

PARKING GROUNDS BYLAWS FOR NYANDENI MUNICIPALITY

1. DEFINITIONS

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

“Authorised official” means a designated officer authorised by the Council as contemplated in section 23 of that Act for purposes of these By-laws to perform and exercise any or all of the functions and powers specified in, and subject to the provisions of that Chapter and to the provisions of any other law.

“Council” means the Nyandeni Municipality and its successors in law, and includes the Council of that Municipality and its successors in law, and includes the Council of that municipality or its Executive Committee or any other body acting by virtue of any power delegated to it in terms of legislation, as well as any officer to whom the Council has delegated any powers and duties with regard to these by-laws;

“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 ground or a floor thereof;

“Parking ground” means any area of land or any building set aside by the Council as a parking ground or garage for the parking of vehicles by members of the public, whether or not prescribed fees have been determined for the use thereof;

“Parking meter parking ground” means a parking ground 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 intersection of a coin or other method of payment prescribed by the Council and includes any post or fixture to which it is attached;

“Parking period” means that period reflected on a parking meter or any one day during which vehicles are permitted to park in a parking ground 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 on which are reflected the following:

- (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;

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

“Pound” means any area or place set aside by the Council for the custody of vehicles removed from a parking ground 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 section 10G (7)(a)(ii) of the Local Government Transition Act, 1993 (Act No. 209 of 1993), or any other applicable legislation.

2. PARKING FEES

Any person making use of parking ground or parking bay must pay the prescribed fees.

CHAPTER 1
TICKET-CONTROLLED PARKING GROUND

3. CONDITIONS OF PARKING IN A TICKET-CONTROLLED PARKING GROUND

- (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 parking ground, wherein parking is controlled by the issue of tickets –
- (a) except in a parking bay and in compliance with such directions as 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 ground is full; or
 - (c) after the expiry of the parking period.
- (2) (a) No person may remove or cause or permit the removal of any vehicle in a parking ground unless –
- That person has produced to the authorised official a ticket authorising him or her to park in the parking ground which was issued to such person upon entering or leaving the parking ground; and
- That person has paid to the authorised official the prescribed fee;
- and if the person fails to produce a ticket authorising the person to park in such parking ground, the person shall be deemed to have parked the vehicle from the beginning of a period as prescribed until the time the person wants to remove the vehicle and he or she shall be charged accordingly.
- (b) (i) No person may, after failing to produce a ticket, remove or cause or permit the removal of any vehicle parked in the parking ground until that person has produced other proof, to the satisfaction of an authorised official, of his or her right to remove such vehicle.
 - (ii) The authorised official must require the person referred to in sub-paragraph (i) to complete and sign such an indemnity form as is prescribed by Council, which will have the effect of indemnifying the Council against claims of whatever nature by any person relating to the removal of that vehicle.
 - (iii) The authorised official may require such person to furnish such security as the prescribed by the Council.
- (3) The provisions of sub-section (2) (a) does not apply where the prescribed fees were paid upon entering the parking ground and the person who paid such fees produces the required ticket to the authorised official on demand.
- (4) Where a vehicle has not been removed from a parking ground by the end of the parking period for which the prescribed fee has been paid, a further charge as prescribed is payable for the next parking period.

4. MECHANICAL PARKING GROUNDS

- (1) Where the actual parking of a vehicle is effected wholly or partly by means of a mechanical device in a parking ground, an authorised official may, if parking bays are available, issue to a person who wants to park a vehicle at the parking ground, a ticket in terms of which the Council authorises the parking of such vehicle in that parking ground.
- (2) No vehicle parked in a parking ground referred to in subsection (1) may be removed by any person unless –

- (a) Payment of the prescribed fee is made to the authorised official; and
 - (b) That person has produced to the authorised official the ticket issued to him or her in terms of subsection (1) or failing the production of such ticket the provisions of section 3 (2) (b) will apply with the necessary changes.
- (3) No person who has caused a vehicle to be parked in a parking ground referred to in subsection (1) may allow it to remain therein after expiry of the parking period.

5. MONTHLY TICKETS

- (1) Notwithstanding anything to the contrary contained in these By-laws, the Council may in respect of any parking ground controlled by the issue at the prescribed fee a ticket which entitles the holder for one calendar month or any lesser period stated therein, to park a vehicle in that ground at the times stated in the ticket, if parking bays are available.
- (2) The Council may issue to any of its officials a ticket, which entitles the holder, when using a vehicle regarding the business of the Council, to park it in a parking ground specified, if space in the parking ground is available.
- (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 specified vehicle, 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 is readily legible from the outside of the vehicle.

6. VEHICLES OF EXCESSIVE SIZE

Unless a road traffic sign displayed at the entrance to a parking ground indicates otherwise, no vehicle, which together with any load, exceeds 5m in length, may be parked in a parking ground.

**CHAPTER 2
PARKING METER PARKING GROUNDS**

7. 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 ground otherwise than a parking bay.

8. CONDITIONS OF PARKING

- (1) No person may park a vehicle to be parked in a parking bay unless a coin or other prescribed object is forthwith inserted -
 - (a) into the meter allocated to such parking bay; or
 - (b) If the meter controls more than one parking bay, in the meter controlling such bays as indicated by markings or signs on the road or sidewalk;

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.

Provided that –

- (i) subject to subsection (4), a person may, without such payment, park a vehicle in a vacant parking bay for such part of any period as the parking meter may indicate to be unexpired; and

- (ii) where a person has ascertained that the parking meter in any parking bay is not operating properly he or she must, subject to subsection (5), be entitled to leave a vehicle in that bay without inserting a coin or other prescribed object.
- (2) The insertion of a coin or other prescribed object into a parking meter will entitle the person inserting it to park a vehicle in the appropriate parking bay for the period corresponding with the payment so made.
- (3) 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 such period into the parking meter allocated to any such bay, must be in accordance with the charge as prescribed and the periods be clearly indicated on the parking meter itself.
- (4) Subject to the provisions of subsection (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 a period as indicated by the parking meter or return the vehicle to that bay within fifteen minutes after that expiry, or obstruct the use of that bay by any other person.
- (5) If the Council displays in a parking bay, a sign prescribing a maximum period for continuous parking which differs from that specified by the parking meter, any person may, subject to the provisions of subsection (1) and (3), park a vehicle in that bay for the period so prescribed or for any shorter period, but no person may park a vehicle for any period in excess of the prescribed period.

9. OFFENCES 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;
 - (ii) an object, which is prescribed as another method of payment.
- (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;
- (f) remove or attempt to remove or obscure a parking meter or any part thereof from the post or other fixture to which it is attached.

10. PROOF OF TIME

The passage of time as recorded 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 time that the vehicle has been parked in a parking bay.

CHAPTER 3
PAY AND DISPLAY PARKING AREAS

11. PARKING

- (1) No person may park or cause or permit to be parked any vehicle or allow a vehicle or remain in a pay and display parking area unless immediately upon entering such 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 1,5m 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) (a) 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 such period into the pay and display machine.
- (b) 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.

12. OFFENCES 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;
- (c) remove or attempt to remove a pay and display machine or any part thereof from its mounting.

13. PROOF OF DATE AND TIME OF DEPARTURE

The date or day and time of departure as recorded by a pay and display machine is taken on the face of it to be correct evidence of date or day and time, unless the contrary is proved.

CHAPTER 4
MISCELLANEOUS

14. CLOSURE OF PARKING GROUNDS

Notwithstanding anything to the contrary contained in these By-laws, the Council may at any time close any parking ground 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 ground closed or at the portion closed, as the case may be.

15. DEFECTIVE VEHICLES

No person may park or cause or permit any vehicle to be parked or to be or remain in any parking ground which is mechanically defective or for any reason incapable of movement but no offence is committed if a vehicle which, after having been parked in a parking ground,

develops a defect which immobilises it and the person in control of it proves that he or she took reasonable steps to have the vehicle repaired or removed within a reasonable time.

16. PARKING OF A VEHICLE IN PARKING GROUND

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 ground.

17. CLEANING AND REPAIR OF VEHICLE

No person may in any parking ground clean, wash, work on or effect repairs except minor emergency repairs, to any vehicle or any part thereof except with the prior written consent of the Council.

18. PARKING ACCORDING TO INSTRUCTION

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

19. TAMPERING WITH VEHICLES

(1) No person may in any parking ground without reasonable cause or without the knowledge and consent of the owner or person in lawful control of a vehicle, enter or climb upon such vehicle or set the machinery 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 ground –

(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 such a bay;

(b) Do any act or introduce anything which obstructs or is likely to obstruct the movement of persons and vehicles;

(c) 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 authorising him or her to do so.

20. PERSONS PROHIBITED FROM BEING IN PARKING GROUND

No person may enter or be in a parking ground otherwise than for the purpose of parking a vehicle therein or lawfully removing it there-from unless authorised thereto by the Council.

21. ABANDONED VEHICLES

(1) Any vehicle which has been left in the same place in a parking ground for a continuous period of more than (7) days may unless otherwise authorised by the Council be removed by at the instance of an authorised officer as defined in the National Road Traffic Act, to the Council's pound.

(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 (90) 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 at a public auction.

(3) Fourteen (14 days' prior notice of an auction sale to be held in terms of subsection (2) must be published in at least two (2) newspapers circulating within the municipal area of the Council, but the sale may not proceed if at any time before the vehicle is sold,

such vehicle is claimed by the owner or any person authorised by the owner or otherwise lawfully entitled to claim the vehicle and all prescribed fees payable in respect thereof in terms of these By-laws and all costs referred to in subsection (4) is paid to the Council.

- (4) The proceeds of a sale concluded in terms of this section must be applied first in payment of the fees 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, publishing in two (2) newspaper, and effecting the sale of the vehicle;
 - (c) The costs of keeping the vehicle in the pound which must be calculated at the prescribed rate and any balance of the proceeds 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 (1) year of the date of the sale, the balance will be forfeited to the Council.

22. 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.

23. MEDICAL PRACTITIONER EXEMPT

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

24. OFFENCES AND PENALTIES

Any person who –

- (a) contravenes or fails to comply with any provisions 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 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 or in default of payment to imprisonment for a period not exceeding 6 months.

25. CONFLICT OF LAWS

If there is any conflict between these bylaws and any other bylaws of the council, these bylaws will prevail.