

## BREDE VALLEY MUNICIPALITY

### PARKING BY-LAW

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996 the Breede Valley municipality, enacts as follows:

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## 1. Definitions

(1) In this by-law, unless the context otherwise indicates:

**“approved”** means approved by the municipality, and **“approval”** has a corresponding meaning;

**“authorised officer”** means an inspector of licences, examiner of vehicles, examiner for driving licences, traffic warden, traffic officer or law enforcement officer and includes any other person appointed as an inspector of licences, examiner of vehicles, examiner for driving licences, traffic warden or a traffic officer in terms of section 3A of the National Road Traffic Act, 1996(Act No. 93 of 1996), and includes any person nominated by any organisation and authorised by the municipality;

**“authorised official”** means any employee of the municipality who is responsible for the performance of any function or the exercise of any power in terms of this by-law or any employee of the municipality assigned or delegated to perform any function or exercise any power in the implementation of this by-law;

**“bridge”** means a bridge, as contemplated in the National Road Traffic Act, 1996 (Act 93 of 1996);

**“caravan”** means any vehicle permanently fitted out for use by persons for living and sleeping purposes, whether or not such vehicle is a trailer;

**“municipality”** means the Breede Valley Municipality established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, Provincial Notice 492 dated 22 September 2000 and includes any political structure, political office bearer, councillor or duly authorised agent thereof or any employee thereof acting in connection with these by-laws by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, the councillor, agent or employee;

**“combined parking meter”** means an appliance in which more than one parking meter is contained;

**“coupon”** means a device, whether electronic or not, which either by itself or in connection with any other thing entitles or purports to entitle the holder thereof to park any vehicle in a parking bay or parking ground, and includes any device approved by the municipality from time to time;

**“dealer”** means a person who, for gain, carries on the business of selling, buying, exchanging or garaging vehicles;

**“driver”** means any person who drives or attempts to drive any vehicle or who rides or attempts to ride any pedal cycle and **“drive”** or any like word has a corresponding meaning;

**“examiner of vehicles”** means an ‘examiner of vehicles’ as defined in section 1 of the National Road Traffic Act, 1996 (Act 93 of 1996);

**“heavy motor vehicle”** means a motor vehicle or a combination of motor vehicles the gross vehicle mass of which vehicle or combination of vehicles exceeds 3,500kg;

**“mechanically or otherwise controlled parking ground”** means a parking ground to which entry is controlled by a mechanism, such as a boom, which opens or is manually opened on presentation of proof that any payment was or is to be made as determined by the municipality in the annual schedule of tariffs;

**“metered parking bay”** means a parking bay in respect of which a parking meter has been installed or in respect of which a hand held device is used or electronic payment system has been implemented;

**“metered parking ground”** means a parking ground or any part thereof where parking is controlled by means of a parking meter or meters or any other device approved by the municipality;

**“motor vehicle”** means any self- propelled vehicle and—

- (a) a trailer; and
- (b) a vehicle having pedals and an engine or an electric motor as an integral part thereof or attached thereto and which is designed or adapted to be propelled by means of such pedals, engine or motor, or both such pedals and engine, or motor, but does not include—
  - (i) a vehicle propelled by electrical power derived from storage batteries and which is controlled by a pedestrian; or
  - (ii) a vehicle with a mass not exceeding 230 kilograms and specially designed and constructed, and not merely adapted, for the use of any person suffering from some physical defect or disability and used solely by such person;

**“operate”**, in relation to a vehicle, means to use or drive a vehicle, or to permit a vehicle to be used or driven on a public road, or to have or to permit a vehicle to be on a public road;

**“organization”** means a group of people, company, association or body representing parking marshals that operates a parking marshal service or a parking management service in certain geographical areas as approved by the municipality;

**“outspan”** means to unharness or release animals from an animal drawn vehicle and

**“outspanning”** has a corresponding meaning;

**“owner”** in relation to a vehicle, means—

(a) the person who has the right to the use and enjoyment of a vehicle in terms of common law or a contractual agreement with the titleholder of such vehicle;

(b) a person referred to in paragraph (a), for any period during which such a person has failed to return that vehicle to the titleholder in accordance with the contractual agreement referred to in paragraph (a); and

(c) a person who is registered as such in accordance with regulations issued under section 4 of the National Road Traffic Act, 1996 (Act 93 of 1996);

**“park”** means to keep a vehicle, whether occupied or not, stationary for a period of time longer than is reasonably necessary for the actual loading or unloading of persons or goods, but does not include any such keeping of a vehicle by reason of a cause beyond the control of the person in charge of such vehicle, and **“parking”** has a corresponding meaning;

**“parking marshal”** means a person in the employ of an organization or service provider appointed by the municipality to render a parking management service to drivers in a public place or on a public road;

**“parking bay”** means a demarcated area within which a vehicle is to be parked in terms of this by-law, demarcated as such by the municipality upon the surface of a parking ground or a public road;

**“parking ground”** means any area of land or any building set aside by the municipality as a parking ground or garage for the parking of vehicles by members of the public, whether or not charges are prescribed by this by-law for the use thereof;

**“parking meter”** means a device commissioned in terms of this by-law, registering and visibly recording the parking time either by means of a meter affixed to the device, or on a parking meter ticket issued by the device, or any other device by which parking time can be recorded whether operated by an authorized official or a service provider approved by the municipality;

**“parking period”** means the maximum continuous period during which a vehicle is permitted to park in a parking ground or parking bay as indicated by a road traffic sign;

**“passenger”** means any person in or on a vehicle, but does not include the driver or the conductor;

**“pay-and-display machine”** means any machine or device installed or operated at a pay-and-display parking ground for the sale of coupons;

**“pay-and-display parking ground”** means a parking ground in which a parking coupon must be obtained from a parking coupon vending machine which is situated in or in close proximity of the parking ground;

**“prescribed”** means determined by resolution of the municipality, and in relation to a fee, means as set out in the tariff policy of the municipality;

**“prescribed coin”** means a coin of the Republic of South Africa being legal tender in terms of the South African Mint and Coinage Act, 1964 (Act 78 of 1964), of the denomination indicated on the parking meter concerned and includes debit or credit cards and any other method of payment as may be approved and prescribed by the municipality from time to time;

**“public place”** means any square, park, recreation ground, sports ground, sanitary lane or open space which has—

- (a) in connection with any subdivision or layout of land into erven, been provided, reserved or set apart for use by the public, or the owners, or occupiers of such erven, whether or not it is shown on a general plan, plan of subdivision or diagram;
- (b) at any time been dedicated to the public;
- (c) been used by the public without interruption for a period of at least 30 years; or
- (d) at any time been declared or rendered as such by the municipality or other competent authority;

**“public road”** means any road, street, cycle path, thoroughfare, parking ground, dedicated busway, parking bay or any other similar place, and includes—

- (a) the verge of any such public road;
- (b) any footpath, sidewalk or similar pedestrian portion of a road reserve;
- (c) any bridge, ferry or drift traversed by any such public road;
- (d) any other object belonging to such public road, which has at any time been—
  - (i) dedicated to the public;
  - (ii) used without interruption by the public for a period of at least 30 years;
  - (iii) declared or rendered as such by the municipality or other competent authority; or
  - (iv) constructed by a local authority; and
- (e) any land, with or without buildings or structures thereon, which is shown as a public road on—
  - (i) any plan of subdivision or diagram approved by the municipality or other competent authority and acted upon; or
  - (ii) any general plan as defined in the Land Survey Act, 1997 (Act 8 of 1997), registered or filed in a deeds registry or Surveyor General’s office, unless such land is on such plan or diagram described as a private public road;

**“regulation”** means the National Road Traffic Regulations as published per GN R225 dated 17 March 2000;

**“semi-trailer”** means a trailer having no front axle and so designed that at least 15% of its tare is super-imposed on and borne by the vehicle drawing such trailer;

**“sidewalk”** means that portion of a public road between the outer boundary of the roadway of a road and the boundary lines of adjacent properties or buildings which is intended for the use of pedestrians;

**‘traffic island’** means a physical island or road markings that serve as a channelizing mechanism within a junction or on a public road;

**“trailer”** means a vehicle which is not self-propelled and designed or adapted to be drawn by a motor vehicle, but does not include a side-car fitted to a motor cycle;

**“verge”** means that portion of a road, street or thoroughfare, including the sidewalk, which is not the roadway or the shoulder;

**“vehicle”** means a device designed or adapted mainly to travel on wheels, tyres or crawler tracks and includes such a device which is connected with a draw-bar to a breakdown vehicle and is used as part of the towing equipment of a breakdown vehicle to support any axle or all the axles of a motor vehicle which is being salvaged, other than such a device which moves solely on rails.

(2) In this By-law, a word or expression that has been defined in the National Road Traffic Act, 1996 (Act 93 of 1996), and the National Road Traffic Regulations as published per GN R225 of 17 March 2000, has that meaning, unless the context otherwise indicates.

## **2. Purpose**

The purpose of this By-law is to control parking within the area of jurisdiction of the municipality in order to provide a safe environment.

# **CHAPTER 1**

## **GENERAL PROVISIONS RELATING TO PARKING**

### *Part 1: General provisions*

#### **3. Control of parking**

- (1) Whenever the public or a number of persons are entitled or allowed to use, as a parking place, an area of land, including land which is not part of a public road or a public place, an authorised officer may, in cases of emergency or when it is desirable in the public interest, direct and regulate traffic thereon.
- (2) The municipality may manage parking and collect any fees related to parking or appoint a service provider to manage parking and to collect any fees related to parking.
- (3) No person may without the prior written approval of the municipality erect or place any sign or notice in any position or place indicating that parking in any parking bay is reserved for a person or a class of persons.
- (4) The municipality may operate a parking management system in areas and during times determined by the municipality from time to time.
- (5) A person who disregards an instruction of an authorised officer in terms of subsection (1) or who erects or places a sign or notice in contravention of subsection (3) commits an offence.

#### **4. Determination of fees**

- (1) The municipality may determine the fees payable in terms of this by-law.
- (2) The municipality may levy different fees in respect of persons of different ages, groups of persons, or different classes of vehicles.

#### **5. Parking by a dealer or seller of a vehicle**

- (1) No dealer or seller of a vehicle may without the permission of the municipality, park or allow to be parked on the verge of a public road, or any other municipal land within the municipal area, a vehicle which is for sale or for rental, whether advertised as such or not.
- (2) An application for permission as contemplated in subsection (1) must be made at the traffic department of the municipality after completion of the prescribed application form and against payment of the prescribed fees.
- (3) A dealer or seller who contravenes subsection (1) commits an offence.

#### **6. Parking of heavy vehicles trailers and caravans**

- (1) No person may, for an uninterrupted period exceeding two hours, except on places reserved for the parking of heavy vehicles, park on a public road within the municipal area—
  - (a) a motor vehicle with a tare exceeding 3500 kg;
  - (b) a trailer not attached to a vehicle;
  - (c) a semi-trailer, or
  - (d) a caravan not attached to a vehicle.
- (2) No person may park a heavy motor vehicle on any public place in the municipal area,

except on private land or in those areas where road traffic signs regulating such parking have been erected.

- (3) Whenever a vehicle is parked in contravention of subsections (1) or (2), it is deemed that the owner thereof has parked such vehicle, unless the contrary is proved.
- (4) A person who contravenes subsections (1) and (2) commits an offence.

#### **7. Parking upon a traffic island**

(1) No person may park a vehicle upon a traffic island, unless directed or instructed to do so by an authorised officer or unless a parking bay has been demarcated upon such traffic island.

(2) A person who parks a vehicle upon a traffic island in contravention of subsection (1), or who fails to comply with a direction or instruction by an authorised officer commits an offence.

#### **8. in public roads**

(1) No person may outspan or allow to be outspanned in any public road or public place any vehicle drawn by animals.

(2) Any person who contravenes subsection (1) commits an offence.

### ***Part 2: Parking permits***

#### **9. Temporary parking permit**

(1) Subject to any conditions the municipality may impose, a temporary parking permit may be granted to allow the holder of the permit to park one or more vehicles in a designated parking space for a period specified in the permit despite an indication on an official traffic sign to the contrary and despite the fact that paid parking would otherwise apply to the space.

(2) A temporary parking permit may only be granted if the municipality is satisfied that—

- (a) the applicant is engaged in some temporary activity affecting premises immediately adjacent to the designated parking space to which the application relates; and
  - (b) it is not reasonably practical for the applicant to carry out that activity unless the designated parking space to which the application relates is allocated to the exclusive use of the applicant for the duration of the activity.
- (3) A person who parks a vehicle in contravention of subsection (1) commits an offence.

#### **10. Work zone permit**

(1) Subject to any conditions the municipality may impose, a work zone parking permit may be granted for parking in a parking bay or parking ground or on the verge of a road or elsewhere on a public road if the municipality is satisfied that—

- (a) the part of the road or other area referred in subsection (1) to which the application relates is adjacent to or at the site of proposed building, construction or other work; and
- (b) the carrying out of the building, construction or other work is lawful; and
- (c) having regard to the nature of the building, construction or other work and the characteristics of the site of the work, it is not reasonably practical for all work activity involving the vehicle, including loading and off-loading and associated

vehicle movements, to be confined within the site, or to areas within close proximity where parking is permitted.

- (2) Holders of work zone permits may only use such permits for the parking of any vehicle in the execution of their duties.
- (3) A person who parks a vehicle in contravention of subsection (1) or who uses a work zone permit whilst not executing his or her duties commits an offence.

#### **11. works parking permit**

(1) Subject to any conditions the municipality may impose, a municipal works parking permit may be granted to allow a person to park one or more vehicles in a designated parking space, and for a period specified in the permit despite an indication on an official traffic sign to the contrary and despite the fact that paid parking would otherwise apply to the space if the person is—

- (a) an employee, contractor or agent of the municipality; and
- (b) parking the vehicle or vehicles in the space—
  - (i) for the purpose of carrying out work for or on behalf of the municipality; and
  - (ii) in the course of carrying out his or her duties for on behalf of the municipality.
- (2) A person who parks a vehicle in contravention of subsection (1) or who uses a municipal works parking permit whilst not executing his or her duties commits an offence.

#### **12. Application for and conditions of parking permits**

(1) Application for permits contemplated in sections 9 and 10 must be made at the traffic department of the municipality on the prescribed application form and against payment of the prescribed fees.

- (2) (a) The holder of a parking permit must affix the original permit on the windshield of the vehicle identified in the permit facing outwards, and as near as practicable to the registration label for the vehicle.
- (b) The municipality may only issue a replacement permit after the permit holder has declared the facts and circumstances of a loss, destruction or damage of the original permit to the satisfaction of the municipality.

#### **13. Reserved parking for the disabled, diplomatic corps, South African Police Services and other identified groups**

(1) The municipality may reserve parking areas for the disabled, diplomatic corps, South African Police Services and any other groups identified by the municipality, and may designate such areas by notice or road signage and may impose conditions relating to the issue of special parking facility permits.

(2) The municipality may, in accordance with section 80 of the National Traffic Act, 1996, (Act 93 of 1996), and subject to subsection (3), exempt a disabled person from the provisions of this by-law.

(3) A disabled person who requires exemption as contemplated in subsection (2) must apply to the traffic department of the municipality on the prescribed form and against payment of the prescribed fees.

(4) In authorising an exemption in terms of subsection (3) the municipality may issue a permit subject to any conditions it may deem fit and where the permit holder fails to comply with the said conditions, after being notified by the municipality of such non-compliance, the permit may be revoked or suspended.



- (5) No person may stop, park or leave a vehicle at any time in any designated parking space other than a vehicle displaying a designated parking permit.
- (6) Any person who contravenes subsection (5) commits an offence.

## **CHAPTER 2**

### **PARKING METERS AND PAYMENT FOR PARKING**

#### **14. The installation of parking meters or use of any other device to record the time parked**

(1) The municipality may install or cause to be installed or operate or cause to be operated in a public road or place in the municipal area—

- (a) a parking meter at a parking space demarcated as a parking bay;
- (b) a combined parking meter at a parking space demarcated as parking bays; or
- (c) any other device by which parking time can be recorded and displayed.

(2) The municipality may install or operate a parking meter contemplated in subsection (1) upon the kerb, footpath or sidewalk which adjoins the parking bay in respect of which it is installed or at any other place in close proximity that serves the parking bay.

(3) In the instance where a parking meter is not automatically activated by the insertion of a prescribed coin, a notice which indicates the kind of action to be taken in order to set the meter in operation once the prescribed coin has been inserted, must be clearly displayed on the parking meter or a notice board.

(5) In the instance where a meter, when applicable, is out of order, an authorised officer may securely place over the meter a hood carrying in legible letters the words: "Out of order" and in such instances a vehicle may be parked without payment of the prescribed amount.

#### **15. Method of parking**

(1) No driver or person in charge of a vehicle may park a vehicle—

- (a) in a parking bay across a painted line marking the bay or in such a position that the vehicle is not entirely within the area demarcated as a parking bay;
- (b) in a parking bay which is already occupied by another vehicle; or
- (c) in a parking bay in contravention of a road traffic sign which prohibits the parking or stopping of vehicles in the public road or portion of the public road concerned.

(2) A person who contravenes the provisions of subsection (1) commits an offence.

#### **16. Payment for parking**

(1) (a) When a vehicle is parked in a parking bay, the driver or person in charge of the vehicle must—

- (i) immediately deposit or cause to be deposited in the parking meter which adjoins the parking bay in respect of which it is installed the prescribed coin as indicated on the meter for the period of time during which he or she desires to park his or her vehicle in the bay, and must, where applicable, set the meter in operation either by inserting the prescribed coin in the appropriate slot of the parking meter, or where applicable, in accordance with the instructions appearing on the parking meter; or
- (ii) effect payment by any other means prescribed by the municipality irrespective of the device used to record the time parked and irrespective of whether payment is required at the beginning or end of the period so parked, and a driver or person in charge of a vehicle commits an offence if he or she:

- (aa) fails to set in operation the parking meter by depositing in the parking meter the prescribed coin in accordance with the instructions appearing on the parking meter; or
  - (bb) refuses to pay to a parking marshal the fee calculated by the device used to record the parking time; or
  - (cc) fails to pay to the service provider, after written notification by the service provider to do so, the fee calculated by the device used to record the parking time.
- (b) When a vehicle or a vehicle and a trailer is of such dimensions that it occupies more than one metered parking bay, the driver or person in charge of the vehicle must—
- (i) immediately deposit or cause to be deposited in the parking meters which adjoin the parking bays in respect of which they are installed the prescribed coins as indicated on the meter for the period of time during which he or she desires to park his or her vehicle in the bays, and must, where applicable, set the meter in operation either by inserting the prescribed coin in the appropriate slot of the parking meter, or where applicable, in accordance with the instructions appearing on the parking meter; or
  - (ii) effect payment by any other means prescribed by the municipality irrespective of the device used to record the time parked and irrespective of whether payment is required at the beginning or end of the period so parked, and a driver or person in charge of a vehicle commits an offence if he or she:
    - (aa) fails to set in operation the parking meter by depositing in the parking meter the prescribed coin in accordance with the instructions appearing on the parking meter; or
    - (bb) refuses to pay to a parking marshal the fee calculated by the device used to record the parking time; or
    - (cc) fails to pay to the service provider, after written notification by the service provider to do so, the fee calculated by the device used to record the parking time.
- (c) On completion of the actions prescribed in paragraphs (a) and (b), the metered parking bay may be lawfully occupied by a vehicle during the period which is indicated on the parking meter or the device contemplated in subsection (1)(a)(ii) or (1)(b)(ii).
- (d) Subject to paragraph (e), a driver or person in charge of a vehicle may, without payment, park a vehicle during such time (if any) as may be indicated on the parking meter as being unexpired from its previous use, provided that the Municipality may cancel any paid for time remaining on a meter after a vehicle for which the parking was paid for vacated the parking bay and before the parking bay is occupied by a subsequent vehicle.
- (e) Subsection (d) does not apply to any parking bay where unexpired time is not visibly displayed.
- (2) Subject to the provisions of subsection (3), the driver or person in charge of a vehicle may, irrespective of whether the authorised period of parking has expired or not, immediately set the parking meter in operation as set out in subsection (1)(a), and after the meter has been set in operation, the vehicle may lawfully occupy the parking bay for the further period indicated on the parking meter.
- (3) No person may leave a vehicle parked in a parking bay for a continuous period exceeding the maximum permissible parking time as indicated on the meter or other device, and a person who leaves a vehicle parked in a parking bay for a continuous

period exceeding the maximum permissible parking time as indicated on the meter, a sign or device, commits an offence.

(4) No driver or person in charge of a vehicle may cause, allow or permit the vehicle to be or remain parked in a parking bay while the indicator of the parking meter or any other device shows that—

(a) the time has expired; or

(b) that the parking meter has not been set in operation either by the insertion of the prescribed coin or, where applicable in accordance with the instructions appearing on the parking meter, and a driver or person in charge of a vehicle who contravenes a provision of this subsection commits an offence.

#### **17. Prevention of parking at a parking bay**

An authorised officer may display road traffic signs whenever necessary or expedient to do so in the interests of the movement or control of traffic, or place or erect a traffic sign or signs indicating “No Stopping” or “No Parking” at a parking bay, and no person may stop or park a vehicle or cause or permit a vehicle to be stopped or parked in such parking bay—

(a) while the sign is so placed or erected; or

(b) during any period when the stopping or parking of a vehicle in the public road or portion of the public road concerned is prohibited in terms of such traffic sign, and a person who contravenes a provisions of this section commits an offence.

#### **18. Tampering with a parking meter or device**

(1) No person may—

(a) misuse, damage, knock interfere with or tamper with;

(b) attempt to misuse, damage, knock interfere with or tamper with the working, operation or mechanism of a parking meter.

(2) No person may, without authority from the municipality affix or attempt to affix or place a placard, advertisement, notice, list, document board or thing on a parking meter.

(3) No person may paint, write upon or disfigure a parking meter.

(4) A person who contravenes a provision of this section commits an offence.

#### **19. Prescribed coin only to be deposited**

(1) No person may deposit or cause to be deposited in a parking meter anything other than the prescribed coin.

(2) A person who contravenes subsection (1) commits an offence.

#### **20. Unlawful operation of a parking meter**

(1) No person may operate or attempt to operate a parking meter by any means other than as prescribed in this by-law.

(2) A person who contravenes subsection (1) commits an offence.

#### **21. Unlawful parking and clamping or removal of unlawfully parked vehicles**

(1) No person may cause, allow or permit any vehicle to be parked in a parking bay, except as permitted by the provisions of this by-law.

(2) Where any vehicle is found to have been parked in contravention of this by-law, it is deemed to have been parked, or caused to be parked, or allowed to have been parked by the person in whose name the vehicle is registered unless the contrary is proved.

- (3) The municipality may—
- (a) attach a wheel clamp to any unlawfully parked vehicle;
  - (b) or cause an unlawfully parked vehicle to be removed to a place designated by the municipality; and
  - (c) charge a fee for the removal of a wheel clamp attached in terms of subsection (3)(a) or the release of a vehicle which was removed in terms of subsection (3)(b), which fees will be payable upon removal of such wheel clamp or release of such vehicle.
- (4) The Municipality will not be liable for any loss from or damage to a vehicle resulting from the clamping or removal of such a vehicle in terms of subsection (3).
- (5) A person who contravenes subsection (1) commits an offence.

## **22. Exemptions**

(1) Notwithstanding any other provision in this by-law, the driver or person in charge of the following vehicles may, subject to the provisions of this section, park in a metered parking bay without payment of the prescribed fee:

- (a) a vehicle used as an ambulance while attending to a life threatening situation;
- (b) a vehicle used by a fire brigade while attending to a fire;
- (c) a vehicle used by a member of the South African Police Service or the Local Municipal and Provincial Traffic Law Enforcement divisions in the execution of their respective duties.

(2) Subject to any time limits or restrictions regarding the stopping or parking of vehicles as are prescribed by any other law, regulation or by-law, a parking bay may be occupied without charge during the hours indicated by the municipality on a sign erected for that purpose.

(3) A person who contravenes subsection (2) commits an offence.

## **CHAPTER 3**

### **PARKING GROUNDS**

#### *Part 1: General provisions*

### **23. The municipality not liable for loss or damage**

The municipality is not liable for the loss of or damage howsoever caused, to any vehicle or person or any accessories or contents of a vehicle which has been parked in a parking ground.

### **24. Payment of prescribed fee**

(1) A person making use of a parking ground or parking bay must, where fees have been determined in respect of the parking ground or parking bay, pay the prescribed fee in any way or format prescribed by the municipality.

(2) The municipality may, in respect of a parking ground controlled by the issue of coupons, issue at the prescribed fee a coupon which entitles the holder for one calendar month or any lesser period stated in the coupon to park a vehicle in the ground, if a parking bay is available, at the times stated in the coupon.

(3) The municipality may issue to any of its officials a coupon which entitles the holder, when using a vehicle regarding the business of the municipality, to park the vehicle in a parking ground specified, if space in the parking ground is available.

(4) A coupon issued under subsection (2) or (3)—

- (a) may not, without the prior written consent of the municipality—
    - (i) be transferred to any other person; or
    - (ii) be used in respect of any vehicle other than the specified vehicle;
  - (b) must be affixed by the holder of the coupon to the vehicle in respect of which it is issued in such manner and place that the written or printed text of the coupon is legible from the outside of the vehicle; and
  - (c) will only be valid for the period stated on such coupon.
- (5) Application for consent contemplated in subsection (4)(a) must be made on a form provided for this purpose by the municipality.
- (6) A person who contravenes subsection (1), or who uses a parking ground or parking bay when the period for which a coupon was issued in terms of subsection (2) has elapsed, or who contravenes a provision of subsection (4) commits an offence.

#### **25. Observance of signs**

- (1) A person in a parking ground must observe and comply with any traffic or other sign, notice or surface marking which is placed or displayed on the parking ground for the purpose of directing and regulating vehicles using the parking ground or the entrance or exit to the parking ground.
- (2) A person who contravenes subsection (1) commits an offence.

#### **26. Manner of parking and removal of vehicle**

- (1) No person may in any parking ground park a vehicle otherwise than in compliance with an instruction or direction given by an authorised officer or as indicated by way of a sign, or introduce or remove a vehicle otherwise than through an entrance or exit to the parking ground demarcated for that purpose.
- (2) Where parking bays have been demarcated in a parking ground, no person may park a vehicle—
  - (a) in a place on the parking ground which is not a demarcated parking bay, unless instructed to do so by the authorised officer at the parking ground;
  - (b) in a parking bay across a painted line marking the bay or in such a position that the vehicle is not entirely within the area demarcated as a parking bay; or
  - (c) in a parking bay which is already occupied by another vehicle.
- (3) No person may park a vehicle on a roadway within a parking ground or on a sidewalk within such parking ground in a manner restricting pedestrian movement on such sidewalk.
- (4) No person may in a parking ground park a vehicle in a manner which obstructs or causes inconvenience to other users of the parking ground.
- (5) No person may park, or cause, or permit a vehicle other than a vehicle as defined in the National Road Traffic Act, 1996 (Act 93 of 1996), to be parked or to be or remain in a parking ground.
- (6) A person who contravenes a provision of this section commits an offence.

#### **27. Abandoned or impounded vehicles**

- (1) A vehicle which has been left in the same place in a parking ground for a continuous period of more than seven days may be removed by the municipality.
- (2) The municipality must take all reasonable steps to trace the owner of a vehicle which was removed in terms of subsection (1), and if the owner of the vehicle or the person entitled to possession of the vehicle cannot be found within a period of 90 days after the vehicle has been removed, the municipality may, subject to subsection (3) and (4) sell

the vehicle at a public auction; provided that authority for such sale has been granted by a competent court.

(3) An application to court for the sale of an impounded vehicle in terms of this by-law, must comply with the procedure contemplated in section 66 of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944), and Rule 41 of the Rules of Court.

(4) The municipality must, 14 days before the auction contemplated in subsection (2), publish or cause to be published in at least two newspapers circulating within the municipal area, a notice of the auction, however, if the owner or the person entitled to possession of the vehicle claims the vehicle before the auction commences, the vehicle may not be sold at the auction, and the person must pay to the municipality all prescribed fees payable in terms of this by-law and the applicable costs in terms of subsection (5).

(5) The proceeds of a sale concluded in terms of this section must be applied first in payment of the fees referred to in subsection (3) and thereafter to defray the following:

- (a) the costs incurred in endeavouring to trace the owner in terms of subsection (2);
- (b) the costs of removing the vehicle;
- (c) the costs of publishing the notice of the auction;
- (d) the costs of effecting the sale of the vehicle;
- (e) the costs of keeping the vehicle in the pound;
- (f) the parking fees applicable for having left the vehicle in the parking ground as contemplated in subsection (1); and
- (g) any other unpaid parking fees or unpaid traffic fines in respect of such vehicle

and the balance, if any, of the proceeds must be paid, upon claim, to the owner of the vehicle or the person entitled to the vehicle if he or she can prove his or her right to the vehicle.

(6) If no claim is established within one year of the date of the sale, the balance of the proceeds contemplated in subsection (4) is forfeited to the municipality.

#### **28. Damage to notices**

(1) No person may remove, disfigure, obscure or in any manner damage or interfere with a notice, notice-board, sign or other thing placed by the municipality on a parking ground.

(2) A person who contravenes subsection (1) commits an offence.

#### **29. Negligent and dangerous driving and speed restriction**

(1) No person may, on a parking ground, drive a vehicle negligently or in a manner dangerous to the public or to another vehicle.

(2) The municipality may by sign indicate the maximum speed that may be travelled in a parking ground.

(3) A person who contravenes a provision of this section commits an offence.

#### **30. Entering or remaining in parking ground**

(1) No person may enter, remain or be on a parking ground otherwise than for the purpose of parking on the parking ground a vehicle, or lawfully removing from the parking ground a vehicle, in respect of which he or she has paid the prescribed parking fee, however this section does not apply to—

- (a) a person in the company of a person who is parking or removing a vehicle;

(b) officials of the municipality engaged in official activities or on instruction from the municipality; and

(c) a person employed by an appointed parking management service provider engaged in the execution of his or her duties.

(2) A person who contravenes subsection (1) commits an offence.

### **31. Tampering with vehicle**

(1) No person may on a parking ground, without reasonable cause or without the knowledge or consent of the owner or person in lawful charge of a vehicle, in any way interfere or tamper with the machinery, accessories, parts or contents of the vehicle, or enter or climb upon the vehicle, or set the machinery of the vehicle in motion.

(2) A person who contravenes subsection (1) commits an offence.

### **32. Defacing coupon**

(1) No person may in a parking ground, with intent to defraud the municipality, forge, imitate, deface, mutilate, alter or make a mark upon a parking coupon issued in terms of this by-law.

(2) A person who contravenes subsection (1) commits an offence.

### **33. Defective vehicle**

(1) No person may park, or cause, or permit a vehicle which is mechanically defective or for any reason incapable of movement, to be parked or to remain in a parking ground.

(2) If a vehicle, after having been parked in a parking ground, develops a defect which renders it immobile, the person in charge must take all reasonable steps to have the vehicle repaired or removed within a reasonable time.

(3) A person who contravenes a provision of this section commits an offence.

### **34. Cleaning of vehicle**

(1) No person may, without the prior approval of the municipality, clean or wash a vehicle in a parking ground or parking bay.

(2) A person who contravenes subsection (1) commits an offence.

### **35. Refusal of admission**

(1) An authorised officer may refuse to admit into a parking ground a vehicle which, together with its load, is longer than five metres, or is, by reason of its width or height, likely to cause damage to persons or property, or to cause an obstruction or undue inconvenience.

(2) A person who disregards an authorised officer's refusal of admission commits an offence.

### **36. Parking hours and classes of vehicles**

(1) The municipality may, subject to the provisions of this by-law, permit the parking on a parking ground during the hours when the parking ground is open for parking of such classes of vehicles as it may determine.

(2) The municipality must, in a notice posted at the entrance to the parking ground, set out the classes of motor vehicles which may be parked in the parking ground, and the opening and closing hours of the parking ground.

(3) The municipality may, notwithstanding a notice posted in terms of subsection (2), by notice exhibited on a parking ground, close the parking ground or a portion of a parking ground, either permanently or for a period stated in the notice, for the parking of vehicles.

(4) No person may park a vehicle or allow a vehicle to remain parked on a parking ground or portion of a parking ground which has been closed under subsection (3), or at any time other than during the hours for the parking of vehicles on the parking ground.

(5) No person may park on the parking ground a vehicle which is not of the class or classes which may use the parking ground for parking as set out in the notice at the entrance to the parking ground.

(6) No person may, unless he or she is the holder of a parking coupon issued in terms of this by-law authorising him or her to do so, park a vehicle or cause or permit it to be parked in a parking ground before the beginning or after the expiry of the parking period determined for the parking ground.

(7) A person who contravenes subsection (4), (5) or (6) commits an offence.

### **37. Reservation by the municipality**

(1) The municipality may, by notice exhibited in the parking ground, reserve a portion of a parking ground for the parking of vehicles owned by the municipality or vehicles used by members of its staff on the business of the municipality.

(2) A person who parks a vehicle in a portion reserved for parking as contemplated in subsection (1) commits an offence.

## ***Part 2: Mechanically controlled parking ground***

### **38. Parking of a vehicle in a mechanically controlled parking ground**

(1) Subject to section 2, a person who—

- (a) wishes to park a vehicle;
- (b) causes or permits a vehicle to be parked; or
- (d) allows a vehicle to be parked,

in a mechanically controlled parking ground must obtain a parking coupon which is issued by the machine in accordance with the instructions which are displayed on or near the parking coupon vending machine,

(2) A person contemplated in subsection (1) may not park a vehicle—

- (a) except in a parking bay and in compliance with such directions as may be given by an authorised officer or where no such bay has been marked, except in a place indicated by the authorised officer;
- (b) after an authorised officer has indicated to the person that the parking ground is full;
- (c) after the expiry of the parking period indicated on the parking coupon; or
- (d) for a longer period than indicated as indicated by sign.

(3) A parking coupon obtained in terms of subsection (1) is valid until the time of expiry thereof as indicated on the coupon, and a person may not allow the vehicle to remain in the parking ground after expiry of the parking period, provided that the municipality may implement a system where payment is required at the end of the parking period.

(4) A person who does not obtain a coupon in accordance with subsection (1) or who contravenes subsection (2) or (3) commits an offence.

### **39. Removal of a vehicle from a mechanically controlled parking ground**

(1) No person may remove, or cause or permit the removal of a vehicle in a parking ground, unless—

- (a) he or she has produced to the authorised officer, where applicable, a coupon authorising him or her to park in the parking ground and which was issued to him



or her by the parking coupon vending machine upon entering the parking ground;  
and

(b) he or she has paid to the authorised officer the prescribed parking fee.

(2) If a person fails to produce a coupon authorising him or her to park in the said parking ground, he or she is deemed to have parked the vehicle from the beginning of a period that the ground is open for parking until the time he or she wants to remove the vehicle, and he or she shall be charged a the applicable parking fee.

(3) Where a vehicle has not been removed from a parking ground by the end of the parking period for which the prescribed fee has been paid, a further charge as may be determined by the municipality will be payable for the next parking period.

(4) A person who contravenes subsections (1), (2) and (3) commits an offence.

### ***Part 3: Pay-and-display parking ground***

#### **40. Parking of a vehicle in a pay-and-display parking ground**

(1) A person who—

- (a) wishes to park a vehicle;
- (b) causes or permits a vehicle to be parked; or
- (c) allows a vehicle to be parked,

in a pay-and-display parking ground must immediately, upon entering the parking ground, buy a coupon which is issued by the machine, and a person who does not comply with this subsection commits an offence.

(2) The following must be indicated on the parking coupon vending machine:

- (a) the period during which a vehicle may be parked in the pay-and-display parking ground; and
- (b) the coin or other prescribed object or method of payment to be inserted or used in respect of the parking period.

(3) The person must display the coupon by affixing it to the inside on the driver's side of the front windscreen of the vehicle in such a manner and place that the information printed on the coupon is legible from the outside of the vehicle.

(4) No person may allow a vehicle to remain in a pay-and-display parking ground after the expiry of the departure time indicated on the parking coupon and, unless evidence to the contrary is produced, the date or day and time of departure as recorded by a parking coupon vending machine is taken to be correct evidence of date or day and time.

(5) No person may park a vehicle, cause, permit or allow a vehicle to be parked in a pay-and-display parking ground if a parking coupon cannot be obtained from the parking coupon vending machine in the manner indicated thereon or when a notice displayed on the machine indicates that it is out of order.

(6) If a vehicle is removed from a pay-and-display parking ground and returned to the pay-and-display parking ground within the period of validity of the parking coupon, the coupon continues to be valid.

(7) Possession of a valid parking coupon does not guarantee the availability of a vacant parking bay.

(8) A person who contravenes subsection (3), (4) or (5) commits an offence.

#### **41. General offences in respect of a pay-and-display parking ground**

(1) A person commits an offence if he or she—

- (a) inserts or attempts to insert into a parking coupon vending machine—
  - (i) a counterfeit coin;
  - (ii) where another kind of object is to be used, a false object;

- (iii) a coin which is not South African currency; or
- (iv) any object which is not meant to be inserted into the parking coupon vending machine;
- (b) jerks, knocks, shakes or in any way interferes or tampers with, or damages, or defaces a parking coupon vending machine or appurtenance thereto, or affix or attempt to affix or place a sign, placard, advertisement, notice, list, document, board or thing on, or paint, write upon or disfigure a parking coupon vending machine; or
- (c) removes or attempts to remove a parking coupon vending machine or any part of the machine from its mounting.

## **CHAPTER 5**

### **GENERAL PROVISIONS**

#### **42. Obstruction or interfering with an authorised officer**

- (1) An authorised officer may direct all traffic by means of visible or audible signals, and no person may disobey such signals.
- (2) No person may obstruct, hinder, abuse or interfere with any authorised officer in the exercise of the power referred to in subsection (1).
- (3) A person who contravenes a provision of this section commits an offence.

#### **43. Obstruction or interfering with an authorised official or parking marshal**

- (1) No person may obstruct, hinder, abuse or interfere with any authorised official or parking marshal in the exercise of the powers conferred upon him or her in terms of this by-law.

#### **44. Presumptions**

- (1) For the purpose of this by-law, the person in whose name a vehicle is licensed and which is parked in a parking ground, is deemed to be the person having control or charge of the vehicle, unless and until he or she proves the contrary.
- (2) (a) Where in any prosecution in terms of the common law relating to the driving of a vehicle on a public road, or in terms of this by-law it is necessary to prove who was the driver of such vehicle, it is presumed, in the absence of evidence to the contrary, that such vehicle was driven by the owner thereof.
- (b) Whenever a vehicle is parked in contravention of any provision of this by-law, it shall be presumed, in the absence of evidence to the contrary, that such vehicle was parked by the owner thereof.
- (c) For the purposes of this by-law it is presumed, in the absence of evidence to the contrary, that where the owner of the vehicle concerned is a corporate body, such vehicle was driven or parked by a director or servant of the corporate body in the exercise of his or her powers or in the carrying out of his or her duties as such director or servant, or in furthering, or endeavouring to further the interests of the corporate body.

#### **45. Parking attendants**

The provisions of section 10 of the Roads and Streets By-law of the municipality applies with the necessary changes.

**46. Appeal**

A person whose rights are affected by a decision made under this by-law and in the event of the power or duty to make that decision is delegated or sub-delegated to the decision-maker, may appeal against that decision in terms of section 62 of the Municipal Systems Act, 2000 (Act 32 of 2000).

**47. Dispute settlement**

(1) Where a person feels aggrieved by the behaviour of a parking marshal or disputes any action taken by a parking marshal employed by a service provider responsible for management of a parking system, he or she must lodge a complaint in writing with the management of the service provider within seven days of the occurrence.

(2) A copy of the said complaint must be delivered to the Director: Community Services who may request the management of the service provider to submit to him or her a report within seven working days setting out the action taken to settle the complaint or dispute.

(3) The Director: Community services may in his or her discretion take any steps necessary to settle the complaint or dispute where the management of the service provider fails to settle the complaint or dispute to the satisfaction of the Director.

**48. Penalties**

A person who has committed an offence in terms of this by-law is, on conviction, and subject to penalties prescribed in any other law, liable to—

- (a) a fine, or in default of payment, to imprisonment, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment; and
- (b) in the case of a successive or continuing offence, to a fine for every day such offence continues, or in default of payment thereof, to imprisonment.

**49. Repeal of by-laws**

Section 9 of the Roads and Streets By-law of the municipality is hereby repealed.

**50. Short title**

This By-law is called the Breede Valley Municipality: Parking By-law, and commences on the date of publication thereof in the Provincial Gazette.