

PROVINCIAL NOTICE

[NO. 172 OF 2011]

NOTICE IN TERMS OF SECTION 14(2)(a)(i) OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000:
PUBLICATION: STANDARD BED AND BREAKFAST AND GUEST HOUSE BY-LAW

I, M.G Qabathe, Member of the Executive Council responsible for Cooperative Governance, Traditional Affairs and Human Settlement in the Free State Province, after consulting the Minister of Cooperative Governance and Traditional Affairs and the South African Local Government Association: Free State, do hereby in terms of section 14(2)(a)(i) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), make standard by-laws as set out in the Schedule.

SCHEDULE

BED AND BREAKFAST AND GUEST HOUSE STANDARD BY-LAW

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DEFINITIONS

1. In these By-laws, words applying to any individual shall include persons and groups, and the masculine gender shall include the feminine gender and the singular number shall include the plural and vice versa, and unless the context otherwise indicates -
"authorised official" means any person authorised as such by the Council for purposes of these By-laws to perform and exercise any or all of the functions specified therein;
"bed and breakfast facility" means a -
 - (a) commercial accommodation establishment operated from a private single dwelling house;
 - (b) managed by a resident owner or resident lessee;
 - (c) providing sleeping accommodation and breakfast;
 - (d) aimed primarily at the tourist or business market; and
 - (e) where the facilities and services offered are for the exclusive use and benefit of overnight registered guests, and the term "guest house facility" has a corresponding meaning;"Council" means the Council of the Local Municipality or its successors in law, its Executive Committee, and any committee or person or other body acting by virtue of any power delegated to it in terms of legislation;
"lettable room" means a habitable room;
"Licensing Authority" means any local authority, or person or body, designated or appointed under section 2 of the Business Act, 1991 (Act No 71 of 1991);
"Municipality" means the.....Local Municipality established in terms of Section 12 of the Municipal Structures Act, 1998 (Act No. 117 of 1998), and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with these by-laws by virtue of a power vested in the municipality and delegated or sub -delegated to such political structure, political office bearer, councillor, agent or employee;

"nuisance" means any condition or conduct which is injurious or offensive to any person or which is dangerous to or compromises the health or safety of any person, or which causes an annoyance or disturbance to any person or to the residents of any area or which constitutes a threat or a potential threat to the environment or which causes harm or damage to the environment, or which may potentially harm or damage the environment;

"special consent" means the Council's special consent granted in terms of Council's applicable Town Planning Scheme;

"Town Planning Scheme" means the Town Planning Scheme(s) of the Municipality.

REQUIREMENTS FOR PREMISES

2. (1) No person may operate a bed and breakfast or a guest house facility on any premises unless he or she has complied with all applicable legislation, including -
 - (a) the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977) where all buildings constructed on the premises must comply with this Act and its regulations;
 - (b) the Council's applicable Town Planning Scheme with specific reference to parking, floor area ratio, height, coverage and zoning, number or rooms, if prescribed by a Town Planning Scheme applicable to the area where the property is located and with Council's Outdoor Advertising Bylaws with reference to signage.
 - (c) the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972) and the Regulations governing general hygiene requirements for food premises and the transport of food, formulated under the Health Act, 1977 (Act No. 63 of 1977), where a Certificate of Acceptability must be obtained from the Council's Senior Health Inspector.
 - (d) the Broadcasting Act, 1999 (Act No. 4 of 1999) if the lettable room is supplied with a television set;
 - (e) the South African Music Rights Organisation (SAMRO) where a licence is required if background music is to be played to the guests;
 - (f) the Free State Gambling and Liquor Act, 2010, (Act No. 6 of 2010) if liquor, including complimentary drinks, are served to guests;
 - (g) the Tobacco Products Control Act, 1993 (Act No. 83 of 1993) where it is a requirement that signs are displayed in areas designated for smoking and no -smoking signs are displayed elsewhere;
- (2) The premises must provide -
 - (a) access to bedrooms and bathrooms at all times for registered guests;
 - (b) a serviceable lock and key (for privacy) to each lettable room;
 - (c) an area where breakfast can be served, adequate for the use of, and easily accessible to any guest on the premises;
 - (d) a bathroom and toilet for each lettable room suitably placed in a separate compartment which is close to the lettable room and is easily accessible to the guest/s of a lettable room and separate to that of the owner of the facility;
- (3) No kitchen facility may be provided to guests in the lettable rooms;
- (4) The operation of the facility may not detract from the residential character and amenities of the property or the immediate surroundings;
- (5) The facility must be of such a nature that the predominant land use is retained and if in a residential area, the residential character of the house is retained.
- (6) The facility may not include a place of public assembly or a place of public amusement.

SPECIAL CONSENT AND BUSINESS LICENSE REQUIRED TO OPERATE A BED AND BREAKFAST OR GUEST HOUSE FACILITY

3. (1) A person who wants to operate a bed and breakfast or guest house facility must apply to the Council in writing in the prescribed format for Council's special consent;
- (2) When the Council receives an application for such special consent and, before deciding whether or not to approve the application, the Council -
 - (a) may request the applicant to provide any further information which the Council considers relevant to enable it to make an informed decision;
 - (b) will take into consideration -
 - (i) the scale and size of the proposed establishment in relation to character of the area;
 - (ii) whether the premises are suitable for the proposed use;

- (iii) whether there is sufficient on-site parking facilities for motor vehicle and
- (iv) any other matter which would, in its opinion, interfere with the amenities and character of the neighbourhood; and
- (c) must ensure that the relevant premises are inspected by authorised officials as soon as reasonably possible.
- (3) Subject to subsection (2), the Council may -
 - (a) approve the application for special consent subject to such terms and conditions that are reasonably aimed at eliminating or reducing the risk, if any, which is likely to be caused by the relevant activity; or
 - (b) refuse the application for special consent.
- (4) The applicant must also apply for and obtain a Business License from the Licensing Authority for the area in which the facility is located.

SUSPENSION, CANCELLATION AND AMENDMENT OF SPECIAL CONSENT

- 4. (1) The Council may by written notice to the owner of the property on which a special consent was granted, suspend or cancel the special consent -
 - (a) with immediate effect, if the authorised official reasonably believes that it is urgently necessary to do so to eliminate or reduce a significant risk to public health posed by a nuisance; or
 - (b) after expiry of the period stipulated in a notice affording the owner a reasonable opportunity to comply with the notice and the owner having failed to comply with the notice.
- (2) The Council may add to the conditions of the special consent by written notice to the owner of the property, if the authorised official reasonably believes that it is necessary to do so to protect public health or to take account of changed circumstances since the special consent was issued.

DUTIES OF OPERATOR OF BED AND BREAKFAST OR GUEST HOUSE FACILITY

- 5. A person who operates a bed and breakfast or guest house facility must -
 - (a) be resident on the property;
 - (b) abide by all relevant health, fire, business, labour, town planning and media laws and regulations;
 - (c) ensure that the application for Council's special consent to operate a bed and breakfast or guest house facility is accompanied by letters of consent from the registered owners of the adjoining properties;
 - (d) keep all sanitary, ablution and water supply fittings in good working order;
 - (e) keep the premises and all furniture, fittings, appliances, equipment, containers, curtains, covers, hangings and other soft furnishings, table linen, bed linen and cloths of whatever nature used in connection with the facility in a clean, hygienic and good condition at all times;
 - (f) supply fresh linen and unused soap for each letting; and
 - (f) take adequate measures to eradicate pests on the premises.

APPEALS

- 6. (1) Any person whose rights are affected by a decision of the Council or of any authorized official under these Bylaws may in terms of Section 62 of the Local Government: Municipal System Act, 2000 (Act No. 32 of 2000), appeal against the decision by giving written notice of the appeal and the reasons for the appeal to the municipal manager within 21 days of the date of the issue of the notification of the decision.
- (2) The municipal manager will refer the appeal to the appropriate appeal authority in terms of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000). The appeal authority must commence with the appeal within 6 weeks and decide the appeal within a reasonable period.

OFFENCES AND PENALTIES

- 7. Any person who -
 - (1) contravenes or fails to comply with a provision of these Bylaws or a direction issued by the Council in terms of these Bylaws, or a condition imposed under these Bylaws;
 - (2) obstructs or hinders any person in the execution of any power or the performance of any duty or function in terms of any provision of these Bylaws; or

- (3) furnishes false, incorrect or misleading information when applying for permission from the Council in terms of a provision of these Bylaws,
is guilty of an offence and liable, on conviction, to a fine or in default of payment to imprisonment for a period not exceeding six months, or to both fine and imprisonment.

REPEAL OF BY-LAWS

8. Any by-laws relating to bed and breakfast and guest house facilities 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.

SHORT TITLE

9. This by-law is called the Bed and Breakfast and Guest House Bylaw, 2011.