

PROVINCIAL NOTICE

[NO. 203 OF 2011]

**NOTICE IN TERMS OF SECTION 14(2)(a)(i) OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000:
PUBLICATION: STANDARD SPORTING FACILITIES 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

SPORTING FACILITIES BY-LAWS

TABLE OF CONTENTS

1. Definitions
2. Application of By-laws
3. Administration, control over, and maintenance of sporting facilities
4. Access to sporting facilities and storage facilities
5. Admission fees and other fees
6. Prohibited behaviour in or on a sporting facility or its premises
7. Organised sporting activities
8. Reservation and hiring of sporting facilities
9. Cancellation, postponement or extension of reservation
10. Termination of hire
11. Duties of organisation
12. Enforcement
13. Indemnity
14. Appeal
15. Penalty
16. Repeal of by-laws
17. Short title

Definitions

1. In this by-law, unless the context otherwise indicates -
 - "accessories"** means an object or objects on or in a field, sporting area or course necessary for a particular sport to be performed, such as, but not limited to goal posts, a tennis net, or a flag, and any other feature or fixture;
 - "appurtenance"** means any fitting, installation, appliance, device, instrument, apparatus, utensil, tool whatsoever on the premises, such as, but not limited to a lock, cock, tap, valve, pipe and includes any other appliance or any machine;
 - "equipment"** means gear used by a person in a sporting activity;
 - "facility"** means a sporting facility and includes any appliance, equipment, apparatus or storage facility in or on a facility;
 - "municipality"** means the Local Municipality of Mantsopa established in terms of Section 12 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), and includes any political structure, political office bearer, councillor, 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, councillor, agent or employee;
 - "organised sporting activity"** means a sporting activity that is organised or controlled by an organisation, and includes a practice or training session;

"organisation" means a sport club, educational institution, or association of people, and includes a group or sport club established by the municipality, which sport club or association or group can be joined by a member of the public;

"safety at sports and recreational events act" means the safety at sports and recreational events act, 2010 (Act No. 2 of 2010)

"sporting facility" means any land, area, premises, building or structure, or part thereof, which is administered or controlled by the municipality and which is designated, demarcated, or set aside for a sporting activity, and includes facilities surrounding and normally supplementary to a sporting facility.

Application of By-laws

2. (1) This by-law apply to all sporting facilities under the control and administration of the Municipality, but do not apply to land, areas, buildings, and structures regulated by the Municipality's Public Amenities By-laws.
- (2) This by-law is subject to the safety at Sports and Recreational Event Act.

Administration, control over and maintenance of sporting facilities

3. (1) The municipality may establish a body or sport committee with the aim of advising it on matters relating to sporting facilities.
- (2) All sporting facilities must be administered by the municipality in accordance with this By-law.
- (3) The municipality may acquire land or a building with the aim of developing sporting facilities, or dispose of existing sporting facilities or any rights thereto.
- (4) A person or organisation who uses or hires sporting facilities does so subject to the provisions of this by-law, Safety at Sports and Recreational Events Act and in terms of conditions as may be determined by the municipality.
- (5) Where an organized sporting activity is not organized or controlled by the municipality, a municipal employee may be present.
- (6) Subject to the terms and conditions stipulated in any contract of hire, and subject to the Free State Gambling and Liquor Act, 2010 (Act No. 6 of 2010) no person -
 - (a) may sell any alcoholic beverage on the premises of a sporting facility without first obtaining express approval for that activity from the municipality;
 - (b) may bring his or her own supply of alcoholic beverages on or into a sporting facility without written authority from an authorised official.
- (7) If the municipality permits the sale or consumption of alcohol on or in a facility by an organisation or body, the sale or consumption is subject to the following conditions:
 - (a) no alcoholic beverage may be served in a glass bottle, glass cup or other container made of glass;
 - (b) beer, cider and alcoholic cordials may be served in cans, kegs, or plastic cups only;
 - (c) the organisation or body must maintain good order within the sporting facility.
- (8) The municipality may close a facility when:
 - (a) The facility is substantially unusable due to -
 - (i) destruction;
 - (ii) severe damage; or
 - (iii) the absence of municipal services;
 - (b) the facility constitutes a danger to human life or property;
 - (c) an emergency has arisen which requires such closure.
- (9) The municipality may temporarily close a facility for purposes of repair or maintenance or for any other reason in the municipality's discretion.
- (10) A person who or organisation that contravenes subsection (6) or (7) commits an offence.

Access to sporting facilities and storage facilities

4. (1) The municipality may by notice posted at or near the entrance to a facility indicate the hours during which it may be used by the public.
- (2) The municipality reserves the right of access to a facility and an official may instruct a person who has contravened a provision of this bylaw to leave the facility or premises immediately and should the person fail to observe the instruction, the official may remove or cause the person to be removed.
- (3) The municipality has the right to determine the maximum capacity of a sporting facility and an official must, once the maximum capacity has been reached, refuse further access and may take measures necessary to prevent access.

Admission fees and other fees

5. The municipality may prescribe fees to be charged for admission to or the hire or use of a sporting facility or equipment.

Prohibited behaviour in or on sporting facility or its premises

6. (1) No person may -
- (a) enter any part of a facility otherwise than by an entrance designated for that purpose;
 - (b) enter or remain inside a facility, without permission, or at any time other than during the hours when such facility is open to members of the public, or when access to the facility has been denied;
 - (c) smoke in a sporting facility, except in an open air facility or in those areas which have been designated for this purpose, as indicated by notices to that effect;
 - (d) wear footwear that may damage the surface of a facility;
 - (e) attend or engage in a sporting activity if dressed indecently or if undressed, except in a facility set aside for use by a person of the same sex;
 - (f) relieve himself or herself in any part of the sporting facility other than in the ablution facilities;
 - (g) excluding a child under the age of five years, use change rooms, places of ablution, cubicles, or any other facilities set aside for a particular sex if he or she is not of that particular sex;
 - (h) enter or remain in any area of the sporting facility, which area is reserved for the use of persons of the other sex;
 - (i) use a change room, place of ablution, cubicle or any other facility for longer than is reasonably necessary to undertake an activity intended to be undertaken;
 - (j) use profane or indecent language or behave in any other manner that constitutes a nuisance or unacceptable behaviour towards other persons;
 - (k) destroy, damage or deface any part of a sporting facility, accessories or equipment;
 - (l) discard rubbish other than in a container provided for that purpose;
 - (m) in any manner, interfere with the substance covering the surface of a sporting facility;
 - (n) light any fire;
 - (o) drive, draw, or propel a vehicle, or walk upon or recline on lawn on the premises of a sporting facility if prohibited to do so by a notice on the premises;
 - (p) ride or use in or on a sporting facility a bicycle, roller blades, roller skates, skateboard, tricycle or any similar form of transport or amusement, except in a sporting facility which specifically provides for the riding of such devices;
 - (q) without the prior written consent of the municipality, sell, hawk, advertise, offer for sale or purchase or exhibit any article for sale, lease or hire, distribute a pamphlet, book, handbill or other written or printed matter inside a sporting facility or in the immediate vicinity of the facility thereto;
 - (r) neither inside nor outside a sporting facility, obstruct, resist or interfere with an official in the execution of his or her duties or the exercise of any authority in terms of this by-law;
 - (s) tamper or interfere with an appurtenance in or on the premises of a facility;
 - (t) bring into or keep on a facility an animal, except a guide dog, without the prior consent of the municipality, unless the sporting activity engaged in involves the use of animals;
 - (u) bring into or keep on a facility a weapon or any other dangerous object.
 - (v) erect or attempt to erect any enclosure, tent or similar construction, stall, booth, stand, screen, fence, or drive into the ground any peg or spike without the permission of the official in charge of the facility;
 - (w) behave or conduct himself or herself in a manner which may prejudice good order;
 - (x) bring into or onto a facility any substance or matter which may endanger the safety of people, or which may be used to disrupt proceedings at or spoil the peaceful enjoyment of the facility;
 - (y) behave or conduct himself or herself in a manner which may disrupt a sporting activity; or
 - (z) fail to comply with a lawful instruction given by an official.
- (2) A person who contravenes this section commits an offence.

Organised sporting activities

7. (1) The municipality may allow the use of its facilities by sport organisations, municipal staff, or other persons such as, but not limited to freelance instructors.

- (2) An organisation to which a facility or a portion thereof has been allocated for use at regular times, must ensure that only its members use the facility, and should it be impossible for the organisation to use the facilities at those times, the organisation must notify the official in charge of the sporting facility beforehand, and should an organisation fail to do so, the municipality may suspend or cancel the organisation's further use of the facility.

Reservation and hiring of sporting facilities

8. (1) The municipality may set aside or hire out a facility for the purpose of organised sport or for special occasions on such conditions as it may prescribe and the municipality may charge a fee, or may make it available free of charge or grant free admission to selected persons.
- (2) The representative of an organisation that wishes to hire a facility must complete and lodge a prescribed application form with the municipality.
- (3) When considering an application the municipality may have, in addition to other relevant factors, due regard to the following:
 - (a) the principles and objectives of this by-law;
 - (b) that the sporting facility may be used for lawful purposes only;
 - (c) that the use of the sporting facility will not constitute a nuisance or annoyance to other users of another part of the sporting facility which has not been hired by the organisation, or to the occupiers of neighbouring premises; and
 - (d) that the use of the sporting facility will not constitute a danger to any person or property or negatively affect the environment;
 - (e) Compliance with the provisions of the Safety at Sports and Recreational Events Act, 2010.
- (4) The municipality may approve the use of a facility subject to any condition it may impose, or it may refuse consent.
- (5) The municipality must, within seven days after the application form has been lodged, in writing notify the organisation if the application has been approved or refused, and -
 - (a) if the application is refused, the municipality must supply to the organisation the reasons why the application was refused; or
 - (b) if the application is approved, the municipality must forward a notice of approval which must specify the conditions to which the use of the facility is subject.
- (6) An organisation may not, before the municipality's approval has been received by it, advertise or announce the sporting activity for which it has lodged an application.
- (7) The municipality may, before it approves an application, require of an organisation that wishes to make use of a sporting facility to take out, with an insurance company approved by the municipality -
 - (a) insurance in an amount approved by the municipality to cover any structural damage which may occur to the sporting facility whilst being used by the organisation; and
 - (b) public liability insurance.
- (8) An organisation which supplies false information in an application form or with respect to the requirements in subsection (7) or which contravenes subsection (6) commits an offence.

Cancellation, postponement or extension of reservation

9. (1) An organisation which has applied for the reservation of a facility, may cancel the application, and where the organisation has paid a fee the municipality will determine the percentage of the paid fee to be refunded to the organisation.
- (2) (a) After approval has been given by the municipality, an organisation may apply for the postponement of the reservation to a later date.
 - (b) Approval of the postponement does not result in a penalty or forfeiture of any fees already paid.
 - (c) Postponement may be refused if the facility has been reserved.
- (3) An organisation may apply for an extension of the period of use of the sporting facility, and -
 - (a) the application must be in writing and lodged at the Municipal Manager's offices; and
 - (b) the facility must be available for such use.
- (4) The municipality may cancel the hire of a facility under the circumstances contemplated in section 8(8), or should the municipality require the facility for municipal purposes at the same time, however, the municipality may refund the fees that have already been paid to it in respect of the reservation;

- (5) Should the municipality cancel a reservation, the municipality must, within a reasonable time and in writing notify the organisation of its decision, however, where a notice is given in terms of section 8(8), the notice is deemed to be effective from the date on which the destruction or damage took place.
- (6) Subject to the provisions of subsection (4), an organisation has no claim against the municipality for loss of use of the sporting facility or for damage arising from a cancellation in terms of subsection (4).

Termination of hire

10. (1) On termination of the hire an organisation and an official must inspect the facilities for the purpose of assessing the conditions of the facilities.
- (2) The organisation must -
 - (a) return the sporting facility to the municipality in the condition it was when it was hired out to the organisation;
 - (b) repair any damage or breakages;
 - (c) comply with any instructions by the municipality in respect of the cleaning of the sporting facility; and
 - (d) vacate the facility within the period stated in the application; and
 - (e) should the organisation fail to comply with -
 - (i) subsection (2)(a), (b) or (c), the municipality may replace, repair or make good any breakages or damages, and recover the costs from the organisation; or
 - (ii) subsection (2)(d), the municipality may levy an additional fee for the period during which the organisation occupies the sporting facility after the expiry of the period stipulated in the application.

Duties of organisation

11. (1) Before an organisation commences to use the sporting facility, a representative must inspect the facilities, and should he or she find that buildings, structures, accessories or equipment are in a state of disrepair, this fact must be reported to the municipality in writing, and failure to do so is deemed as an acceptance by the organisation that the facilities are in a proper condition.
- (2) The organisation must comply with any conditions determined by the municipality in terms of section 4(4) and take all reasonable measures to ensure that its members and persons attending a sporting activity, as participants, visitors or spectators comply with this by-law.

Enforcement

12. (1) An official of the municipality may search any person, vehicle or container in, entering into or being brought onto a facility.
- (2) An official of the municipality may confiscate liquor, or any other dangerous object, substance or matter which may endanger the safety of people in the facility, or which may be used to disrupt proceedings at or spoil the enjoyment of the facility, but must return to the person that which was confiscated when he or she leaves the sporting facility.
- (3) If the official of the municipality finds an unlawful substance as a result of the search contemplated in subsection (1), he or she must immediately alert the South African Police Services or if he or she is appointed as a peace officer in terms of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), he or she may act in terms of that Act.

Indemnity

13. Any person visiting or using a facility does so at his or her own risk and the municipality will not be liable for any injury, loss or damage that such person may suffer while in or on the facility.

Appeal

14. 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, 2000 (Act 32 of 2000) to the municipal manager within 21 days of the date of the notification of the decision.

Penalty

15. A person who or organisation which has committed an offence in terms of this by-law is, on conviction, liable to a fine or in default of payment, to imprisonment, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment.

Repeal of by-laws

16. Any by-laws relating to sporting facilities adopted by the Council or any municipality now comprising an administrative unit of the Council is repealed from the date of promulgation of these by-laws.

Short title

17. This by-law is called the Sporting Facilities By-law, 2011.