

By-laws A summary

Topic: By-laws

IN A CALABASH

Introduction

There are three spheres of government in South Africa:

- National government;
- Provincial government; and
- Local government.

The Constitution states that the three spheres of government are distinctive, inter-related and inter-dependent. At the same time, they all operate according to the Constitution and laws and policies made by the national legislature.

All three spheres of government have the responsibility to make policies and laws about the rights and responsibilities of citizens and the delivery of government services.

The laws made by National Government are known as National Acts.

The laws made by Provincial Government are known as Provincial Acts.

The laws made by Local Government are known as by-laws.

Objectives of By-laws

Municipalities have the responsibility to provide their residents with a variety of public services including services pertaining to water, electricity, refuse and waste removal, emergency services, hospitals clinics, heritage and local tourism services.

In order to regulate the various affairs of and services provided within a municipality's area of jurisdiction, by-laws are written and passed by the municipal council.

A municipality derives the power to pass a by-law from the Constitution (per Schedule 5).

Application of the By-laws and their implication to Tourism

By-laws apply to all persons residing or operating any business, service, operation or enterprise within a municipal area.

Summary of the provisions of the By-laws

By-laws cover various local government issues such as public roads, parking grounds, public open spaces, street trading, public health, cemeteries and crematoria, emergency services, culture and recreation services and encroachment on property.

The following are examples of the more typical by-laws which will be in place in a municipality:

- Electricity delivery This by-law sets out electricity tariffs, help desk contact numbers and service levels;
- Water for household use This by-law sets out water connection procedures, water costs and service fees or tariffs, help desk contact numbers and service levels;
- Sewage and sanitation This by-law sets out service levels, help desk details, obligations to remove or dispose of sewerage, when sanitation services will take place and maintenance duties.;
- Storm water systems This by-law sets out maintenance, layout, access, help desk, emergency services, what water types can be disposed of in municipal sewers and drains, water/sewerage specifications, monitoring obligations and related tariffs;
- Refuse removal This by-law sets out bin requirements, types of waste allowed, tariffs and times when removals will take place;
- Fire fighting services–This by-law sets out the fire fighting services available, places where services operate from, tariffs and charges, emergency requirements, fire fighting equipment requirements and details pertaining to fire services, hazardous substances and fire breaks;
- Emergency service This by-law sets out details regarding a variety of emergency services, use and storage of hazardous substances, disposal of waste and hazardous substances, water floods and damage and related services, tariffs and obligations on citizens;
- Municipal health services This by-law sets out details of public health care services such as clinics and facilities and related fees;
- Municipal public transport This by-law sets out details of public transport services, standards, fees and charges, availability, routes and conditions;
- Street trading This by-law regulates hawkers, street trading and open-air functions;
- Abattoirs and fresh food markets This by-law regulates health conditions, standards, tariffs and agents;
- Parks and recreational areas This by-law sets out conditions of use, liability and access requirements;
- Libraries and other facilities This by-law sets out facilities, locations, services and fees; and
- Building and development These by-laws detail building requirements, specifications, the need for permits and approval of plans and inspections.

A number of the above by-laws will

- set down standard health and safety practices, sanitary practices and hygiene requirements;
- require a person or operation to hold a permit, such as a food outlet, restaurant or canteen permit, a permit to operate a facility of a specific kind, a permit to sell or distribute certain products or a permit to release or dispose of certain by-products and waste products;
- set and determine service levels;

- set and determine obligations which are imposed on the public or a trading entity; and/or
- set and determine fees, tariffs and charges in respect of services.



WHAT HAPPENS IF YOU DO NOT COMPLY?

Most by-laws are now available on the respective municipality's website or, alternatively, can be obtained from the municipality. All trading entities should familiarise themselves with those by-laws which apply to their operation and ensure that they are complied with at all times.

Each by-law will detail the respective sanctions for non-compliance, which usually is in the form of a fine.



RECOMMENDED ACTIONS OR CONTROLS WHICH SHOULD BE IMPLEMENTED BY THE TARGET AUDIENCE TO ENSURE COMPLIANCE WITH THE BY-LAWS

In order to demonstrate compliance with by-laws, the following controls must be in place:

- Awareness of applicable by-laws;
- Checklists to ensure compliance with applicable by-laws;
- Permits and payment of fees where applicable;
- Renewal of permits or approvals;
- Notices and reports submitted where required; and
- Payment of local tariffs and charges.

FURTHER INFORMATION

Regulator

Local authority or municipality where you operate or reside.