

BY-LAW

To provide for a municipal commonage for the EMTHANJENI municipality;
and for matters connected therewith.

BE IT ENACTED by the Emthanjeni municipality, as follows:-

Definitions

1. In this By-law, unless the context otherwise indicates -

“**Municipality**” means the Emthanjeni municipality;

“**municipal land**” means land situated inside the area of jurisdiction of the Municipality, but outside the boundaries of any township, of which the Municipality is the owner, or of which the control, to the entire exclusion of the owner, is vested in the Municipality;

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

“**this By-law**” includes the prescripts issued in terms of section 7; and

“**township**” a township as defined in section 1 of the Land Survey Act, 1997 (Act No. 8 of 1997).

Reservation of land as common pasture

2. (1) The Municipality may, subject to the provisions of any law or any restriction regarding the use of land in the title deed of that land, by notice in the *Provincial Gazette* and with effect from a date mentioned in the notice –
- (a) reserve as common pasture municipal land;
 - (b) at any time add any additional defined piece or pieces of municipal land to the common pasture so reserved; and
 - (c) subject to the provisions of subsection (2), at any time, withdraw partly or wholly any land which forms part of the common pasture, from the reservation thereof as such pasture.
- (2) The Municipality shall not alienate or deal with the land referred to in subsection (1)(a) or (b) under subsection (1)(c) except –

- (a) after a notice in the *Provincial Gazette* –
 - (i) stipulating which piece or pieces of land it intends to withdraw or alienate;
 - (ii) calling on interested persons to attend a meeting at a venue and on a date mentioned in the notice, to discuss the intended withdrawal or alienation;
 - (iii) stating the intended date or dates of withdrawal or alienation of any such piece or pieces of land; and
- (b) after the lapse of any permit for grazing of stock on the piece or pieces of land it intends to withdraw or alienate.

Office of the Commonage Manager

3. (1) The Municipality shall appoint a person as Commonage Manager, who shall report directly to the Municipal Manager.
- (2) The Commonage Manager shall be responsible for the proper management and maintenance of all land forming part of the commonage.
- (3) In the Office of the Commonage Manager, the Municipality shall appoint –
 - (a) for each piece of land forming part of the commonage, a ranger who shall deal with the day-to-day administration of that piece of land;
 - (b) such persons as may be necessary to maintain proper records regarding land forming part of the commonage, maps, camps, allocation of stock, movement of stock, holders of grazing permits on the commonage, marking of stock, stock disease, payments and other matters regarding the administration of the commonage;
 - (c) a veterinary surgeon on a full time or part time basis, to fulfil the functions prescribed by or under any law relating to stock.
- (4) A single ranger may be appointed for more than one piece of land if the pieces of land are so situated that it is practically possible for one ranger to maintain proper control over each of the pieces of land.
- (5) A ranger shall visit the land for which he or she is appointed on a regular basis and shall, subject to the labour legislation relating to leave, be present on the land for at least one full working day during each week of the year.

- (6) The veterinary surgeon appointed by the Municipality, shall on a regular basis, but at least once every three months, do an inspection on, report on and make recommendations to the Commonage Manager regarding the state of health of each animal on the commonage.

Grazing permit required to graze stock on common pasture

4. No person shall graze stock on the common pasture of the Municipality, unless –
- (a) he or she is the holder of a grazing permit issued by the Municipality and subject to the conditions of such permit;
 - (b) the animal is the progeny of a female animal grazed in terms of a grazing permit contemplated in paragraph (a) and is not older than 6 months; and
 - (c) he or she has paid the commonage fees, determined by the Municipality, in respect of the period for which the grazing permit was issued: Provided that 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 grazing permit

5. (1) Any application for the issue of a grazing permit shall –
- (a) be directed to the Municipal Manager;
 - (b) be in writing on the form made available by the Municipality for that 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) On receipt of the application, the Municipal Manager shall refer it to the Commonage Manager, who shall verify the particulars contained in the application and report thereon to the Municipal Manager.
- (3) When considering the application, the Municipal Manager shall take into account –
- (a) the report of the Commonage Manager;
 - (b) the availability and condition of land in the common pasture of the Municipality to accommodate the required number of stock for which application is made;

- (c) the criteria for categories of preference that applicants shall take as set out in a notice by the Municipality in the *Provincial Gazette*.
- (4) After consideration of the application, the Municipal Manager shall –
- (a) issue the permit as applied for by the applicant;
 - (b) issue a permit for a lesser number of stock than applied for; or
 - (c) in writing notify the applicant that his or her application was not successful and state the reasons therefor.
- (5) A person whose rights are affected may appeal to the Municipality against a finding of the Municipal Manager and, in respect of such appeal, the provisions of section 62 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), shall *mutatis mutandis* apply.
- (6) A permit for the grazing of stock on the municipal common pasture is issued –
- (a) for a period of one year or less and shall lapse on the last day of June of each year;
 - (b) subject to the conditions set out in the permit;
 - (c) subject to prior payment of the fees determined by the Municipality.
- (7) A permit for the grazing of stock on the municipal common pasture may be renewed twice without submitting a new application by paying the renewal fees determined by the Municipality no later than the last day of May of the year in which the permit lapses: Provided that the Municipal Manager may refuse to renew the permit if he or she is of the opinion that –
- (a) due to the condition of the land to which the permit holder's stock is allocated, the permit should not be renewed; or
 - (b) there is sufficient evidence that the circumstances of the permit holder have changed to such an extent that the application of any new applicant must take preference in terms of a notice referred to in subsection (3)(c).

- (8) A permit for the grazing of stock on the municipal common pasture may be withdrawn by the Municipality if the holder of the permit 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 ranger in charge of the land on which his or her stock is grazed or of the veterinary surgeon appointed by the Municipality.
- (9) A permit to graze stock on the common pasture of the Municipality may not be transferred.

Specific tasks of the Commonage Manager

6. The Commonage Manager shall –
- (a) divide each piece of land reserved as common pasture in terms of section 2(1) in camps suitable for the grazing of stock and allocate a number to each camp;
 - (b) provide, in each camp, such facilities as may be necessary for the maintenance of stock in that camp;
 - (c) draft, or cause to be drafted, proper maps of each piece of land reserved as part of the common pasture, indicating at least the boundaries of camps, gates and waterholes;
 - (d) allocate the stock of each permit holder to a specific camp or camps and notify such permit holder accordingly;
 - (e) develop, implement and adjust according to changing circumstances, a proper program of rotation of grazing on land reserved as common pasture by the Municipality; and
 - (f) keep proper records, open for inspection by any person who has an interest therein, regarding –
 - (i) all permit holders;
 - (ii) dates of expiry of all permits;
 - (iii) payments or exemptions of payment of all permit holders,
 and any other matter which, in his or her opinion, needs to be recorded.

Prescripts

7. (1) The Municipality may issue prescripts relating to the control, management and use of the municipal common pasture, including –
- (a) the construction and maintenance of dipping tanks, the moneys payable in connection with the use thereof, and the persons responsible for the payment thereof;
 - (b) the marking of stock kept thereon;
 - (c) the prohibition of the keeping of dangerous and undesirable animals thereon, and the definition of such animals;
 - (d) the prevention and treatment of stock diseases in respect of stock kept thereon, and the exclusion of stock which in the opinion of the veterinary surgeon appointed by the Municipality may spread such diseases;
 - (e) the destruction of carcasses of animals;
 - (f) the impounding of animals trespassing thereon or grazed thereon without a permit;
 - (g) the planting, care and protection, and the destruction, chopping or cutting off of grass, trees, shrubs or any other plants or crop, and the sale thereof;
 - (h) the burning of grass and the eradication of noxious weeds;
 - (i) the hunting of game thereon by any means, including the use of firearms or dogs;
 - (j) the duties and functions of rangers;
 - (k) the prohibition to put out poison; and
 - (l) generally, any matter which the Municipality deems necessary or expedient in connection with the control, management or use of the common pasture or the achievement of the objects of this By-law.
- (2) Any prescript issued in terms of subsection (1) must be published in the *Provincial Gazette*.
- (3) 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 prescripts issued in terms of subsection (1).

Penalty clause

8. (1) Any person who contravenes or fails to comply with any provision of this By-law or any requirement or condition thereunder, shall be guilty of an offence.
- (2) Any 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 laws and savings

9. (1) The following laws are hereby repealed:

All previous by-laws with regard to this matter are hereby repealed.

- (2) 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.

Short title

10. This By-law shall be called the Municipal Commonage By-law, 2008