

## MUNICIPALITY OF BEAUFORT-WEST

### Notice no. 149/2005

The Council of the Municipality of Beaufort West published the sub-joined by-law relating to the prevention and control of public nuisances, for general notice.

#### BY-LAW RELATING TO THE PREVENTION AND CONTROL OF PUBLIC NUISANCES

##### Introduction

Whereas the Municipality of Beaufort West is vested with Legislative Authority in terms of the Constitution of the Republic of South Africa (Act 108 of 1996),

AND WHEREAS the Municipality has the right to determine its own by-laws relating to the prevention and control of public nuisances;

Be it therefore enacted by the Municipality of Beaufort West as follows:-

#### 1. Definitions

In this by-law, unless inconsistent with the context:-

“**Council**” means the council of the municipality;

“**heavy vehicle**” means any vehicle or trailer with a gross vehicle mass of three ton or more;

“**implement**” means any machinery or equipment, whether self-propelled or not, and which is not stored in a lock-up garage on the a premises on which it is parked;

“**municipal manager**” means the person appointed by the Council in that capacity in terms of section 82 of the Local Government: Municipal Structures Act, Act 117 of 1998;

“**municipality**” means the Municipality of Beaufort West

“**public nuisance**” means any act, omission or condition which is offensive, which is injurious or dangerous to health, which materially interferes with the ordinary comfort, convenience, peace or quiet of the public or which adversely affects the safety of the public;

“**zoned**” means a use right which may be exercised on a premises in terms of the provisions of a town planning scheme, and includes any approval which may have been granted in respect of the particular a premises in terms of any town planning legislation.

#### 2. Application

- (1) The provisions of this by-law do not derogate from the provisions of any other legislation relating to the control of specific nuisances as defined in that legislation.

- (2) Notwithstanding subsection (1), the provisions of any legislation relating to town planning are subject to this by-law.
- (3) This by-law also binds an organ of state.

### **3. Public nuisances prohibited**

- (1) No person may cause a public nuisance.
- (2) A public nuisance is created by, but is not limited to-
  - (a) the keeping of animals or reptiles, excluding domesticated dogs, cats, fish or rodents generally regarded as pets, on a premises unless the a premises is in terms of an applicable town planning scheme zoned as suitable for the keeping of such animals or reptiles;
  - (b) allowing an animal, reptile or domesticated dog to:-
    - (i) enter upon public or private land other than the a premises where it is kept, unless under proper control and, in the case of a dog, on a leash;
    - (ii) suffer from an infectious or contagious disease, or
    - (iii) act in such a manner that a nuisance is created for adjacent residents.
  - (c) in the case of a person in control of a dog on a street or public land, failing to remove the droppings of that dog.
  - (d) the keeping of domesticated cats, fish or rodents generally regarded as pets to such an extent that a potential for a nuisance is created;
  - (e) the keeping of poultry or birds, with the exception of domesticated birds which are kept in cages or lofts, on a premises unless the a premises is in terms of an applicable town planning scheme zoned as suitable for the keeping of poultry or birds;
  - (f) the keeping of domesticated birds which are kept in cages or lofts, to such an extent that a potential for a nuisance is created.
  - (g) the overnight parking of more than one heavy vehicle on a premises which is zoned for residential purposes;
  - (h) the parking of an implement on a premises which is zoned for residential purposes;
  - (i) the repairing, washing, maintenance or servicing of a heavy vehicle, boat or implement on a premises which is zoned for residential purposes.
  - (j) the parking of a vehicle, heavy vehicle, boat or trailer on a premises in such a manner that a part of the vehicle, heavy vehicle, boat or trailer extends over the boundaries of the a premises on which it is parked.

- (k) the letting off of a firework on or over private land in such a manner that the firework or part thereof may land on adjacent a premises.
- (l) operating a business or engaging in similar activities on residential a premises, notwithstanding any approvals granted by the Council in terms of town planning legislation, to the extent that a nuisance to adjacent residents is created by:
  - (i) the increase of an activity over and above the limits and conditions determined by the Council when the application for the activity was originally approved in terms of legislation;
  - (ii) the storage of goods or materials on the a premises;
  - (iii) the operation of a pump, compressor, fan or similar machinery in such a manner that a vibration is caused on adjacent a premises;
  - (iv) the use of spray paints or other volatile substances in such a manner that sprays, smells or gases enter onto adjacent properties;
  - (v) the manufacture or activities related to the manufacture of goods or materials;
  - (vi) the frequency of deliveries or the calling of persons at the a premises;
  - (vii) the frequency of loading or unloading of vehicles in the street or on the a premises;
  - (viii) the gathering of workers on or near the a premises, or
  - (ix) the frequency of the arrival, departure or parking in the street of vehicles attached to the activities on the a premises.
- (m) allowing buildings or vacant land to become:
  - (i) unsightly, offensive or in a state of disrepair to such an extent that the values of adjacent properties are detrimentally affected;
  - (ii) a home for squatters or a shelter for undesirable elements;
  - (iii) overgrown with neglected lawns, trees, shrubs or other cultivated or uncultivated vegetation
  - (iv) inundated with an unsightly accumulation of papers, cartons, garden refuse, rubble and/or other waste materials, or
  - (v) a depository for waste materials.
- (n) in relation to business a premises, allowing -
  - (i) waste materials emanating from the activities on the a premises to be deposited in a street refuse bin;
  - (ii) waste materials emanating from the activities on the a premises to be deposited on a part of the a premises which is open to the street or sidewalk, unless it is in a container provided or approved by the Council;
  - (iii) the display of goods for sale on a part of the a premises outside of a building, which is open to the street or sidewalk, but does not form part of the street or the sidewalk;
  - (iv) a vehicle to be parked on the a premises in such a manner that part of the vehicle extends over a boundary of the a premises;

- (v) a means of advertising or promotion on the a premises to have an impact on persons in the street or on adjacent properties;
- (vi) a means of advertising or promotion to have the effect that a distraction or danger is caused for passing vehicular or pedestrian traffic, a gathering of persons is allowed to form in the vicinity of the a premises, or that pedestrians are prevented from using the sidewalk in front of the a premises;
- (vii) a shop trolley attached to the business to be moved further away from the business than the nearest parking areas normally utilised by the customers of the business;
- (viii) shop trolleys attached to the business to accumulate in a street or parking area to the extent that vehicular or pedestrian traffic is impeded or endangered;
- (ix) a refrigerator, compressor, fan or other machinery, to operate in such a manner that a vibration is caused on adjacent a premises;
- (x) an increase in the frequency of deliveries or callers at the a premises to such an extent that occupiers of adjacent a premises are prevented from gaining normal access to their a premises; or
- (xi) vehicles attached to the business to be parked in front of adjacent a premises in such a manner that the occupiers are prevented to proceed with the normal operation of their activities.

(o) In relation to general behaviour on streets, parking bays, parking areas and in public places-

- (i) shouting, screaming, whistling or making any other noise to attract attention to such an extent that a nuisance is created;
- (ii) bringing a vehicle to a stop or driving a vehicle in such a manner that pedestrian and vehicular traffic is impeded;
- (iii) riding bicycles or similar devices in groups in such a manner that pedestrian and vehicular traffic is impeded;
- (iv) pushing or parking trolleys or similar devices in such a manner that pedestrian and vehicular traffic is impeded;
- (v) walking or standing in groups in such a manner that other pedestrian traffic is impeded;
- (vi) offering services or goods and articles for sale in intersections in such a manner that the attention of drivers of vehicles is distracted;
- (vii) offering services or goods or articles for sale from the side of the road in such a manner that vehicular or pedestrian traffic is impeded or the attention of drivers of vehicles is distracted;
- (viii) operating a vehicle drawn by animals at such times when, and on such streets where, a heavy traffic flow is experienced;
- (ix) being in an inebriated or drug-induced condition in such a manner that a nuisance is created, and
- (x) acting in a disorderly manner.

(p) the display of anything which is visually offensive;

(q) operating any device which interferes with radio and television reception;

#### **4. Measures for preventing or for abating public nuisances**

- (1) The municipal manager shall take all lawful, necessary and reasonably practicable measures, including legal proceedings, for preventing the occurrence of or for abating or causing to be abated any public nuisance.
- (2) Whenever the municipal manager is satisfied of the existence of a public nuisance within the municipal area, he or she shall serve—
  - (a) on the author of such nuisance;
  - (b) if such author cannot be found, on the occupier of the property on which such nuisance exists, or
  - (c) if there is no such occupier or such occupier cannot be found, on the owner of such property,

a notice in writing requiring such author, occupier or owner, as the case may be, to remove the cause of and to abate such nuisance to his or her satisfaction within a reasonable period specified in such notice.

- (3) If the person on whom a notice has been served in terms of subsection (2) fails to comply therewith or if the author of the nuisance concerned and the owner and occupier of the property on which such nuisance exists are not known or cannot be found, the municipal manager may forthwith take or cause to be taken all measures which he or she may consider to be necessary or desirable for the abatement of such nuisance and any expenses incurred in that connection shall be recoverable by the Council—
  - (a) from the author of such nuisance;
  - (b) if such author cannot be found, from the occupier of the property on which such nuisance existed, or
  - (c) if there is no such occupier or such occupier cannot be found, from the owner of such property.
- (4) If there is more than one author of any public nuisance the order referred to in subsection (2) may be served on any one or more of such authors and the authors on whom such notice is served shall be jointly and severally liable for any expenses incurred by the Council under subsection (3).

#### **5. Repeal of by-laws**

The by-laws listed in the Schedule are hereby repealed.

#### **6. Transitional arrangements**

A person who can prove that an approval was granted in terms of any by-law contained in the schedule, may continue to act in terms of that approval, provided that:-

- (a) the conditions imposed in terms of the original approval will remain in force;
- (b) the original approval will be valid only in respect of the a premises for which it was granted, and
- (c) no approval may be transferred from the original applicant to another person.

**7. Offences and Penalties**

- (1) A person who contravenes Section 3, shall be guilty of an offence and liable for the payment of a fine.
- (2) A person who fails to comply with a notice served in terms of subsection 4 (2) or with any condition imposed by the municipal manager in the exercise of his or her powers or the performance of his or her duties and functions thereunder shall be guilty of an offence and liable for the payment of a fine.