

DRAKENSTEIN MUNICIPALITY

Drakenstein Municipality, by virtue of the powers vested in it by section 156(2) of the Constitution of the Republic, of South Africa as amended, read with section 13 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) as amended, has made the By-Law set out in the schedule below:

SCHEDULE

BY-LAW NO. 6/2007: CHILD CARE FACILITIES

Definitions

1. In this by-law, words used in the masculine gender include the feminine; the singular includes the plural and vice versa; the Afrikaans text shall prevail in the event of an inconsistency between the different texts; and, unless the context otherwise indicates:–

“child care facility” means any building or premises maintained or used, whether for profit or otherwise, for the temporary or partial care or supervision of children under 18 years of age separate from their parents, but does not include any boarding school, school hostel or any establishment which is maintained or used mainly for the tuition or training of children and which is controlled by or which has been registered or approved by the State;

"municipality" means the Municipality of Drakenstein established in terms of Section 12 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), Provincial Notice 488 dated 22 September 2000 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;

“public nuisance” means –

- (a) any act, omission or condition which is offensive, or which materially interferes

with the ordinary comfort, convenience, peace or quiet of the public or which adversely effects the safety of the public; and

- (b) any condition on premises including any building, structure or vegetation thereupon which in the opinion of the municipality endangers the safety of any person or property, or which is unsightly, disturbing, offensive or interferes with the ordinary comfort, convenience, peace or quiet of the public or the residents of properties in the vicinity of such premises.

Permission

2. (1) No child care facility may be operated without the written approval of the municipality, which approval may be subject to conditions.
- (2) Applications for approval must be in the form prescribed by the municipality and must be accompanied by the information and documentation required by the municipality.
- (3) Approval in terms of subsection (1) shall not exempt any person from the requirements of any other law related to the care or supervision of children and/or the premises concerned.
- (4) The proprietor of a child care facility shall not conduct the business of the said child care facility in such a manner so as to cause any nuisance or annoyance to residents of neighbouring properties.
3. Any person contravening any provision of this part shall be guilty of an offence.

GENERAL PROVISIONS

Right of entry and inspection

4. (1) Any duly authorised employee of the municipality shall be authorised to inspect any premises within the municipal area in order to determine whether there is compliance with the provisions of this by-law.

- (2) When entering premises in terms of subsection (1) the authorised employee must on request by any person, identify himself by producing written proof of authorisation.
- (3) The authorised employee may be accompanied by a person reasonably required to assist in conducting the inspection.
- (4) Any person who fails to give or refuses access to any authorised employee if he requests entrance on any land or premises, or obstructs or hinders him in the execution of his duties under this by-law, or who fails or refuses to give information that he may lawfully be required to give to such employee, or who gives false or misleading information knowing it to be false or misleading, shall be guilty of an offence.

Service of documents and process

5. (1) Whenever any notice, order, demand or other document is authorised or required to be served on a person in terms of this by-law, it shall be deemed to have been effectively and sufficiently served on such person –
 - (a) when it has been delivered to him personally;
 - (b) when it has been left at his place of residence or business in the Republic with a person apparently over the age of sixteen years;
 - (c) when it has been posted by registered or certified mail to his last known residential or businesses address in the Republic and an acknowledgment of the posting thereof is produced;
 - (d) if his address in the Republic is unknown, when it has been served on his agent or representative in the Republic in the manner provided by paragraph (a), (b) or (c); or
 - (e) if his address and agent in the Republic are unknown, when it has been posted in a conspicuous place on the immovable property (if any) to which it relates.
- (2) When any notice, order, demand or other document as aforesaid is authorised or required to be served on a person by reason of his being or having been the owner or occupier of or holding some other right in respect

of immovable property, it shall not be necessary to name him but it shall be sufficient if he is therein described as the owner, occupier or holder of such immovable property or other right, as the case may be.

Penalties

6. Any person who contravenes or fails to comply with any provision of this by-law shall be guilty of an offence and liable upon conviction to –
 - (1) a fine or imprisonment, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment;
 - (2) in the case of a continuing offence, to an additional fine or an additional period of imprisonment, or to such additional imprisonment without the option of a fine, or to both such additional fine and imprisonment for each day on which such offence is continued; and
 - (3) a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as result of such contravention or failure.

Repeal of by-laws

7. The By-law relating to Crèches published by the disestablished municipality of Wellington under PN 458/1983 is hereby repealed.

Short title and commencement

8. This by-law shall be known as the By-law Relating to Child Care Facilities and shall come into operation on the date of publication in the Provincial Gazette.