
BLOUBERG LOCAL MUNICIPALITY

SPORT AND RECREATION FACILITIES BY-LAW

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996 the Municipal Council of the Blouberg Local Municipality, hereby enacts as follows:

PREAMBLE

The Blouberg Local Municipality –

- (i) recognize the right of the community to use and utilize as individuals and / or organized groups, public sport facilities for sport activities;
- (ii) accept the responsibility to utilize the resources of the Blouberg Local Municipality in the best interest of the community, for the development and maintenance of municipal sport facilities; and
- (iii) is of intention to control and administer the developed municipal sport facilities by means of the provisions of this by-law to the benefit of the community.

TABLE OF CONTENTS

1. Interpretation
2. Application of the by-law

CHAPTER 1: ADMINISTRATION, ACCESS, TARIFFS AND PROHIBITED CONDUCT

3. The administration of, control over and maintenance of sport facilities
4. Access to municipal sport facilities
5. Prohibited conduct

CHAPTER 2: ORGANIZED SPORT ACTIVITIES

6. Organized use of municipal sport facilities
7. Booking and leasing of municipal sport facilities
8. Cancellation, postponement or extension of bookings
9. Termination of lease agreements for municipal sport facilities
10. Duties of sport organizations as lessees

CHAPTER 3: GENERAL PROVISIONS

11. Appeals
12. Offences and penalties
13. Serving of notices and other documents
14. Conflict between legislation
15. Repeal of by-laws
16. Short Title

17. Operative date

1. INTERPRETATION

In this by-law, the English text prevails in the event of any conflict with the Afrikaans text, and unless the context indicates otherwise –

“authorized official”, means any peace officer authorized in terms of section 334 of the Criminal Procedures Act, 1977 (Act No 51 of 1977), as amended, or any employee of the Blouberg Local Municipality, who is authorized by the Blouberg Local Municipality to enforce the provisions of this by-law;

“appurtenance”, means any accessories, installation, mechanism, contrivance, instrument, apparatus, machine and implement, on or at the premises of a sport facility;

“Municipality”, means the Blouberg Local Municipality, and includes reference to any duly delegated and / or appointed officials and / or service providers in terms of service level agreements of the Blouberg Local Municipality;

“municipal sport facilities”, means any land, area, premises, track, field, building, facility or structure, or any part thereof, which is owned, managed or controlled by the

Blouberg Local Municipality, and which are designated, demarcated, reserved or used for sport activities, and include any contrivance, equipment, apparatus, pavilion, change room, ablution or storage facility on or at such facility, which are normally associated with such sport facility, and includes any references to **“facility”** and **“amenities”**;

“organized sport activity”, means a sport meeting, game of sport, sport demonstration or sport practice, which are organized, held or controlled by a sport organization, sport body or sport club, or any other institution or person;

“sport activity”, means the participation in any organised sport activity, and includes participation in training sessions;

“sport accessories”, means any equipment, contrivance, apparatus, object or any other item required for a specific type of sport and used on or at a sport-field, sport arena, sport facility or athletics track, irrespective whether such accessory is fixed, movable or removable;

“sport organization”, means a sport club, sport body or an association or group of persons who are participating in or are coaching or managing a sport;

“sport equipment”, has a similar meaning as **“sport accessories”**;

“under the influence of liquor or drugs”, means a person, who as a consequence of the abuse of liquor and / or drugs, to such an extent lost control over his or her mental or physical ability or both, that he or she is no longer able to maintain or behave himself or herself, or is not capable of performing any action without endangering himself or herself or other persons, or is misbehaving in such a way that it is infringing on the constitutional rights of other persons;

2. APPLICATION OF THE BY-LAW

This by-law shall be applicable for all sport facilities under the control and administration of the Municipality.

CHAPTER 1: ADMINISTRATION, ACCESS, TARIFFS AND PROHIBITED CONDUCT

3. THE ADMINISTRATION OF, CONTROL OVER AND MAINTENANCE OF SPORT FACILITIES

- (1) The Municipality may establish a sport committee or body, with the aim of advising the Municipality on matters related to municipal sport facilities.
- (2) The Municipality shall administer all municipal sport facilities or any other sport facilities under the control of the Municipality, in terms of the provisions of this by-law and / or provisions as determined by the Municipality for a specific sport facility.
- (3) The Municipality may acquire land or buildings, with the aim to develop local municipal sport facilities, or may dispose of existing sport facilities or any rights thereto, in terms of the objectives of this by-law.
- (4) A person or sport organization who are making use of or are leasing a municipal sport facility, shall use or lease such municipal sport facility subject to the provisions of this by-law and in terms of conditions as determined from time to time by the Municipality.
- (5) No lessee or user of a municipal sport facility shall, subject to the provisions and conditions of any lease agreement for a municipal sport facility, applicable provincial and national statutory stipulations and the provisions of the Liquor Trading Days and Hours By-law of the Blouberg Local Municipality –
 - (a) bring his or her own supply of liquor to a sport facility, without the prior approval of the Municipality and the liquor license holder; or
 - (b) sell any liquor at a sport facility, without the prior approval of the Municipality and a liquor licence as required.
- (6) When the Municipality allows the sale of liquor at a municipal sport facility, the sale and use of liquor shall be subjected to the following conditions -
 - (a) no alcoholic beverages may be served in a glass bottle, glass cup or other container made of glass;
 - (b) beer, cider and alcoholic cordials may only be served in cans, kegs, plastic cups or cups from similar material, and
 - (c) the sport organization, lessee and / or liquor license holder shall maintain good order within the sport facility.
- (7) The Municipality may close a municipal sport facility for use, when –

-
- (a) the facility essentially become useless as a consequence of - (i) vandalism; (ii) any other type of serious damage; or (iii) the non-availability of municipal services.
 - (b) the sport facility constitutes a danger to human life or property; or
 - (c) an emergency has arisen which requires such closure.
- (8) The Municipality may close a municipal sport facility, for purpose of urgent or other repair or maintenance work at such facility, or at the discretion of the Municipality for any other reason.

4. ACCESS TO MUNICIPAL SPORT FACILITIES

- (1) The Municipality may post a notice at or near the entrance of a municipal sport facility, on which the hours is indicated when the public may use the facility.
- (2) The right of access to a municipal sport facility shall be reserved by the Municipality, and an authorized official may instruct a person who contravenes a provision of this bylaw, to immediately leave the premises of a sport facility, and should such person fail to obey such instruction of an authorized officer, the authorized officer may have the person concerned removed.
- (3) The Municipality has the right to determine the maximum capacity of a municipal sport facility in terms of the number of users allowed, and may once the maximum capacity has been reached refuse further access to the facility and may implement measures as required to prevent further access.

5. PROHIBITED CONDUCT

No person shall in or at a municipal sport facility –

- (a) access the facility concerned, except through an entrance designated for that purpose;
- (b) access the facility concerned at any other time without approval, except for the hours designated as the hours when the facility is open for the public;
- (c) smoke in a sport facility, except in those areas designated for the purpose by means of appropriate signage;
- (d) wear footwear that may damage the surface of any field or track at a sport facility;
- (e) dress indecently or be undressed in public;
- (f) relieve or urinate him or herself in public;
- (g) excluding a child under the age of five (5) years, use or enter change rooms or ablution facilities or any facility reserved for the use by persons of the opposite sex;

-
- (h) use profane or indecent language, or behave in such a manner that other persons are offended or a nuisance is created or the public order is disturbed;
 - (i) destroy, damage or deface any part of a sport facility, or sport accessories or appurtenance at a sport facility;
 - (j) dispose of waste in any other way, than in containers provided for it;
 - (k) in any manner interfere with the surface of a sport track or field, or any sport accessories or appearances;
 - (l) unlawfully causing a fire, except in those areas specifically designated for fires at a sport facility;
 - (m) drive a vehicle on a lawn or a track or a field on the premises of a sport facility, except an authorized official or a member of the South African Police in the execution of their duties;
 - (n) do anything which are specifically forbidden by signs and / or notices on a premises;
 - (o) drive or use a motorcycle, three or four wheel quad bike, scooter, electric motor vehicle, bicycle, roller-blade, roller-skate, skate board, tricycle or any other form of transport or entertainment, except when allowed for at a specific facility or when special consent has been granted for it, or when required from an authorized official or a member of the South African Police in the execution of their duties;
 - (p) without the prior written consent of the Municipality and the applicable food preparation license of the competent authority, sell, hawk, advertise, offer for sale or exhibit any article or goods for sale or lease, or distribute a pamphlet, book, advertisement, handbill or other printed material;
 - (q) interfere with an authorized official in the execution of his or her duties at a sport facility in terms of this by-law;
 - (r) bring or allow any animal into a sport facility, when the presence of animals are specifically prohibited by signs at the sport facility, or without a lead or halter, or without direct supervision by a competent person, but excluding a guide dog accompanying a blind or a disabled person, or an animal used by an authorized official or a member of the South African Police in the execution of their duties, or when prior consent has been given by the Municipality;
 - (s) bear, display or use a firearm or any other dangerous weapon, except an authorized official or a member of the South African Police in the execution of their duties;
 - (t) without the prior written consent of the Municipality, erect or attempt to erect any tent or similar construction, stall, booth, stand, screen, or fence;
 - (u) bring into a sport facility, or use any substance or matter or apparatus, which may endanger the safety of people or which can be used to disrupt proceedings or disturb public order; and

-
- (v) be under the influence of liquor and / or drugs.

CHAPTER 2: ORGANIZED SPORT ACTIVITIES

6. ORGANIZED USE OF SPORT FACILITIES

- (1) The Municipality may allow the use of municipal sport facilities by sport organizations affiliated to national sport federations or other members of the public.
- (2) An organization to which a sporting facility or a portion thereof has been allocated for use on a regular basis, shall ensure that the facility concerned is properly used and utilized.
- (3) When an organization fails to properly use or utilize a municipal sport facility or any part thereof, allocated to such organization by the Municipality, the Municipality may suspend or cancel the continuation of use by such organization of the sport facility concerned.

7. BOOKING AND LEASING OF MUNICIPAL SPORT FACILITIES

- (1) The Municipality may make a municipal sport facility available in terms of such conditions and fees determined by the Municipality, for lease for purpose of organized sport or for sport days or for special occasions, or may make it available for use free of charge or grant admission free of charge to certain persons.
- (2) The representative of an organization or a person that is of intention to lease a municipal sport facility must complete a prescribed application form and submit it to the Municipality for consideration.
- (3) The Municipality shall when considering the application, as contemplated in subsection 7(2) of this by-law, except for other relevant factors that may be applicable, take the following matters specifically into consideration -
 - (a) the principles and objectives of this by-law;
 - (b) that the sport facility should be used primarily for sport activities or for such other activities that may be approved from time to time;
 - (c) that the intended use of a sport facility should not create a nuisance for other users of the sport facility concerned, or for the occupants of adjoining premises; and
 - (d) that the use of the facility will not constitute a danger to any person or property or shall negatively affect the environment.
- (4) The Municipality may approve the use of a sport facility subject to the conditions as contemplated in subsection 7(3) of this by-law, or can refuse approval.

-
- (5) The Municipality shall notify the involved applicant in writing, whether the application has been approved or refused, and –
 - (a) when an application has been refused, the reasons why the application has been refused shall be provided to the applicant, or
 - (b) when an application has been approved, a notice of approval shall be provided to the applicant, which shall specify the conditions of use.
 - (6) An applicant may not advertise or announce a sport activity or sport meeting for which an application has been submitted, before the Municipality provide approval that such advertising or announcement may take place.
 - (7) The Municipality may before an application is approved, as contemplated in subsection 7(4) of this bylaw, require from the applicant to take out the following insurance policies at an approved and registered insurance company –
 - (a) insurance for an amount as specified by the Municipality, to cover any structural or any other damage on or at the sport facility concerned, as a result of the use thereof; and
 - (b) insurance for public liability, with the Municipality as nominated beneficiary.
 - (8) An applicant which supplies false information on an application form or who deceitfully pretend that the conditions have been complied with, shall be guilty of an offence.

8. CANCELLATION, POSTPONEMENT OR EXTENSION OF BOOKINGS

- (1) An applicant who applied for the use of a municipal sport facility, may cancel such booking, and when any fees have been paid up-front for such facility, the Municipality may pay back the fees to the applicant, in accordance with the tariff policy of the Municipality.
- (2)
 - (a) After approval has been given for the use of a municipal sport facility, an applicant may apply for the postponement of the booking date or for the use of the facility at an alternative date.
 - (b) When an application for postponement or an alternative date has been approved, fees already paid shall be transferred to the new booking date.
 - (c) The Municipality may refuse an application for postponement or an alternative date of use, when the sport facility concerned has already been booked for the alternative date by another applicant or when the shifting of the date of booking is not considered to be desirable.
- (3) An applicant may apply for extension of the period of use of a municipal sport facility, on condition that such application be in writing and that the facility concerned shall be for the requested periods available for use.

-
- (4) The Municipality may cancel the lease of a municipal sport facility, for the reasons as contemplated in section 3(8) of this by-law, or when the Municipality require the facility for municipal purpose for the same period as the lease concerned, subject thereto that fees already paid shall be paid back to the lessee.
 - (5) When the Municipality cancel a booking in terms of the provisions of subsection 8(4) of this by-law, the lessee shall within a reasonable time be informed in writing of the cancellation.
 - (6) The applicant concerned shall subject to the provisions of subsection 8(4) of this by-law, have no claim against the Municipality for any losses incurred because of the cancellation of a booking for a municipal sport facility or for any costs as a result of the cancellation.

9. TERMINATION OF LEASE AGREEMENTS OF MUNICIPAL SPORT FACILITIES

- (1) Prior to or on termination of a lease agreement, the lessee and the Municipality shall inspect the municipal sport facility concerned, to evaluate the condition of the facility.
- (2) The lessee shall –
 - (a) return the municipal sport facility to the Municipality in the original condition it was leased to the lessee;
 - (b) repair any damages or broken items, accessories and appurtenances;
 - (c) clean the sport facility concerned to the satisfaction of the Municipality;and
 - (d) vacate the sport facility concerned within the stipulated time period.
- (3) The Municipality may, when a lessee fails to comply to the provisions of subsections 9(2)(a), 9(2)(b) of 9(2)(c) of this by-law, replace or repair any item, sport accessories or appurtenance of a sport facility, or repair any damages and / or clean the sport facility concerned, and recover the costs thereof from the deposit of the lessee or from the lessee him/herself.
- (4) The Municipality may, when a lessee fails to vacate a municipal sport facility in time, levy an additional tariff for the period exceeding the lease period.

10. DUTIES OF SPORT ORGANIZATIONS AS LESSEES

- (1) Before a sport organization as lessee may take possession of a municipal sport facility for use thereof, the sport organization as lessee shall inspect such facility and report any deficiencies or defects to the Municipality.
- (2) When a lessee fails to report any existing deficiencies or defects, it shall be construed as an acceptance by the sport organization as lessee, that the facility is in an acceptable condition.

-
- (3) The sport organization as lessee shall comply to any conditions stipulated by the Municipality in terms of the provisions of this by-law, and the sport organization as lessee shall implement all reasonable measures, to ensure that the members of the organization, and persons attending sport activities, either as participants, spectators or officials, comply to the provisions of section 5 of this by-law.

CHAPTER 3: GENERAL PROVISIONS

11. APPEALS

A person whose rights are affected by a decision of the Municipality in terms of any delegated powers, may appeal against such a decision in terms of section 62 of the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000), as amended, by giving written notice of the appeal against the decision and the reasons for the appeal to the Municipal Manager, within twenty-one (21) days of the date of the notification of the decision.

12. OFFENCES AND PENALTIES

Any person who -

- (a) fails to comply to the instructions of an authorized official issued in terms of this by-law or a notice on a notice board;
- (b) fails to comply with any notice served in terms of this by-law;
- (c) contravenes any provision of this by-law;
- (d) fails to comply to any instruction posted on a notice board; or
- (e) deliberately obstructs an authorized official in the execution of his or her duties in terms of this by-law,

is guilty of an offence and is liable on conviction, for -

- (i) a fine or imprisonment, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment;
- (ii) in the case of a successive or continuing offence, to an additional fine or additional period of imprisonment, or such additional imprisonment without the option of a fine, or to both such additional fine and such additional imprisonment, for every day such offence continues; and
- (iii) any further amount as an order of court for costs, equal to any costs and / or expenses, deemed by the Court, to have been incurred by the Municipality as a result of such contraventions.

13. SERVING OF NOTICES AND OTHER DOCUMENTS

- (1) A notice, instruction, letter of demand, or other document issued by the Municipality in terms of this by- law is deemed to be duly issued, when a duly delegated official of the Municipality has signed it.

-
- (2) Any notice, instruction, letter of demand, or other document that is served on a person in terms of this by-law, is regarded as having been duly and effectively served –
- (a) when it has been delivered to that person personally;
 - (b) when it has been left at that person's place of residence or business in the Republic of South Africa, with a person apparently older than sixteen years;
 - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic of South Africa, and proof of the posting thereof is provided;
 - (d) if that person's address in the Republic of South Africa is unknown, when it has been served on that person's agent or representative in the Republic of South Africa, in a manner as provided in subsections 13(2)(a), 13(2)(b) or 13(2)(c) of this by-law;
 - (e) if that person's address and agent or representative in the country of South Africa is unknown, when it has been posted in a conspicuous place on the property or premises to which it relates; or

in the event of a body corporate, when it has been delivered at the registered office or the business premises of the body corporate.

- (1) When any notice, instruction, letter of demand, or other document is served on a person in terms of this by-law, it is sufficient for purpose of the serving of the notice, instruction, letter of demand or other document, to describe the person as the owner, occupant, or holder of the property or rights in question, and it is not a requirement to name that person.
- (2) A notice, instruction, letter of demand, or other document shall for purpose of authentication, be properly signed by the Municipality.

14. CONFLICT BETWEEN LEGISLATION

When any stipulation of this by-law, is in conflict with national and provincial legislation or regulations, the national and provincial legislation or regulations shall prevail.

15. REPEAL OF BY-LAWS

The provisions of any by-laws previously promulgated by the Municipality or by any of the disestablished municipalities now incorporated in the Municipality, are hereby repealed as far as they relate to matters provided for in this by-law.

16. SHORT TITLE

This by-law shall be called the Sporting Facilities By-law of the Blouberg Local Municipality.

17. OPERATIVE DATE

This by-law shall take effect on the date of publication.
