

## **PROPOSED BY-LAWS FOR THE NGWATHE LOCAL MUNICIPALITY**

### **PUBLICATION OF DRAFT BY-LAWS FOR COMMENT: COMMONAGES BY-LAWS**

1. The following draft Commonages By-Laws for the Ngwathe Local Municipality contained in the Schedule hereto, are hereby in terms of Section 12(3)(b) of the Local Government: Municipal Systems Act No. 32 of 2000 published for public comment to enable the Council to consider the adoption thereof after comments have been received and considered.

2. Written comments must be handed in at the office of the Municipal Manager, Municipal Offices, Liebenburg, PARYS or posted to the Municipal Manager, P.O. Box 359, PARYS, 9585 or faxed to the Municipal Manager at number 056 816 2700 or sent by e-mail to the Municipal Manager to: **mmadmin@ngwathe.co.za**

3. Comments must reach the office of the Municipal Manager not later than 21 (twenty one) calendar days after the date of this publication. Comments received after this date will not be considered.

4. Copies of the draft By-Laws will also be available for perusal at the library and Municipal Offices in the Office of the Director: Corporate Services during normal office hours. A copy of these draft By-Laws may also be obtained from the aforementioned offices at a nominal fee. These draft By-Laws are also published on the municipal website at **www.ngwathe.fs.gov.za**.

5. Persons who are not able to read or write and who wish to comment on these draft By-Laws will be assisted by the Director: Corporate Services during office hours at the Municipal Offices in the aforementioned offices Mr T Motshoikha (Director: Corporate Services) can be contacted at 056 816 2700 for an appointment.

DR. F P Mothamaha

**MUNICIPAL MANAGER**

**SCHEDULE**  
**DRAFT BY-LAWS RELATING TO COMMONAGES**

**Purpose of Draft By-Laws**

The purpose of these draft by-laws is to set aside land identified as commonage for the pasture of animals and for the purpose of establishing garden allotments; to assist with local development and provide for an inexpensive portion of land; to provide for the conservation of the commonage through the prohibition of certain activities, the damaging of vegetation, bird- and animal life and to provide for matters incidental thereto.

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### **Definitions**

1. In these by-laws, unless the context otherwise indicates, words referring to -
  - (a) the singular includes the plural and vice versa;
  - (b) any one gender includes both genders, and -

**"animal"** means any cattle, sheep, goat, horse, mule, donkey, pig, and ostrich or the hybrid of such animal; and

**"commonage"** means any land or portion of land which is in possession or under the control of the municipality and set aside by the municipality for the purposes of establishing grazing camps for animals or plots for gardening or other economic activity;

**"municipal area"** means any land situated inside the area of jurisdiction of the Municipality of which the Municipality is the owner, but outside the boundaries of any residential area;

**"Municipality"** means Ngwathe Local Municipality as established in terms of Section 12 of the Municipal Structures Act, 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;

**"Municipal Manager"** means the person appointed in terms of section 82 of the Local Government: Municipal Structures Act 1998 (Act No. 117 of 1998);

**"permit holder"** means the person to whom a permit has been issued by the Municipal Manager in terms of these by-laws;

**"plot"** means any portion of a commonage set aside by the municipality for other purposes than grazing.

### **Reserving Land As Commonage**

2. The Municipality may by resolution, subject to the provisions of any law or any restrictions regarding the use of land in the title deed of that land:
  - (1) reserve suitable municipal land as commonage,
  - (2) at any time add defined municipal land to the commonage so reserved, and
  - (3) at any time, partly or wholly withdraw any land which forms part of the commonage.

### **Grazing permit required to graze animals on commonage**

3. A person shall not graze animals on the commonage of the Municipality, unless; (1) he is the holder of a grazing permit issued by the Municipality, subject to the conditions of such permit stipulating the camp number in the commonage and the number and kind of animal to be kept in the camp;
- (2) the animal is the progeny of a female animal grazed in terms of a grazing permit contemplated in sub section (1) and is not older than 8 months; and
  - (3) he has paid the commonage fees, determined by the Municipality, in respect of the period for which the grazing permit was issued; and
  - (4) a permit holder is partly or wholly be exempted of such payment in terms of the indigent policy of the Municipality.

### **Application for and issue of grazing permit**

4. (1) An application for a grazing permit must -
- (a) be directed to the Municipal Manager;
  - (b) be on the prescribed form made available by the Municipality for this purpose;
  - (c) contain adequate proof that the applicant is a permanent resident within the area of jurisdiction of the Municipality; and
  - (d) contain such further particulars as the Municipality may require.
- (2) When considering an application, the Municipal Manager must take into account the availability and condition of land in the commonage of the Municipality to accommodate the required number of animals for which application is made;
- (3) After due consideration of the application, the Municipal Manager must - (a) issue the permit as applied for by the applicant;
- (b) issue a permit for a lesser number of animals than applied for; or
  - (c) give written notification to the applicant that his or her application was unsuccessful and state the reasons thereof.
- (4) An aggrieved person may in terms of section 62(4)(b) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), appeal to the Municipality against a finding of the Municipal Manager.
- (5) A permit for the grazing of animals on the municipal commonage is —
- (a) valid for one year or less and all permits shall lapse on the last day of June of each year;
  - (b) subject to the conditions set out in the permit, and;

- (c) subject to prior payment of the fees determined by the Municipality.
- (6) The Municipality may withdraw a permit for the grazing of animals on the municipal commonage if the permit holder contravenes or fails to comply with
  - (a) a condition subject to which the permit was issued;
  - (b) any provision of this By-law; or
  - (c) a lawful direction by the Municipal Manager or of the veterinary surgeon appointed by the Municipality.
  - (d) a permit holder must be given an opportunity to give reasons why his permit must not be withdrawn.
- (7) A permit to graze animals on the commonage of the Municipality is not transferable.

#### **Plot Permit Required to Undertake Gardening or Other Economic Activity on Commonage**

5. A person shall not undertake gardening or any other economic activity on any plot set aside for this purpose on the commonage of the Municipality, unless; -
- (1) he is the holder of a plot permit issued by the Municipality, subject to the conditions of such permit stipulating the plot number in the commonage and the kind of economic activity to be conducted on that plot, and
  - (2) he has paid the commonage plot fees, determined by the Municipality, in respect of the period for which the permit was issued; and
  - (3) a permit holder may partly or wholly be exempted of such payment in terms of the indigent policy of the Municipality.

#### **Application for and Issue of Plot Permit**

6. (1) An application for a plot permit must - (a) be directed to the Municipal Manager;
- (b) be in the prescribed form made available by the Municipality for this purpose;
  - (c) contain adequate proof that the applicant is a permanent resident within the area of jurisdiction of the Municipality; and
  - (d) contain such further particulars as the Municipality may require.
- (2) When considering an application, the Municipal Manager must take into account the availability and condition of plots on the commonage of the

- Municipality to accommodate the required economic activity for which application is made;
- (3) After due consideration of the application, the Municipal Manager must - (a) issue the permit as applied for by the applicant, or (b) give written notification to the applicant that his application was unsuccessful and state the reasons thereof.
  - (4) An aggrieved person may in terms of section 62 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), appeal to the Municipality against a finding of the Municipal Manager.
  - (5) A plot permit for gardening or any other economic activity on the municipal commonage is issued —
    - (a) for a period of one year or less and all plot permits shall lapse on the last day of June of each year;
    - (b) subject to the conditions set out in the permit, and;
    - (c) subject to prior payment of the fees determined by the Municipality.
  - (6) The Municipality may withdraw a plot permit for gardening or other economic activity on the municipal commonage if the permit holder contravenes or fails to comply with —
    - (a) a condition subject to which the permit was issued;
    - (b) any provision of this By-law; or
    - (c) a lawful direction by the Municipal Manager, and
    - (d) a permit holder must be given an opportunity to give reasons why his permit must not be withdrawn.
  - (7) A plot permit to undertake gardening or other economic activity on the commonage of the Municipality is not transferable.

### **Management and Maintenance of Commonage**

7. (1) The Municipal Manager is responsible for the proper management and maintenance of all land forming part of the commonage.
- (2) The Municipality will have the right to gather all animals on the commonage from time to time to ascertain if the animals are registered with the Municipality. All animals, which are not registered, will be impounded.
- (3) It is the owner's responsibility to mark and register his animals.

### **Appointment of Veterinary Surgeon**

8. The Municipality must appoint a veterinary surgeon on a full time or part time basis, to fulfil the functions prescribed by or under any law relating to animals.

### **Appointment of Municipal Commonage Inspector**

9. The Municipality must appoint a commonage inspector on a full time or part time basis, to fulfil the functions prescribed by the municipal manager

### **Commonage Management Committee**

10. (1) Commonage users of each town may establish a commonage management committee facilitated by the municipal manager as set out in Annexure A;
- (2) The provisions of sections 3, 4, 5 and 6 are not applicable to a commonage management committee;
  - (3) The municipal manager in the event of leasing the commonage in a town to a functioning commonage management committee may not issue grazing or plot permits to any individual person or group of persons on that commonage;
  - (4) The municipal manager shall lease the whole commonage in a town to a commonage management committee established in sub section (1) for a period not exceeding 9 years under such conditions as determined by the Council;
  - (5) The commonage management committee may sub-let grazing camps or garden plots to specific interest groups recognised by the commonage management committee
  - (6) The lease agreement contemplated in sub section (3) and the agreements contemplated in sub section (4) shall lapse when the commonage management committee ceases to exist, in which event the municipal manager must:-
    - (a) Consider the re-allocation on application by each permit or plot holder of such camp(s) or plot(s) that were allocated to him or her by the commonage management committee; and
    - (b) Apply sections 3, 4, 5 and 6 where applicable to each applicant before the issue of a grazing or plot permit to such applicant.

### **Functions of the Municipal Manager**

11. The Municipal Manager must: —
- (1) Divide each piece of land reserved as commonage in terms of section 2, in separate camps suitable for the grazing of animals or gardening plots, allocating a number to each camp and garden plot;

- (2) Provide, in each camp or plot such facilities as may be necessary for the maintenance of animals or gardening in that camp or plot;
- (3) Compile proper maps of each piece of land reserved as part of the commonage, indicating at least the boundaries of camps, plots, gates and waterholes;
- (4) Allocate the animals of each permit holder, lessee or renter to a specific camp or camps and notify such permit holder accordingly;
- (5) Ensure that the necessary infrastructure (fences, water, roads etc) is in place before any permit is issued or lease or rental agreements are entered into;
- (6) Ensure that leases or rental agreements are fair and fully understood by the lessee or renter
- (7) Ensure that both Municipality and lessees adhere to the commonage management plan.
- (8) Ensure that commonages are accessible to persons registered as indigent in terms of the municipality's indigent policy and endeavour to terminate as soon as possible any leases or users agreements with any institution or person other than registered indigent persons
- (9) develop and implement a proper program of rotation of grazing on land reserved as commonage by the Municipality; and
- (10) keep proper records, open for public inspection, regarding-
  - (i) all permit or lease holders or rentees;
  - (ii) dates of expiry of all permits;
  - (iii) payments or exemptions of payment of all permit holders, and any other matter which, in the opinion of the Municipal Manager, needs to be recorded.

### **Prohibited Actions**

12. (1) A person is not allowed to keep any animal in any residential area or on the boundaries thereof
- (2) A person is not allowed to keep a pig on the commonage in any place other than in an enclosure or cage as approved by the municipal manager;
- (3) A person is not allowed to keep any animal on the commonage of which he is not the bona fide owner;
- (4) A person is not allowed to kill and or slaughter any animal on the commonage, save for the purpose of disposing of the carcass of a dead animal.
- (5) A person is not allowed in, on or at any of the Municipality's water resources without prior written approval from the Municipality;

- (6) A person shall not erect any hut, shelter, kraal, habitation or structure of any kind nor occupy, camp or squat on any portion of the commonage or in any street, or road, thoroughfare or public place without the consent of the Municipality;
- (7) A person shall not without prior permission of the Municipality, accumulate, dump or deposit or cause to be accumulated, dump or deposited on any portion of the commonage any scrap or waste;
- (8) A person shall not on grazing camps of the commonage dig or remove soil, clay, sand, gravel or boulders without a valid and current permit issued by the municipality;
- (9) A person shall not make bricks, or erect brick-, lime - or charcoal kilns, on the any land within the municipal area, or on land under control of the municipality, without prior written consent of the Municipality, except on land denoted for such purposes in terms of an approved spatial development plan and zoning scheme and further subject to payment of the fees determined by municipality;
- (10) A person shall not cut, damage, burn, destroy, gather or remove any plants, shrubs, trees, timber, firewood, brushwood, manure or any grass growing or being upon any portion of grazing camps on the commonage without prior written permission of the Municipality;
- (11) A person shall not interfere with or cause damage to any fence, gate, drinking trough, water tap or other appliance or thing, or set fire to the pasture or any bush, tree, shrub on the commonage;
- (12) A person shall not make use of any road over the commonage other than such roads as shall be allowed open by the municipality from time to time;
- (13) A person shall not deposit or in any way leave any poison for whatever purpose on the commonage without the written permission of the municipality;
- (14) The municipality may cause traps to be set for vermin on the commonage and any person interfering with or damaging such traps in any way or letting loose or removing or causing to be loosened or removed any vermin from such traps or in any way disposing of any bodies from such a trap without the prior approval of the municipality, shall be guilty of an offence;
- (15) A person shall not kill, catch, capture, hunt, remove or attempt to kill, any game on the commonage;
- (16) A person shall not set traps of whatsoever description on the commonage without the prior written consent of the municipality;

- (17) A person shall not remove any bees, hives or honey from the commonage without the written permission of the Municipality;
- (18) A person shall not hunt, shoot, catch, disturb or kill any wild bird on the commonage or destroy or disturb the nest of any wild bird, nor shall any person remove the eggs or young thereof from such nest, and
- (19) If the Municipality is of the opinion that it is in the public interest, it may, for such period and subject to such conditions as it may deem fit, exempt any person, group or category of persons in writing from compliance with any prohibited action in terms of this section.

### **Prevention of Veld Fires**

13. A permit holder, lessee or renter must provide and maintain on the commonage a firebreak as determined by the municipal manger: Provided that in the event of a failure by the permit holder, lessee or renter to provide and maintain such fire break, the municipal manager may provide and maintain a firebreak and recover the costs thereof from such permit holder, lessee or renter.

### **Liability**

14. The permit holder shall be liable for:-
- (1) Any damage or claims, which originate from damage caused by his animal or animals outside the commonage, and.
  - (2) Any damage to or loss of the infrastructure or installations on a grazing camp or plot at the expiry of the permit.

### **Transitional Arrangements**

15. Any permission obtained, right granted, condition imposed, activity permitted or anything done under a repealed law, shall be deemed to have been obtained, granted, imposed, permitted or done under the corresponding provision (if any) of this By-law, as the case may be.

### **Penalties**

16. (1) A person who contravenes or fails to comply with any provision of this By-law or any requirement or condition hereunder, shall be guilty of an offence.
- (2) A person convicted of an offence in terms of subsection (1) shall be liable to a fine or to imprisonment for a period not exceeding one year, or to both a fine and such imprisonment.

### **Repeal of by-laws**

17. Any by-laws relating to commonages 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**

18. These by- laws shall be called the Municipal Commonage By -l a w, 2025

## **ANNEXURE A Commonage Management Committee Structure**

1. The municipal manager should facilitate the commonage users of each town to form interest groups representative of all like-minded users who must develop a constitution, ground rules, and an informed leadership structure who will manage the group's production and financial affairs positively;
2. Each interest group must develop and maintain a management plan for the respective enterprises of that interest group;
3. Two members of an interest group should be elected to a Town Management Committee;
4. The Town Management Committee should elect three or four representatives (or one each from the interest groups) to the Municipal Commonage Management Committee;
5. Each Town Commonage Management Committee must develop and maintain an overall commonage management plan for the town;
6. The Municipal Commonage Management Committee is the accountable body for all lease agreements, commonage management plans, maintenance of assets, collecting of rentals from the interest groups and the paying over thereof to the Municipality.