Council may extend the application of these By-laws to an area in private ownership used for parking purposes by members of the public, but only on the application of the owner of such property or an application made by the lessee or other occupier thereof with the written consent of the owner.

4. REGISTRATION AS APPROVED ADMINISTRATOR

- (1) Any person intending to operate as an approved administrator shall make an application to the Council in the prescribed format, and is only allowed to operate as such once the Council has approved the application, and on the conditions prescribed by the Council.
- (2) Nothing in these By-laws shall be deemed to prevent any person operating as a parking attendant/car guard to become an approved administrator, subject thereto that such parking attendant would be required to register as an approved administrator in terms of these By-laws or any national legislation applicable from time to time.
- (3) The Council has the right to restrict the number of approved administrators to a number which can reasonable represent the number of parking attendants/car guards operating in an area.

5. REGISTRATION AS PARKING ATTENDANT/CAR GUARD

- (1) No person shall operate as a parking attendant/car guard unless he or she—

- (a) has applied to an approved administrator for registration as a parking attendant/car guard in the area and has been approved as a parking attendant by such approved administrator;
 - (b) at all times, carries a clear identification card in a format to be prescribed by the Council from time to time; and
 - (c) wears a uniform/bib approved by the Council, which clearly distinguishes between parking attendants/car guards and authorised officers.
- (2) The Council may—
- (a) restrict the number of registered parking attendants/car guards operating within its area of jurisdiction;
 - (b) refuse or withdraw the registration of any parking attendant/car guard if—
 - (i) such person has been convicted in a court of law of any criminal offence;
 - (ii) such person causes wilful damage to person or property; or
 - (iii) such person is found at any stage while rendering services to be under the influence of intoxicating liquors or illegal substances; and
 - (c) enter into an agreement, or impose conditions upon the administrator for the effective control of parking attendants/car guards.

6. DUTIES OF THE APPROVED ADMINISTRATOR

- (1) The approved administrator shall ensure that no person rendering service as a parking attendant/car guard shall—
- (a) take up a position or place himself or herself on a sidewalk or in a manner so that pedestrian traffic is obstructed;
 - (b) in any way, obstruct free access to any—
 - (i) entrance or exit from a building;
 - (ii) fire hydrant;
 - (iii) Council service or service works;
 - (c) sleep overnight at a public place if services are rendered at or on such public place or part thereof,
 - (d) in the course of rendering services as a parking attendant/car guard—
 - (i) create a public nuisance by his/her behaviour;
 - (ii) create a traffic hazard to motor vehicles;
 - (iii) hinder or prevent proper traffic control in a public area;

- (e) engage in any other activities that may have a negative impact on his/her service as attendant/guard; or
- (f) engage in any activity that is in contradiction with any other legislation; and
- (g) contravene any condition imposed by the Council.

7. OFFENCES AND PENALTIES

(1) Any person who—

- (a) contravenes any provision of these By-laws or fails to comply with any condition imposed in terms thereof; or
- (b) threatens, resists, interferes with or obstructs, any Council employee in the performance of his or her duties or functions in terms of these By-laws or any other law; or
- (c) deliberately or negligently furnishes false or misleading information to any authorised officer or any Council employee,

shall be guilty of an offence, and liable upon conviction, to a fine or imprisonment for a period not exceeding six months, or both the fine and the imprisonment.

8. CANCELLATION/WITHDRAWAL OF APPROVAL

Notwithstanding section 7, the Council may withdraw/cancel the registration of any approved administrator who contravenes any provision of these By-laws or any conditions imposed by the Council.

9. REPEAL OF BY-LAWS

The By-laws relating to the Control of Parking Attendants/Car Guards for the Okhahlamba Local Municipality, are hereby repealed and replaced by these By-laws, which are to become effective on promulgation hereof.