

LOCAL GOVERNMENT NOTICE

MUNICIPALITY OF GREAT KEI

BY-LAW RELATING TO THE USE AND HIRE OF MUNICIPAL BUILDINGS

The Municipal Manager hereby publishes, in terms of Section 13 of the Local Government :Municipal Systems Act,[Act No .32 of 2000],read with Section 162 of the Constitution of the Republic of South Africa Act ,1996 [Act No .108 of 1996]the By-law Relating to the Use and Hire of the Municipal Buildings.

Purpose of By-law

The purpose of this by-law is to provide for procedures, methods and practices to regulate the use and hire of municipal buildings.

CHAPTER 1

DEFINITIONS

1 Definitions –In this by-law, words used in the masculine gender include the feminine, the singular includes the plural and vice versa, and, unless the context otherwise indicates-

‘appurtenance’ means any installation or appliance in or at municipal building ,and includes ,without derogating from the generality of the a foregoing ,keys ,locks ,windows ,toilets ,basins ,water taps and fittings;

‘authorised official’ means-

- (a) An official of the municipality who has been authorised by it to administer ,implement and enforce the provisions of this by-law;
- (b) A traffic officer appointed in terms of Section 3A of the National Road Traffic Act ,1996[Act No.93 of 1996
- (c) A member of the police service ,as defined in terms of Section 1 of the South African Police Service Act ,1995[Act No .68 of 1995]; or
- (d) A peace officer ,contemplated in terms of Section 1 of the Criminal Procedure Act ,1997[Act No.51 of 1997];

‘municipal building’ means a building ,structure, hall , room or office ,including any part thereof and any part thereof and any facility or apparatus therein ,which is the property of ,or which is managed or leased by ,the municipality ,and to which the general public has access ,whether on payment of admission fees or not;

‘municipality’ means the Municipality of Great Kei ,established in terms of Section 12 of the Municipal Structures Act ,1998[Act No.117 of 1998],and includes any political structure ,political office bearer ,councillor ,duly authorised agent thereof or any employee thereof acting in connection with this by-law 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;

‘notice’ means an official notice displayed at every entrance to ,or at a conspicuous place in or about , a municipal building , and in which the municipality shall make known provisions and directions adopted by it in terms of this by-law;

Nuisance' means, without limiting the generality of the term, an act, omission, condition or state of affairs that-

(a) impedes , offends ,endangers or inconveniences the public at large ;or

(b) causes material inconvenience in the ordinary and comfortable use or enjoyment of property ;

'Person' means a natural or juristic person, and includes a voluntary association of natural or juristic persons;

'Prescribed fee' means the fee determined by resolution of the municipality for hire of a municipal building;

'property' means the land on which a municipal building is situated ;and

'user' means any person who actually utilizes, or who directly benefits from, a municipal building.

CHAPTER 2

USE OF MUNICIPAL BUILDINGS

2. Maximum number of visitors

(a)The municipality may determine the maximum number of visitors who may be present at a specific time in or at a municipal building.

(b)The number contemplated in subsection (a) shall be made known by the municipality by means of a notice.

3. Admission to a municipal building

(1)A municipal building is, subject to the provisions of this by-law, open to the public during the times determined by the municipality, and made known in a notice.

(2)No visitor shall enter or leave a municipal building at a place other than that indicated for such purpose.

(3)The municipality shall ensure that all entrances to and exits from a municipal building are designed so as to accommodate and permit access by disabled visitors.

4.Nuisances

(1)No person shall perform or permit any of the following acts in or at a municipal building-

(a) Discharge of fireworks, without the municipality's written consent, and subject to the requirements of the Explosives Act ,2003[Act No. 15 of 2003] and any regulations promulgated in terms thereof;

(b)Burning of rubble or refuse;

(c) Causing of unpleasant or offensive smells;

(d) Production of smoke nuisances;

(e) Causing of disturbances, by fighting, shouting, or arguing or by the use of loudspeakers, radios, television sets or similar equipment; or

(f) Causing, in any other manner, of a nuisance, obstruction, disturbance, or annoyance, to the public.

(2) An authorised official may, during any activity of the hirer, direct that the hirer remove from a municipal building any person who is in a state of intoxication and who is behaving in an offensive manner, or who is causing nuisance or annoyance to other people in or at a municipal building or to occupiers of other parts of municipal building or neighbouring buildings.

(3) An authorised official may, during any activity of the hirer, direct the hirer to prevent access to the municipal building by any person who is in a state of intoxication and who behaves in an offensive manner or who is causing a nuisance or annoyance to other people in or at, or users of, a municipal building or neighbouring buildings.

6. Health matters

No person shall, in or at a municipal building-

- (a) dump, drop or place any refuse, rubble, or material, or any object or thing, or permit it to be done, except in a container provided for that purpose in or at the outdoor facility or municipal building;
- (b) pollute or contaminate any water supply;
- (c) perform any act that may detrimentally affect the health of any visitor to a municipal building.

7. Structures

No person shall, without the prior written consent of the municipality, erect or establish in or at a municipal building any structure or shelter, or anything similar.

8. Liquor and food

(1) No person shall, contrary to the provision of a notice, bring into a municipal building any alcoholic beverage or food, of whatever nature, unless permitted in the conditions of hire.

(2) No person shall, in or at a municipal building, contrary to the provision of a notice, cook or prepare food of any kind whatsoever, except at places set aside for such purposes by notice, provided that-

(a) the preparation and cooking of food in or at a municipal building shall be done in a clean and hygienic manner, so as not to give rise to excessive smoke or other nuisances, or pose any danger to health; and

(b) no animals, poultry or fish may be killed or skinned in or at a municipal building, unless permitted in the conditions of hire.

9. Animals

(a) No person shall bring any animal, bird, fish, or poultry into a municipal building, except in accordance with the directions of the municipality.

(b) The directions contemplated in subsection (a) shall be made known by means of a notice.

10. General use of municipal buildings

(1) In respect of the use of municipal buildings, no person shall-

- (a) arrange or present any public entertainment;
- (b) collect money or any other goods for charity or any other purpose from general public;
- (c) display or distribute any pamphlet, placard, painting, book, handbill, or any other printed, written or painted work;
- (d) arrange, hold, or address, any meeting;
- (e) arrange, or hold, a public gathering or procession, exhibition or performance;
- (f) conduct trade, occupation or business;
- (g) display, sell, rent out, or present for sale or rent, any goods or articles; or
- (h) hold an auction

At such municipal building, unless the prior consent of the municipality has been obtained, or such activity is permitted in terms of the conditions of hire, as contemplated by chapter 3 of this by-law

2 Nothing contained in this section shall be construed so as to detract from-

- a) the requirements of the Regulation of Gatherings Act, 1993 [Act No. 205 of 1993]; or
- b) Any person's constitutional right to assemble, demonstrate, picket and present petitions.

11. Safety and responsible conduct

(1) Subject to subsection (2), no person shall-

- (a) Cause damage or disfigurement;
- (b) Use, or try to use, anything for any purpose other than the one for which it is designated or determined by notice;
- (c) Light a fire or prepare food, except at a place indicated for that purpose by notice;
- (d) Wash any crockery or laundry, or hang out such laundry, except at a place indicated by notice for that purpose,

In or at a municipal building.

- (2) The municipality may, by way of notice, and subject to such conditions as the municipality deems necessary, and mentioned in the said notice, authorise any of the actions contemplated in Subsection (1), of in the relevant conditions of hire
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CHAPTER 3

HIRE OF MUNICIPAL BUILDINGS

12. Cooperation between municipal departments

Every department of the municipality having jurisdiction over or responsibility for any municipal building must cooperate with any other such department in ensuring that-

- a) Such municipal building is properly maintained in a state fit for the purpose for which it was designed and is used; and
- b) Subject to the provisions of section 18, no part of such municipal building is made available to, or hired out to, more than one person at the same time.

13. Application for hiring of municipal buildings

- (1) Any person who wishes to apply for the hiring of a municipal building must-
 - a) Submit an application to the municipality
 - b) Clearly stipulate in such application-
 - (i) The municipal building, seating and equipment required; and
 - (ii) the period for which the municipal building is required;

© ensure that such application is received by the municipality not less than 30 (thirty) days prior to the date on which the municipal building is first required by the application, provided that this time period may, depending on the demand for the municipal building in question, be relaxed by the municipality.
- (2) The municipality may refuse to hire out any municipal building in terms of subsection(10, or Of subsection (1) , or may cancel any booking thereof if-
 - (a) The municipal building is to be used for any unlawful purpose; or
 - (b) The municipal building is required at the same time by the municipality for municipal purposes, provided that the municipality shall furnish at least 14(fourteen) days 'notice of any cancellation of an existing booking.
- (3) No compensation shall be payable by the municipality to the hirer for any loss which the hirer may suffer by reason of the municipality's having acted in terms of subsection (2) , provided that the municipality shall refund all charges that have already been paid to it in respect of application.
- (4) The hirer is limited to the use if the municipality building specified in the application and may not use any other municipal building for which he or she has not applied.
- (5) The municipal building hired may not, except with the prior written approval of the municipality, be used for any purpose other than the purposes indicated on the application or stipulated in the conditions of hire.

14. Tariff of fess

The municipality may from time to time determine a tariff of prescribed fees for the hire of municipal building provided by the municipality in term of this by-law.

15. Payment of charges

No person shall be permitted to use any municipal building unless the prescribed fee, where applicable, has been fully paid, provided that the municipality may exempt any person or organisation, on good cause, from the payment of the entire prescribed fee, or portion thereof.

16. Period of hire

Notwithstanding any determination made by the municipality regarding the dates period for which

Municipal building may be hired, the municipality may allow the hirer reasonable access to a municipality building before the commencement date of the period of hire, so as to enable the hirer to make necessary preparations and arrangements, but subject to the prior payment of the prescribed fee by the hirer.

17. Adjustment of period of hire

- (1) Any person who makes an application for the use of a municipal building in terms of the provision of section 13 may, subsequent to the approval of such application, and the reservation of such municipal building, apply for the postponement of such reservation to the later date, without penalty or forfeiture, provided that such postponement may be refused if such municipal building has, in the meantime, been reserved for use by another person on the date to which the postponement is sought.
 - (2) Any person who has already made an application for the reservation of a municipal building may cancel such reservation, provided that if-
 - (a) A reservation is cancelled 1 one month or longer prior to the commencement date of such reservation, then the hirer must receive a full refund of the prescribed fee already paid;
 - (b) A reservation is cancelled more that 15(fifteen) days but less than 1 one month prior to the commencement date of such reservation, then the hirer must receive a 50 % fifty percent refund of prescribed ;
 - (c) A reservation cancelled within 15 fifteen days or less prior to the commencement date of such reservation, then the hirer is not entitled to receive any refund of prescribed fee.
 - (3) Any mat extend the period of hire of a municipal building upon written application to the municipality in the manner provided for in section 13(1) provided that
 - (a) The period of 30 thirty days' notice s contemplated in terms of section 13 (1)
 - (b) The municipal building concerned has in the meantime, been reserved for use by any other person.
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18. Joint hire

- (1) The municipality may let any municipal building or part thereof different hirers for simultaneous use.
- (2) In the case of such simultaneous use, each hirer must use any ancillary amenities which serve or comprise part of the municipal building-
 - (a) Jointly with the other hirer ; and
 - (b) In such manner that all the hires their guests, customers, patrons, employees, agents, directors or other representatives are able to enjoy the use of the municipal building in question without infringing on the rights of use by other users.

(3) The provisions of this by-law, read with the necessary changes, apply to the joint users of the hired Municipal building.

19. Sub- letting

A hirer may not-

- (a) Sub-let any hired outdoor facility or municipal building to any other person or organisation,
- (b) Cede; pledge, or renounce, in favour of another person any of his or her rights or obligations under this by –law; and
- (c) Allow any other person to occupy a municipal building without prior written consent of the municipality.

20. Condition of municipal building

- (1) The hirer must inspect the hired municipal building , including all installations, appliances fittings, accessories and furniture , before he or she commences to use such installations, appliances, fitting accessories and furniture.
- (2) If the hirer finds that any of the installations, appliances, fittings, accessories and furniture in at a municipal building are not in a proper state of repair, then the hirer must report this fact to the municipality.
- (3) if the hirer fails either to inspect a municipal; building in term of subsection (1), or to report any defects found therein in term of subsection (2), then it shall be deemed that, upon commencement of occupation by the hirer , everything in or at the municipal building was in a proper state of repair.

21. Duties of the hirer

Every person hiring a municipal building from the municipality must-

- (a) Take all reasonable steps to keep all sewerage pipes, water taps drains within or serving the municipal building free from obstruction or blockage as a result of the hirer's activities;
- (b) At all times keep the municipal building in a clean ,tidy and sanitary condition;
- (c) Not affix or attach to the municipality building any notices or other matter, without the prior consent if the municipality, provided that upon the termination of the hire, the hirer must remove all such attachments;
- (d) Not obscure any plate glass windows by painting or otherwise;
- (e) Not drive into the walls or partitions or doors of the municipal building any screws or nails;
- (f) Not change or interfere with or overload any electrical installation in our at the municipal building;
- (g) Not remove or take out from the municipal building any furniture or other articles whatsoever that belong to the municipality;
- (h) Not obstruct or interfere or tamper with thermostats or air conditioning appliances in or at the municipal building;
- (i) Not introduce or install any unsafe or heavy article , furniture , fitting, appliance or equipment which , in the reasonable opinion of the municipality, could damage the municipality may impose , on the introduction of such item, such conditions as reasonable to ensure the safety of the municipal; building and its users;
- (j) Not install in or at the municipal building any air conditioning or ventilating units or equipment, without the municipality's prior consent;
- (k) Not permit the storage of motor vehicles to or other movable items of any description on the pavements, entrance halls staircases or passages of the municipal building;
- (l) not do anything, or allow anything to be done , in non –compliance with any reasonable instruction or prohibition given or issued by the municipality;
- (m) not park vehicles, or allow the parking of vehicle by the hirer's guests, customers, patrons, employees, agents, directors or other representatives anywhere at the municipal building, except in properly demarcated parking bays, or as may be pointed out by authorised official.

22. Damage to property

- (a) A hirer who fails to keep and maintain a municipal building in the same order and condition as when it was hired out to him or her shall be guilty of an offence.
- (b) In addition to any remedies available to the municipality at common law, such hirer shall be liable in terms of the penalties specified in this by-law.

23. Advertisements and decorations

- (a) No person who has applied for the hire of a municipal building may publicly announce or advertise any function or event in respect of which an application for the hire of such municipal building has been made, before the municipality has notified such person in writing that the application has been approved.
- (b) Every hirer must, before vacating a hired municipal building, on the termination of the period of hire, remove all posters, notices, decorations, flags, emblems, signs, and other forms of advertisement or direction erected or affixed by him or her, and make good any damage caused by such removal.

24. Admissions, ushers and sale of tickets

The hirer shall be responsible for all arrangements in connection with-

- (a) Admission of members of the public to any cultural or other activities at a municipal building;
- (b) The provision of ushers, and other persons necessary to control the admission of persons to a municipal building; and
- (c) The sale of tickets.

25. Overcrowding

- (1) No overcrowding of a municipal building may be allowed at any time during any of the hire's activities.
- (2) The hirer must comply with the municipality's requirements prescribing the maximum number of persons allowed at a municipal building during activities.
- (3) Without detracting from the general requirements referred to in subsections (1) and (2), the hirer may not permit admission by more persons to a municipal building than the number of available seats, or, where seating is not provided, the maximum number of persons prescribed by notice at a municipal building, or as stipulated in the conditions of hire.

26. Sale of food and drinks

- (1) No person may sell food or drinks at any hired municipal building during any activities, without the prior written consent of the municipality.
 - (2) The municipality may permit the sale of food or drinks by such persons as it may approve, after it has received written application to sell such items, and the municipality may allocate sufficient accommodation to such approved persons, wherein trading stock, furniture, equipment, installations and books necessarily required for that purpose may be accommodated.
 - (3) The provisions of subsections (1) and (2) do not apply where the supply and sale of food and drinks comprise an integral part of the activities of hirer.
 - (4) The municipality shall not be responsible for the payment of compensation to the hirer in respect of any loss, theft or damage suffered by the hirer or any other person in respect of the items referred to in subsection (2) as a result of any cause whatsoever, except where such loss,
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theft or damage is due to the wilful act or omission or gross negligence on the part of the municipality.

27. Services

- (1) The nature of the municipal services to be provided to a municipal building shall determined at the sole discretion of the municipality.
- (2) The municipality shall not be liable for-
 - (a) The non-receipt or non –delivery of goods, postal matter or correspondence belonging to the hirer;
 - (b) The loss , theft or damage in respect of anything which the hirer, or his or her guests customers , patrons, employees, agents, directors representatives may have deposited or left in or at a municipal building or any part thereof, except where such loss, theft or damage is due to the wilful act or omission or gross negligence of the municipality.
- (3) The municipality may take such steps as it may consider necessary for the proper maintenance of operation of any common areas in or at an outdoor facility or municipality.
 - (4) An authorised official may attend or be present at the hirer’s function, to ensure compliance with any provision of this by-law.
 - (5) the hirer is not entitled to the official services of an authorised official or any other representative of the municipality who attends the hire’s function in terms of subsection(4)
 - (6) The hirer is not entitled to receive free cleaning or other services from the municipality in connection with the hire’s activities during the preparation of, or during, a function.

28. Exclusion of liability

- (1) The municipality shall not be liable for-
 - (a) Any damage or loss sustained by any person as a result of an insufficient supply of municipal services or interruption in the supply thereof to a municipal building, or due to any act or omission on the part of the municipality, if the municipality considers the interruption necessary to enable it to exercise any of its powers or perform any of its function under this by-law, or under any other law;
 - (b) Any loss, theft or damage caused to the stock-in-trade, furniture, equipment, installations, books, papers, clothing, or other articles of any nature whatsoever, kept at a hired municipal building by the hirer or anyone else, whether in regard to the hire’s business or not;
 - (c) Any consequential loss suffered by the hirer by making use of a municipal building, or as a result of rain , hail lightning, wind, fire, storms, riot or civil commotion;
 - (d) The loss of life or injury to the hirer or anyone else at or in a municipal building during a function or event; and
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(e) Any loss suffered by the hirer as a result of any failure or defect at or in a municipal building.

2 Upon approval by the municipality of any application for hire, a hirer must complete and sign an indemnity, as may be prescribed, in favour of the municipality.

29. Destruction of municipality building

(1) The municipality may cancel the hire of a municipal building in the event that-

(a) the municipal building is destroyed or is damaged to such extent as to be substantially unusable;

(b) there is damage to the municipal building, such that it is rendered substantially unusable because of the absence of access to, or supply of, any necessary municipal service; or

(c) there is destruction or damage to the municipal building, and the municipality decides not to proceed with the hire of the municipal building, in order to engage in reconstruction, renovation rebuilding, or for safety reasons.

(2) Any decision made in terms of subsection (1) must be communicated by written notice given by the municipality to the hirer within a reasonable period of the event giving rise to the cancellation.

(3) No hirer shall have any claim against the municipality for any damage or loss arising out of the damage to, or destruction of; a municipal building or any part thereof, or for the resultant loss of beneficial use of a municipal building by such hirer.

30 Termination of non-compliance

The municipality may at any time cancel the hire of a municipal building if the hirer fails to comply with any of the provisions of this by-law, in which event-

a) The municipality shall not be liable for any damage or loss sustained by any person as a result of such cancellation;

b) Such cancellation shall be effected without prejudice to any claim which the municipality may have against the hirer under any provision of this by-law, or at common law.

31. Termination of hire

1. upon the termination of the period of hire

a) The hire must return a municipal building to the municipality, in good order and condition;

- b) The hire must take good and repair at his or her own cost any damage or breakage, or reimburse the municipality for the costs of replacing, repairing, or making good, any broken, damaged or missing article; and
- c) The municipality may conduct from any deposit paid by the hirer in respect of a municipal building the costs of the said breakage, damage or loss.

As is stated on the application form or conditions of hire, provided that-

- a) Failure for the hire to comply with the provisions of this subsections entitles the municipality to levy a further prescribed fee for such additional period during which the hire remains in occupation of a municipal building after the expiry of the period of hire; and
- b) The provisions of this subsection do not preclude the municipality from taking lawful steps to procure the eviction of any such hirer from a municipal building

3. A hirer must comply with all reasonable and lawful instructions of the municipality in respect of cleaning of a municipal building upon the hirers vacation thereof, provided that the municipality itself may elect to undertake the cleaning of all crockery and cutlery used by the hirer.

4. A hire must comply with reasonable and lawful instructions of the municipality, in respect of the vacation of a municipal building and the return thereof.

32. Fire hazards and insurance

1. a hire may not bring to, or allow to be brought to, or kept at, a municipal building nor undertaker nor permit to be done or undertaken in or at a municipal building, any matter, thing or activity whereby the fire policy, or any other insurance policy, for the municipal building concerned may become or becomes void or voidable, or whereby the premium for any such insurance may be or is increased.

2. If the premium of such insurance increased as a result of any act or omission contemplated in subsection (1), then-

- a) The municipality may, in this discretion, allow such activity, and recover from the hirer the amount due in respect of any additional insurance premium; and
- b) The hirer must pay such amount immediately on notification by the municipality or the insurance company to the effect that such additional premium has been charged.

3. The municipality may at any time require a hirer to take out insurance with an insurance company, approved by the municipality; and, against damage or loss suffered during or as a result of any function or which a municipal building is hired.

33. Storage facilities

The municipality shall not be responsible for providing storage facilities for the equipment of a hirer, or that of his or her guests, customers, patrons, employees, visitors, supporters or agents during any period prior to, during or after a function or event.

34. Equipment

- a) A hirer who requires a municipality to supply any equipment for use during a function or event may use such equipment only with the permission of the municipality, and under the provision of an authorised official.
- b) If the hirer causes the damage to the equipment, or removes or causes the equipment to be removed from a municipal building without permission, or fails to return it then the hirer shall be liable for the repair or replacement costs thereof.

35. Right of entry

1. an authorised official may enter municipal building at all reasonable time-
 - a) To inspect municipal building and carry out any repairs or alterations or modifications or improvements in or at the municipal building; and
 - b) In order to ensure that the conditions of hire for the municipal building, and the provisions of this by-law, are being complied with.
2. a hirer shall not claim for the reimbursement of any charges payable for the hire of municipal building, compensation, damages or otherwise in connection with the exercise by the authorised official of the rights under subsection (1)
3. an authorised official may erect scaffolding, hoardings and building equipment in or at a municipal building, as well as such other devices required by law or which the municipalities architects may certify area necessary to carry out the repairs contemplated in subsection (1)(a).

36. Inspection

Upon the conclusion of the hirers activities at the end of the period of hire, or at the termination of the hire under any provision of this by-law, the municipality and the hire, or his or her nominee, must inspect a municipal building, for the purpose of accessing any damage or loss.

CHAPTER 4

GENERAL PROVISIONS

37. Offences and penalties

Any person who contravenes or fails to comply, with this by-law, a notice issued in terms of this by-law, or a condition imposed under this by-law, irrespective of such contravention or failure has been declared as an offence elsewhere in this by-law, shall be guilty of an offence, and liable, upon conviction, to-

- a) A fine not exceeding R6 000, or imprisonment for the period not exceeding 12 months, or either such fine or such imprisonment or both such fines or such imprisonment;
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- b) In the case of continuing offence, additional fine of R600, or an additional period of imprisonment of one (1) day, or either such additional fine or such additional imprisonment, for each day on which such offence is continued; and
- c) A further amount equal to any costs and expenses found by the court to have been incurred by the municipality as a result of such contravention or failure.

38. Regulations

The municipality may make regulations not inconsistent with this by-law, prescribing-

- a) Any matter that may or prescribed in terms of this by-law; and
- b) Any matter that may facilitate the application of this by-law.

39. Repeal of by-law

Any by-law relating to the use or hiring the municipal buildings adopted by the municipality or any erstwhile municipal Council now comprising an administrative unit of the municipality shall be repealed from the date of promulgation of this by-law.

40. Short title

The by-law is called By-law relating to the use or hire of municipal buildings, 2004, and takes effect on e date determined by the municipality by proclamation in the Provincial Gazette.
