

BY-LAW RELATING TO MEETINGS AND PROCESSIONS

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Municipal Manager of Bela-Bela Local Municipality hereby, in terms of section 13(a) in conjunction of section 75 (1) of the Municipal Systems Act, 2000 (Act No. 32 of 2000), publishes the By-Law Relating to Meetings and Processions for the Bela-Bela Local Municipality, to be approved by the Council, as set out hereunder.

1. THE OBJECTS OF THIS BY-LAW

The objects of this By-Law are –

- (a) To recognize the right of peaceful assembly; and
- (b) To ensure, so far as it is appropriate to do so, that persons may exercise the right to participate in public assemblies; and
- (c) To ensure that the exercise of the right to participate in public assemblies is subject only to such restrictions as are necessary and reasonable in a democratic society in the interest of –
 - (i) Public safety; or
 - (ii) Public order; or
 - (iii) The protection of the rights and freedom of other persons;
 - (iv) To ensure that the right of persons to participate in public assemblies may be exercised without fear, prejudice and harassment.

1.1 This is in line with the Section 17 of the Chapter 2: Bill of Rights of the Constitution of the Republic of South Africa that states that *"Everyone has the right, peacefully and unarmed, to assemble, to demonstrate, to picket and to present petitions."* Section 18 points out that *everyone has a right to freedom of association*

1.2 This meetings and/or Procession By-Law expressly states that a person has the right to peacefully assemble with others in a public place. The right is subject to the restrictions set out in the Bill of Rights Limitation Clause. Accordingly, the rights in the Bill of Rights may be limited only in terms of law of general application to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, taking into account all relevant factors, including -

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- (a) The nature of the right;
- (b) The importance of the purpose of the limitation;
- (c) The nature and extent of the limitation;
- (d) The relation between the limitation and its purpose; and
- (e) Least restrictive means to achieve the purpose.

1.3 This By-Law provides that the right to peaceful assembly is subject only to such restrictions as are necessary and reasonable in a democratic society in the interest of:

- (a) Public safety; or
- (b) Public order; or
- (c) The protection of the rights and freedoms of other persons.

2. DEFINITION

For the purpose of the present Law the following main terms and definitions are used:

"Meetings and/or processions" – a gathering, meeting, street rally, demonstration, picketing and other meeting and/or procession

"Other Meeting and/or procession" – a sport, cultural or other entertaining activity or religious activity held in places specially designed for this purpose in open air or in a building;

"Gathering" – a presence of citizens in an earlier determined place in open air or in a building at the fixed time gathered for collective discussion and solution of questions effecting their interests;

"Meeting" – a mess presence of citizens in a certain place in open air gathered for public discussion and expression of their attitude towards actions (inaction) of persons and organizations, events of public and political life, and also for solving the problems effecting their interests;

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"Street Rally" – an organized mass movement of a group of citizens on pedestrian or traffic area of a street (road), boulevard, prospect or square for the purposes of drawing attention to any problems or for public expression of their public and political opinions or for a protest;

"Demonstration" – an organized mass movement of a group of citizens on pedestrian or traffic area of a street (road), boulevard, prospect or square including one with the usage of vehicles and other transportation means for the purposes of drawing attention to any problems or for public expression of their public and political opinions for a protest with the usage of posters, transparencies or other means;

"Municipality" –

- (a) The Bela-Bela Local Municipality which as a municipal area determined in terms of the Local Government: Municipal Demarcation Act, 1998 (Act No. 27 of 1998); exercising its legislative and executive authority through its Municipal Council; or
- (b) Its successor in title; or
- (c) A structure or person exercising a delegated power or carrying out an instruction, where any power in this By-Law has been delegated or sub-delegated, or an instruction given, as contemplated in section 59 of the Act; or
- (d) A service provider fulfilling a responsibility under this By-Law, assigned to it in terms of section 81(2) of the Act, or any other law, as the case may be;

"Municipal Manager" means -

- (a) The person appointed by the Municipality as the Municipal Manager in terms of section 82 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), and includes any person acting in that position; or
- (b) In relation to a service provider referred to in paragraph (d) of the definition of "Municipality", the chief executive officer of that service provider.

"Municipal Council or Council" means – a Municipal Council referred to in section 157(1) of the Constitution. According to section 157(1) of the Constitution, a Municipal Council consists of -

- (a) Members elected in accordance with subsection (2), (3), (4) and (5); or

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- (b) If provided for by national legislation -
 - (i) Members appointed by other Municipal Councils to represent those other Councils; or
 - (ii) Both members elected in accordance with paragraph (a) and member appointed in accordance with subparagraph (i) of this paragraph.

"Picketing" – a public expression by a citizen or by a group of citizens of public and political, group or individual and other interests or the protest (without a procession), including by a hunger-strike, on any problems with the usage or without usage of posters, transparencies and other means;

"Substantial harm caused to rights and legal interests of citizens, organizations or state or public interests" – a failure of meeting and/or procession, temporal termination of activity or organizations or violation of transport traffic, death of people, causing a severe physical injury to one or several victims;

3. THE SCOPE OF THIS BY-LAW

The By-Law relating to Meetings and Procession deals with the procedure for organizing and holding of local meetings and processions.

4. PROCEDURE FOR ORGANISING AND HOLDING OF MEETINGS AND/OR PROCESSIONS

4.1 ORGANISERS OF MEETINGS AND PROCESSIONS

Organizers of a gathering, meetings and processions within the Municipality shall be citizens of the Republic of South Africa permanently residing within the area of jurisdiction of the Municipality with one of the following:

- (a) Have reached the majority age;
- (b) Have been mentioned in the given number in the application on holding a meeting and/or procession and who have taken in writing the obligation on its organization and holding of the meeting or procession.

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5. APPLICATION TO CONDUCT A MEETING AND/OR PROCESSION

- 5.1 Application to conduct a meeting and/or procession is submitted by the organizer(s) to the Municipal Manager.
- 5.2 The application is submitted in writing no later than 15 days before the supposed date of holding the meeting and/or procession.
- 5.3 The application shall contain the following:
- (a) purpose, kind, place of holding the meeting and/or procession;
 - (b) date of its holding, time of its beginning and end;
 - (c) routes of movement in case of a procession;
 - (d) expected/supposed number of participants;
 - (e) name and address of organizer(s)
 - (f) measures to be taken by the organizers, cleaning the territory after holding the meeting and/or procession;
 - (g) submission date of the application.
- 5.4 The term of submission of the application is calculated from the day of its registration with the Municipality.

6. PROCEDURE FOR CONSIDERATION OF THE APPLICATION

- 6.1 The Municipal Manager or any delegated authority is obliged to consider the application and not later than 5 days before the date of holding the meeting to notify the organizer(s) in writing about the decision taken.
- 6.2 A permission or ban to hold the meeting and/or procession shall be indicated in the decision and also the motives for banning the meeting and/or procession if applicable.

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6.3 The decision of the Municipal Manager or any delegated authority on permitting or banning the meeting and/or procession is taken with consideration of the date, place time of its holding, number of participants, weather conditions, payment of expenses connected with protection of public safety, medical services, cleaning of territory after holding the meeting and/or procession and other circumstances influencing the securing of public safety in agreement with those Government Institutions responsible for securing public safety.

6.4 The Municipal Manager or any delegated authority in considering of the application for the purposes of securing the rights and freedoms of citizens, public safety and also of normal functioning of transport and business has the right to suggest the change of date, place and time of the intended meeting with the organizer(s) thereof.

7. APPEAL PROCEDURE AGAINST THE BANNING OF A MEETING/PROCESSION OR CHANGING THE DATE, PLACE AND TIME OF THE MEETING/PROCESSION

7.1 The decision of the Municipal Manager or any delegated authority to ban the meeting and/or procession or to change the date, place and time of its holding can be appealed against in writing with the Mayor and Municipal Council

8. PREPARATION OF A MEETING AND/OR PROCESSION

8.1 Preparation of a meeting and/or procession remains the responsibility of the meeting organizers.

8.2 Before the permission to hold the meetings and/or procession is received, its organizer(s) and also other persons do not have the right to announce in the media the date, venue and time of its holding, prepare and distribute leaflets, posters and other materials for this purpose.

9. PREPARATION OF A MEETING AND/OR PROCESSION

9.1 A meeting and/or procession can be held in any public place suitable for this purpose.

9.2 Permanent places meetings and processions can be held and also places, where meetings and processions are prohibited, can be determined by the Municipality and announced in the media.

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9.3 Holding of meetings and processions are not allowed at venues where the Municipality has expressly prohibited such meetings/processions.

9.4 Gatherings, meetings, street rallies, demonstrations, marches and picketing can be held from 08:00 to 22:00.

10. FORM OF MEETINGS AND PROCESSIONS

10.1 Meetings and/or processions, and also speeches of their participants are held at the venue as indicated in the application.

10.2 Organizer(s) of the meetings and processions or the person(s) responsible for organization and holding the meetings and processions are obliged:

- (a) to be constantly present at the meetings and/or processions held;
- (b) to provide observance of conditions and order of holding the meetings and/or processions regarding safety of buildings, constructions, vehicles and other property and also of green plants;
- (c) to carry out all legal requirements of employees of the Municipality and law enforcement bodies to perform their duties in securing the public order.
- (d) to inform participants of meetings and processions when the meeting/procession is being terminated.

10.3 The Municipality has the right to impose additional regulations with regard to the conducting of meetings and processions in cases where local conditions and specific requirements of current legislation requires such regulation.

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11. OBSERVANCE OF PUBLIC SAFETY AT HOLDING OF MEETINGS AND/OR PROCESSIONS

- 11.1 When holding a meeting and/or procession its participants shall observe the public order and shall fulfill all legal requirements of the organizers of the meeting and/or procession being held as well as the requirements of the Municipality and law enforcement officers performing their duties in keeping public order, safety and security.
- 11.2 Organizers and participants of meetings and processions, street rallies, demonstrations and picketing during the course of said events are prohibited to:
- (a) impede flow of the traffic;
 - (b) interfere or tamper with traffic lights or traffic signs;
 - (c) pitch tents or other temporary structures;
 - (d) to in any way influence any member/s of a law enforcement agency not to perform his/her duty in keeping the peace or public order during the course of any meetings or processions as described in this by-law;
 - (e) to have in their possession any firearm, knife or any sharp pointed instrument, explosives, ammunition or any other weapon or any cast, replica or imitation of any of the above or any other implement or article which can threaten the life or security of any person or threaten or cause bodily harm to any person or material damage to any property;
 - (f) to act in a manner that is inciting public violence;
 - (g) to act in a manner that is creating a threat to public safety or life and security of participants of the mentioned meetings and/or processions or of any other person;
 - (h) to sell alcoholic beverages at the venue of said meeting/procession or within a radius of 500 metres of such venue.
- 11.3 The sale of alcoholic beverages at the venue or within a radius of 500 metres of said meetings/processions by persons other than organizers or participants of the meetings/procession in question is prohibited. The prohibition is however not applicable to licensed outlets that legally sell alcoholic beverages to the public in terms of the applicable legislation.

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12. TERMINATION OF A MEETING AND/OR PROCESSION

- 12.1 A meeting and/or procession and also preparations in this regard deemed as an illegal meeting/procession and terminated by the Municipality in the following circumstances:
- (a) If no application has been submitted for the meeting/procession;
 - (b) a decision has been taken by the Municipality not to allow the meeting/procession and such decision has been communicated to the organizers of the intended meeting/procession by the Municipality;
 - (c) if the provisions of sections 9, 10 and 11 of this by-law has been infringed;
 - (d) if to the opinion of the Municipal Manager or the senior officer in charge of law enforcement agencies monitoring the meeting/procession that the lives and safety of the public are threatened and/or that property might be damaged.
- 12.2 In the event of participants and organizers of a meeting/procession refuse to stop the activities of the meeting/procession after being instructed to do so by a competent official and in terms of section 12(1), (a) to (d) of this By-Law said official can take steps to terminate such meeting by exercising the powers as provided for by the applicable legislation.

13. NON-INTEFERENCE OF STATE BODIES AND OTHER ORGANIZATIONS AND ALSO OF CITIZENS IN HOLDING MEETINGS AND/OR PROCESSIONS

State agencies, political parties, trade unions and other organizations or persons have no right to interfere with or prevent legal meetings/processions held in observance and in terms of this By-Law and other Legislation of the Republic of South Africa.

14. DISRUPTION OF MEETINGS AND/OR PROCESSIONS

Any person who interferes with a lawful meeting/procession held in observances of this By-Law with the intent to obstruct or terminate said meeting or to dissuade participants to proceed with such either by means of physical actions or declarations, utterances, gestures or displays, is guilty of disrupting such meeting/procession.

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15. A PERSON COMMITS AN OFFENCE BY DOING ANY OF THE FOLLOWING:

- 15.1 Contravenes any provision of this By-Law;
- 15.2 Suffer or permit any other person to violate any provision of this By-Law;
- 15.3 Neglect to do or refrain from doing anything required to be done by a provision of this By-Law; or
- 15.4 Fail to comply with any order, direction or notice given under this By-Law

16. A PERSON WHO CONTRAVENES ANY OF THESE BY-LAWS

- 16.1 shall be guilty of an offence;
- 16.2 liable, upon conviction to be fined an amount not exceeding Five Hundred Rand (R500,00) (or any amount as stipulated by the Municipality's Tariffs); or
- 16.3 liable in the event of a second or subsequent conviction for the same default, to pay any fine imposed or to imprisonment for any period not exceeding three (3) months; provided that in the case of a continuing offence a fine not exceeding Fifty Ran (R50,00) for each day upon which the contravention continues, may be prescribed, provided that no such fine shall in any one prosecution or within any month exceed Five Hundred Rand (R500,00).

17. ENFORCEABILITY

A decision by a court of law that any part of this By-Law is void on unenforceable is not to affect the balance of this By-Law.

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18. BY-LAW AND EFFECT

This By-Law is to come into force and to take effect on the date of its enactment which is the date of its first publication in the Limpopo Provincial Gazette.

19. TITLE

This By-Law is called the Bela-Bela Municipality Meetings and Processions By-Law, 2008

