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### 1. Definitions

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

**"animal"** means any cattle, sheep, goat, horse, mule, donkey, pig, and ostrich or the hybrid of such animal; and

**"brand"** has the meaning assigned to it in the Livestock Brands Act, 1962 (Act 87 of 1962);

**"commonage"** means any land or portion of land which is in possession or under the control of the Municipality and set aside by the Municipality for the purposes of establishing grazing camps for animals or plots for crop or plant production, gardening or other agriculture-related economic activity.

**"large stock"** has the meaning assigned to it in the Livestock Brands Act, 1962 (Act 87 of 1962);



**“municipality”** means the Matjhabeng Local Municipality and its legal successors, and when referred to as-

- (a) a legal entity, means Matjhabeng Local Municipality as described in section 2 of the Local Government: Municipal Systems Act, (Act No. 32 of 2000);
- (b) a geographic area, means the municipal area of the Matjhabeng Local Municipality as determined from time to time in terms of the Local Government: Municipal Demarcation Act, 1998 (Act No 27 of 1998); and
- (c) any political structure, political office bearer, councillor, 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, councillor, agent or employee;

**"permit holder"** means the person to whom a permit has been issued by the Municipality in terms of these by laws;

**“plot”** means any portion of a commonage set aside by the Municipality for other purposes than grazing.

**“prescribed”** means prescribed by the Municipality;

**“small stock”** has the meaning assigned to it in the Livestock Brands Act, 1962 (Act 87 of 1962).

**“Individual Farms”** means individual farmer who lease land from the municipality for the purpose of strictly farming.

**“Indigent farmer”** means individual farmer in a commonage who is categorised as indigent by municipality and does not owe more than Five of any categorized livestock.

2. In this by-law, unless the context indicates otherwise, words and expressions denoting the singular shall include the plural and vice versa, words and expressions denoting the male sex shall include the female sex and vice versa and reference to a natural person shall include a legal person and vice versa.

## 2.1 Purpose of by-law

The purpose of these by-law is to provide for the reserving of land as commonage and the control, conservation and administration of a commonage established by the Municipality, and of municipal land for the purpose of crop planting.

# Matjhabeng Municipality, Commonages By-Law



## CHAPTER 1 RESERVING OF LAND AS COMMONAGE

### 1.1 Reserving land as commonage

1.1.1 The Municipality may by resolution, subject to the provisions of any law or any restrictions regarding the use of land in the title deed of that land –

- (a) reserve municipal land suitable to be utilized as a commonage.
- (b) at any time add defined municipal land to the commonage so reserved; and
- (c) at any time, partly or wholly withdraw any land which forms part of the commonage from being used for grazing, crop or plant production gardening or other agriculture-related economic activity.

1.1.2 The Municipality –

- (d) must divide each piece of land reserved as commonage in terms of subsection (1), in separate fenced off camps suitable for the grazing of animals or gardening plots, allocating a number to each camp and garden plot.
- (e) may provide, in each camp or plot such facilities as may be necessary for the maintenance of animals or gardening in that camp or plot.
- (f) must compile proper maps of each piece of land reserved as part of the commonage, indicating at least the boundaries of camps, plots, gates, boreholes and drinking facilities.
- (g) may set apart portions of the commonage for the grazing of small stock and large stock, allocate the animals of each permit holder to a specific camp or camps, in accordance with the conditions of the Conservation of Agricultural Resources Act, 1983 (Act 43 of 1983), and allocate land to a lessee and notify such permit holder or lessee accordingly.
- (h) may provide the necessary infrastructure, such as but not limited to fences, water, roads, paddocks, or enclosures for animals, and ensure such infrastructure is in place before any permit is issued or lease or rental agreements are entered into.
- (i) must ensure that leases or rental agreements comply with local tariffs as advised by the Department of Agriculture, fully understood by the lessee.
- (j) must adhere to the commonage management plan and ensure that lessees adhere to such plan.



- (k) must develop and implement a proper program of division into smaller camps for rotation of grazing on land reserved as commonage, revised on a seasonal basis on advise of officials of the Department of Agriculture, including a proper program for the control of weeds and invader plants in accordance with the Conservation of Agricultural Resources Act, 1983 (Act 43 of 1983); and
- (l) may keep records, open for public inspection, regarding –
  - (a) all permits or lease holders.
  - (b) dates of expiry of all permits.
  - (c) payments or exemptions of payment of all permit holders; and
  - (d) any other matter which needs to be recorded.

## **1.2 Closing of camps, setting of traps, and gathering of animals**

1.2.1 The Municipality may, whenever it deems it necessary for a purpose such as, but not limited to, maintenance or allowing a meadow to regenerate grass growth as advised by officials of the Department of Agriculture, in accordance with the Conservation of Agricultural Resources Act, 1983 (Act 43 of 1983), close any portion of the commonage or close and reserve the grazing of a camp on the commonage, during certain periods of the year.

1.2.2 No person may use any portion of the commonage or allow his animal to graze in a camp, which has been closed by the Municipality for whatever purpose or reason.

1.2.3 Municipality may impound an animal found in a camp which has been closed in terms of subsection (1).

1.2.4 The Municipality may cause traps to be set for vermin on the commonage in collaboration with qualified biologists of the Department of Tourism, Environmental and Economic Affairs, and in accordance with conditions of the National Environmental Management Act, 1998 (Act 107 of 1998).

1.2.5 The Municipality has the right to inspect all animals on the commonage from time to time to ascertain if the animals are registered with the Municipality in accordance with the provisions of the Animal Identification Act, 2002 (Act 6 of 2002), and animals which are not registered, may be impounded.

1.2.6 A person who contravenes subsection (2), or a person interfering with or damaging traps contemplated in subsection (4) in any way or releasing or removing or causing to be released or removed any vermin from such traps or in any way disposing of any bodies from such a trap without the prior approval of the municipality, or a person who interferes in any way with the collecting of animals regarded as vermin as contemplated in subsection (5) commits an offence.



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### CHAPTER 2 ANIMALS ON COMMONAGE

#### 2.1 Grazing permit and payment of commonage fees

2.1.1 A person may not graze animals on the commonage of the Municipality, unless –

- (a) he or she is the holder of a grazing permit issued by the Municipality, subject to the conditions of such permit stipulating the camp number in the commonage and the number and kind of animals to be kept in the camp as revised annually by qualified agriculturists in accordance with Conservation of Agricultural Resources Act, 1983 (Act 43 of 1983).
- (b) the animal is the progeny of a female animal grazed in terms of a grazing permit contemplated in sub section (1) and is not older than 8 months and does not affect overcapacity of the scientifically predetermined grazing capacity in accordance with the Conservation of Agricultural Resources Act, 1983 (Act 43 of 1983); and
- (c) he or she has paid, in advance, the commonage fees determined by the Municipality, in respect of the period for which the grazing permit was issued.

2.1.2 A permit holder may be exempted partly or wholly, in terms of the indigent policy of the Municipality, of the payment contemplated in subsection (1) (c).

2.1.3 A person who grazes his animals on the commonage in contravention of a provision of subsection (1), or who does not qualify as an indigent or who ceases to qualify as an indigent or who fails forthwith to inform the Municipality that he or she no longer qualifies as an indigent in terms of the indigent policy of the Municipality, commits an offence.

#### 2.2 Fees

Any member of the public must pay –

- (a) a prescribed fee to use commonage farms which the Council provides
- (b) a prescribed fee for the right to undertake a farming activity
- (c) a prescribed fee for the right to exclusively use commonage municipal property for a specific period.
- (d) an annual or bi- annual fee for the right to use commonage farms for agricultural activities if such a fee has been determined by the Council.
- (e) applicant has the right to apply for the Exemption from the fees determined by Council but as per Chapter 7 Section 20 (1) reading with subsection (2)



## 2.3 Application for and issue of grazing permit

2.3.1 An application for a grazing permit must –

- (a) be directed to the Municipal Manager or delegated person.
- (b) be on the prescribed form or lease agreement made available by the Municipality for this purpose.
- (c) contain adequate proof that the applicant is a permanent resident within the area of jurisdiction of the Matjhabeng Municipality,
- (d) contain adequate proof that the applicant is not an employee of the Matjhabeng Local Municipality or if he or she is the employee of the Municipality, declaration of interest form or letter be attached,
- (e) contain such further particulars as the Municipality may require; and
- (f) contain documentation regarding the ownership of a brand mark as contemplated in section 9..

2.3.2 When considering an application the Municipal Manager or delegated person must, with the aim of establishing if the applicable number of animals for which application is made can be accommodated in the commonage of the Municipality, take into account the availability and condition of the land in the commonage, as determined by a survey by agricultural specialists no longer than a months prior to the application, and in accordance with the Conservation of Agricultural Resources Act, 1983 (Act 43 of 1983).

2.3.3 After due consideration of the application, the Municipal Manager or delegated person must –

- (a) issue the permit as applied for by the applicant.
- (b) issue a permit for a lesser number of animals than applied for, accompanied by a report, drafted by the Department of Agriculture regarding the latest carrying capacity of the land in accordance with the Conservation of Agricultural Resources Act, 1983 (Act 43 of 1983); or
- (c) give written notification to the applicant that his application was unsuccessful and state the reasons thereof.

2.3.4 A permit for the grazing of animals on the municipal commonage is —

- (a) valid for three years or less and all permits shall lapse on the last day of June of each year.
- (b) subject to the conditions set out in the permit; and
- (c) subject to prior payment of the commonage fees contemplated in section 5(1)(c).



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2.3.5 The Municipality may withdraw a permit for the grazing of animals on the municipal commonage if the permit holder contravenes or fails to comply with —

(a) a condition subject to which the permit was issued.

(b) any provision of these by-laws.

(c) a lawful direction by the Municipal Manager or of delegated person or the veterinary surgeon appointed by the Municipality in terms of section 19; or

(d) an instruction by the Department of Agriculture's Animal Health Division or Soil Protection Directorate, and a permit holder must be given an opportunity to give reasons why his permit must not be withdrawn.

2.3.6 A permit to graze animals on the commonage of the Municipality is not transferable.

### 2.4 Confinement of stock to camps

(1) A person depasturing on commonage must confine stock to the camp set apart by the Municipality after a permit to the effect had been obtained from the Department of Agriculture, Directorate Soil Conservation and Land Protection in accordance with the Conservation of Agricultural Resources Act, 1983 (Act 43 of 1983).

(2) A person who contravenes subsection (1) commits an offence and commits an offence in terms of the Conservation of Agricultural Resources Act, 1983 (Act 43 of 1983).

### 2.5 Numbers and condition of animals

(1) The Municipality must, in accordance with recommendation of the Department of Agriculture made in terms of the Conservation of Agricultural Resources Act, 1983 (Act 43 of 1983), determine the numbers and kinds of animals that may be accommodated on the commonage by a person.

(2) A person keeping an animal on the commonage must ensure that the health of the animal complies with the provisions of the Animal Health Act, 2002 (Act 7 of 2002) and must thus ensure that the animal is in a healthy condition.

(3) A person commits an offence if he –

(a) keeps more than the determined number of animals as contemplated in subsection (1) on a commonage; fails to keep an animal in a healthy condition as contemplated in subsection (2);

(b) fails to file a declaration as contemplated in subsection (3); or

(c) provides false information to the Municipality.





## 2.6 Branding of stock

- (1) A person who depastures any stock on the commonage must, in accordance with the provisions of the Animal Identification Act, 2002 (Act 6 of 2002) and the Animal Identification Regulations published under GN R1683 in GG 25732 of 21 November 2003, as amended, register with the Registrar of Brand Marks a distinctive brand for large stock and a distinctive brand for small stock.
- (2) All stock must at all times bears such registered brand marks, which must be clearly visible and legible and which must satisfy the requirements of the legislation contemplated in subsection (1).
- (3) The municipality, in the exercise of its duty, or any authorised person or institution, shall impound immediately stock found on the commonage without such distinct brand.
- (4) No person may register in his or her name stock belonging to another person.
- (5) The Municipality may keep a register of all brands registered in terms of subsection (1).
- (6) A person who contravenes a provision of subsection (1), (2) or (4) commits an offence.

## 2.7 Infected animals

- (1) Before releasing livestock into municipal grazing land, a person must provide to the Municipality written proof by the Directorate Animal Health of the Department of Agriculture regarding the health condition of all livestock.
- (2) No person may graze, bring or release any stock suffering from or suspected of being infected with any contagious or infectious disease, on the commonage.
- (3) Any stock found on the commonage suspected of being infected with any contagious or infectious disease must, at the cost of the owner, be inspected by a veterinary surgeon or a livestock inspector of the Department of Agriculture's Directorate Animal Health in accordance with the Animal Health Act, 2002 (Act 7 of 2002), and treated in accordance with the provisions of the Act.
- (4) A person who contravenes subsection (1) or (2) or who fails to act in accordance the provisions of subsection (3) commit an offence.

## 2.8 Carcasses of animals

- (1) The owner of an animal which has died on the commonage, must immediately cause the carcass to be buried, cremated or removed in accordance with the Animal Health Act, 2002 (Act 7 of 2002), and should he or she fail to do so, the Municipality shall bury, cremate or remove the carcass of such animal and claim the expenses for such burial, cremation or removal from the owner.
- (2) A person who fails to dispose of a carcass as contemplated in subsection (1) commits an offence.

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### CHAPTER 3 PLOT PERMIT FOR GARDENING, CROP OR PLANT PRODUCTION OR OTHER AGRICULTURE RELATED ECONOMIC ACTIVITY ON COMMONAGE

#### 3.1 Plot permit required to undertake gardening, crop or plant production or other agriculture-related economic activity on commonage.

- (1) A person may not undertake gardening or any other agriculture-related economic activity on any plot set aside for this purpose on the commonage of the Municipality, unless –
  - (a) he or she is the holder of a plot permit issued by the Municipality, subject to the conditions of such permit stipulating the plot number in the commonage and the kind of economic activity to be conducted on that plot; and
  - (b) he or she has paid the commonage plot fees, determined by the Municipality, in respect of the period for which the permit was issued.
- (2) A permit holder may be exempted partly or wholly, in terms of the indigent policy of the Municipality, of the payment contemplated in subsection (1)(b).
- (3) A person who contravenes subsection (1)(a) commits an offence.

#### 3.2 Application for and issue of plot permit

- (1) An application for a plot permit must –
  - (a) be directed to the Municipal Manager or delegated person.
  - (b) be in the prescribed form made available by the Municipality for this purpose.
  - (c) contain adequate proof that the applicant is a permanent resident within the area of jurisdiction of the Municipality; and
  - (d) contain such further particulars as the Municipality may require.
- (2) When considering an application, the Municipal Manager or delegated person must consider the availability and condition of plots on the commonage of the Municipality to accommodate the required economic activity for which application is made.
- (3) After due consideration of the application, the Municipal Manager or delegated person must –
  - (a) issue the permit as applied for by the applicant; or
  - (b) give written notification to the applicant that his application was unsuccessful and state the reasons thereof.



- (4) A plot permit for gardening or any other economic activity on the municipal commonage is issued –
- (a) for a period, equal to the lease agreement and all plot permits shall lapse on the last day of June of last year of the lease agreement
  - (b) subject to the conditions set out in the permit, and.
  - (c) subject to prior payment of the commonage plot fees contemplated in section 12(1)(b).
- (5) The Municipality may withdraw a plot permit for gardening or other economic activity on the municipal commonage if the permit holder contravenes or fails to comply with –
- (a) a condition subject to which the permit was issued.
  - (b) any provision of these by-laws; or
  - (c) a lawful direction by the Municipal Manager or delegated person,
- and a permit holder must be given an opportunity to give reasons why his permit must not be withdrawn.
- (6) A plot permit to undertake gardening or other economic activity on the commonage of the Municipality is not transferable.

## CHAPTER 4 PROHIBITED ACTIONS AND FIREBREAK

### 4.1 Prohibited actions

#### 4.1.1 No person may –

- (a) keep any animal in any residential area or on the boundaries thereof.
- (b) keep a pig on the commonage in any place other than in an enclosure or cage as approved by the municipal manager or delegated person and in accordance with the Animals Protection Act, 1962 (Act 71 of 1962);
- (c) keep any animal on the commonage, of which animal he is not the bona fide owner.
- (d) kill or slaughter or kill and slaughter any animal on the commonage.
- (e) Enter or remain in or at the Municipality's water resources without prior written approval from the Municipality.
- (f) erect any hut, shelter, kraal, habitation, or structure of any kind nor occupy, camp, or squat on any portion of the commonage or farming land without the consent of the Municipality.
- (g) without prior permission of the Municipality, accumulate, dump or deposit or cause to be accumulated, dump or deposited on any portion of the commonage any scrap or waste, including animal waste.

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- (h) on grazing camps of the commonage dig or remove soil, clay, sand, gravel or boulders without a valid and current permit issued by the Municipality.
- (i) make bricks, or erect brick-, lime- or charcoal kilns, on the any land within the municipal area, or on land under control of the Municipality, without prior written consent of the Municipality, except on land denoted for such purposes in terms of an approved spatial development plan and zoning scheme and further subject to payment of the fees determined by Municipality.
- (j) cut, damage, burn, destroy, gather or remove any plants, shrubs, trees, timber, firewood, brushwood, manure or any grass growing or being upon any portion of grazing camps on the commonage without prior written permission of the Municipality;
- (k) interfere with or cause damage to any fence, gate, drinking trough, water tap or other appliance or thing, or set fire to the pasture or any bush, tree, shrub on the commonage;
- (l) make use of any road over the commonage other than such roads as shall be allowed open by the Municipality from time to time.
- (m) deposit or in any way leave any poison for whatever purpose on the commonage without the written permission of the Municipality, and in compliance with the Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act, 1947 (Act 36 of 1947).;
- (n) kill, catch, capture, hunt, remove or attempt to kill, any game on the commonage;
- (o) set traps of whatsoever description on the commonage without the prior written consent of the Municipality.
- (p) remove any bees, hives, or honey from the commonage without the written permission of the Municipality; or
- (q) hunt, shoot, catch, disturb, or kill any wild bird on the commonage or destroy or disturb the nest of any wild bird, nor shall any person remove the eggs or young thereof from such nest.

4.1.2 A person who contravenes a provision of subsection (1) commits an offence.

### 4.2 Firebreak

A permit holder or lessee must provide and maintain on the commonage a firebreak as determined by the municipal manager, in compliance with the National Veld and Forest Fire Act, 1998 (Act 101 of 1998), however, in the event of a failure by the permit holder or lessee to provide and maintain such fire break, the municipal manager may provide and maintain a firebreak and recover the costs thereof from such permit holder or lessee .



## CHAPTER 5 DRAUGHT ANIMALS AND DRIVING OF CATTLE

### 5.1 Draught animals

- (1) A person who, during a break in a journey and for the purpose of allowing an animal to graze, unharnesses his or her animal, may do so on a site on the municipal land set apart for that purpose only.
- (2) (a) A person contemplated in subsection (1) is allowed free grazing and water for his or her draught animal for 36 hours only, calculated from the time he or she breaks the journey.  
(b) In addition to the period allowed in paragraph (a), the Municipality may, if satisfied on application of the necessity thereof, grant a permit for a further period not exceeding 48 hours to such person upon payment to the Municipality in advance of the prescribed fee.  
(c) Upon the expiration of the period allowed under paragraph (a) or of the additional period granted under paragraph (b), an animal of such person found on any part of the municipal land may be impounded by an authorised official.
- (3) A person in good faith visiting, travelling through, or bringing produce into the municipal area is allowed to depasture his or her necessary draught animals on a site on municipal land as contemplated in subsection (1) for a period of not more than 36 hours, and upon the expiration of such period, he or she must obtain from the Municipality a permit to further so keep his or her animal, and pay to the Municipality in advance the prescribed fee, and such permit shall in no case be for a longer period than seven days, after the expiration of which the animal of such person found on the municipal land may be impounded by an authorised official.
- (4) A person passing through the municipal land with an animal contemplated in subsection (3), must keep such animal along and within 30 metres of the edge of a public road, and such animal must be under the care and supervision of a competent herdsman.
- (5) Where a person has to acquire a permit as contemplated in subsection 2(b) or (3), he or she must complete and submit the prescribed form and pay the prescribed fee, and the permit may be granted subject to such conditions as the Municipality may found to be necessary under the circumstances.
- (6) The permit serves as proof of payment of any fee.
- (7) A person who supplies false information or who fails to comply with conditions imposed in a permit commits an offence.
- (8) A person who fails to obtain a permit after the expiry of 36 hours as contemplated in subsection (2)(b) or (3) commits an offence.
- (9) The owner or person who is found guilty of a contravention of a provision of this section is, in addition to the fine imposed, responsible for all the costs incurred and damages sustained by the Municipality, and such costs and damages may be recovered by the Municipality in terms of the Revenue Management Policies or By – Laws.

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### 5.2 Driving of loose large stock

- (1) No person may drive or cause to be driven loose cattle within an area bounded as specified in item 1 of the Schedule, which schedule refers, except where cattle are stalled within the area so bounded and required to be driven to and from the grazing grounds.
- (2) A person driving loose cattle to or from the Municipality's abattoirs must observe the routes set out in item 2 of the Schedule.
- (3) No person may drive or cause or allow to be driven livestock at any time through a street in which the driving of livestock is permitted, unless such stock is accompanied by the following attendants:
  - (a) For the first 20 or portion thereof of large stock: 2 attendants; and
  - (b) for each additional 20 or portion thereof of large stock: 1 attendant.
  - (c) for the first 50 or portion thereof of small stock: 2 attendants; and
  - (d) for each additional 50, or portion thereof of small stock: 1 attendant.
- (4) It is highly recommended that livestock should have reflector belt.
- (5) A person who fails to comply with a provision of subsection (1), (2) or (3) commits an offence.

## CHAPTER 6 MANAGEMENT OF COMMONAGES

### 6.1 Management and maintenance of commonage

- (1) The Municipal Manager or delegated person is responsible for the proper management and maintenance of all land forming part of the commonage.
- (2) The Municipality must appoint officials or delegate the function to a relevant department which in this case is the LED to exercise the functions prescribed by the municipal manager or delegated person.
- (3) Municipal delegate or official must ensure that a functional commonage committee is elected.

### 6.2 Appointment of veterinary surgeon

The Municipality shall make use of the services of a state veterinarian to exercise the functions prescribed by or under any law relating to animals.





## **Chapter 7 INDIVIDUAL FARMS ON MUNICIPAL LAND**

### **7.1 Ownership and acquisition of agricultural land**

Farmers in South Africa mostly own or lease the agricultural land on which they farm. In addition, there are several initiatives in South Africa whereby black farmers are granted usage rights by traditional leaders to farm on land under their control. The acquisition of agricultural land is dealt with in the same way as any other type of immovable property, such as a dwelling, house, erf or sectional title unit, and is regulated by the Deeds Registries Act No. 47 of 1937 (Deeds Act). An agreement for the sale of immovable property must be in writing and specify the:

- Seller.
- Purchaser.
- Property.
- Purchase price.

The conveyancer (an attorney responsible for the transfer and registration of immovable property, bonds, and rights over immovable property) will, after receiving the relevant documents and payment of the deposit and/or purchase price (usually paid to the conveyancer in trust), effect the transfer of the property for a fee.

The conveyancer requires the following to transfer the property:

- Sale of immovable property agreement.
- Original title deeds.
- A power of attorney to authorize the transfer.
- An electrical compliance certificate from the seller for the property.
- If applicable, a gas compliance certificate.
- If applicable, a rates and clearance certificate from the municipality.
- Marital and solvency status of the buyer.
- A transfer duty or value added tax (VAT) declaration.
- If relevant, the details of any bond registered over the property, the particulars of the bond holder and the cancellation figures for cancellation of the bond.
- If relevant, any guarantees for payment of the purchase price.

### **7.2 Leases.**

A lease is another way to use, enjoy and have the right to occupy land in return for payment of rent. A lease does not have to be in writing to be valid, but this is strongly advisable. A lease can be registered on the title deed of the property, to ensure that it is enforceable against the landlord's successors in title. Leases with a term exceeding ten years must be registered on the title deed of the property. Under the Subdivision of Agricultural Land Act No. 70 of 1970 (SALA), a lease of a part of agricultural land cannot exceed ten years, unless the Minister of Agriculture, Forestry and Fisheries consents in writing. This does not apply to a long-term lease of the whole of the land.

7.2.1 Matjhabeng Municipality provides lease agreements to individual farmers for a minimum period of three years and any lease exceeding three years must be approved by Council,

Note: Above information is not part of the bylaw but rather important information to both parties involved in Chapter 7 (7.2.1)



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### 7.3 Water controls

The National Water Act No. 36 of 1998 (NWA) provides for the effective and sustainable management of South Africa's water resources. The NWA recognises, among others, that water is scarce and an unevenly distributed resource, occurring in various forms that are part of a single, inter-dependent cycle. While water belongs to all people, the discriminatory laws and practices of the past have prevented equal access to water and use of water resources.

The Department of Water and Sanitation (DWS) is the custodian of South Africa's water resources. It is tasked with ensuring the equitable allocation of water for beneficial use, by establishing the quantity of water used, who uses it and where. The form of water use determines which category of water rights is applicable. Water rights are subdivided into the following four categories:

- **Schedule 1 to the NWA water use.** This covers low-impact use, including domestic use, small gardening for non-commercial purposes, watering of animals where not excessive in relation to the water resource, use for recreational purposes, use for firefighting, storage of roof run-off water, discharge of waste or water containing waste and run-off water.
- **Existing lawful use of water.** The Water Act No. 54 of 1956 (Old Water Act) regulated the use of water before the NWA. Water use that was regulated by the Old Water Act is deemed to be existing lawful use of water under the NWA. Records of water use before enactment of the NWA must be in place and the water use must be verified and validated by the DWS. Existing lawful uses of water must be registered.
- **Water use under general authorisation.** General Authorisation (GA) replaces the need for a water use licence under the NWA as required in terms of section 21 of the NWA. General authorisations are published in the *Government Gazette* by government notice. There is a GN for each water use activity, which sets out the limits and conditions for the permissible usage of water. A GA is specific to location, storage and irrigation of wastewater, abstraction of surface water and groundwater, impeding or diverting flow in a watercourse or catchment area and storage of clean water.
- **Water use licence.** Section 21 of the NWA lists the forms of water uses that require a water use licence. A water use that falls under section 21 of the NWA and any of the first three categories set out above does not require a water use licence. The water use licence application process includes a public participation process, broad-based black economic empowerment details and specialist studies to determine the sustainability of the water use being applied for. Farmers in South Africa typically fall under this category if they are not already authorised in terms of the Old Water Act. Conditions may be attached to a water use licence relating to, among others:
  - protection of the water resource;
  - water management;
  - return flow and discharge or disposal of waste;
  - monitoring and management practices;
  - taking and storing of water;
  - stream flow reduction activity; and
  - necessary and desirable conditions to achieve the purpose of the issue of the license and compliance with the NWA.

\*Failure to obtain a licence and therefore comply with the NWA is an offence and may attract a fine or imprisonment for up to five years.



## 7.4 Crop Seed Business

### Legislation

7.4.1 The seed industry is regulated under the:

- Plant Improvement Act No. 53 of 1976 for the registration of varieties, premises, seed certification, labelling, minimum quality standards, prohibition on the sale of uncertified seed and requirements for seed. A new Plant Improvement Act No. 11 of 2018 was assented to on 27 March 2019 and is pending a date of commencement.
- Agricultural Pests Act of No. 36 of 1983 regarding phytosanitary issues.
- Plant Breeders' Rights Act No. 15 of 1976 for plant breeders' rights and registration of plant breeders (Plant Breeders' Rights Act). A new Plant Breeders' Rights Act was assented to on 27 March 2019 and is pending a commencement date (New Plant Breeders' Rights Act)

\*Above is **Appendix**

7.4.2 Individual Farmers must comply with the above Acts which are implemented by the Department of Agriculture. Failure to comply attracts applicable penalties.

7.4.3 Individuals Farmers are provided with Lease Agreements which serve as binding document to both parties.

# Matjhabeng Municipality, Commonages By-Law



## CHAPTER 8 MISCELLANEOUS PROVISIONS

### 8.1 Liability

The permit holder is liable for –

- (a) any damage or claims, which originate from damage caused by his or her animal or animals outside the commonage; and
- (b) any damage to or loss of the infrastructure or installations on a grazing camp or plot at the expiry of the permit

### 8.2 Exemptions

- (1) Any person may by means of a written application, in which the reasons are given in full, apply to the Municipality for exemption from any provision of these by-laws.
- (2) The Municipality may –
  - (a) grant an exemption in writing and the conditions in terms of which, if any, and the period for which such exemption is granted must be stipulated therein.
  - (b) alter or cancel any exemption or condition in an exemption; or
  - (c) refuse to grant an exemption.
- (3) An exemption does not take effect before the applicant has undertaken in writing to comply with all conditions imposed by the Municipality under subsection (2), however, if an activity is commenced before such undertaking has been submitted to the Municipality, the exemption lapses.
- (4) If any condition of an exemption is not complied with, the exemption lapses immediately.

### 8.3 Commonage Committee

- (1) The Municipality may establish one or more commonage committee in a community for the purposes of –
  - (a) creating conditions for a local community to participate in the affairs of the Municipality.
  - (b) encouraging a local community to participate in the affairs of the Municipality; and
  - (c) promoting the achievement of a properly controlled and administered commonage.
- (2) A Commonage Committee may consist of –
  - (a) a member of members of an interest group, or an affected person.
  - (b) a member or members of a community in whose immediate area a commonage has been established.
  - (c) a designated official or officials of the Municipality; and
  - (d) a councillor.
- (3)
  - (a) The Municipality may, when considering an application for an approval, or exemption certificate in terms of these by-laws, request the input of Commonage Committee
  - (b) A Commonage Committee or any person or persons contemplated in subsection (2) may, on own initiative an input to the Municipality for consideration.



#### **8.4 Traditional councils**

The Municipality may, within the conditions of applicable national and provincial legislation and in the spirit of sections 4(1) and 5 of the Traditional Leadership and Governance Framework Act, 2003 (Act 41 of 2003), liaise with a traditional council regarding the implementation and enforcement of the provisions of these by-laws within the area of jurisdiction of such traditional council.

#### **8.5 Authentication and service of notices and other documents**

- (1) A notice issued by the Municipality in terms of these by-laws is deemed to be duly issued if an official of the Municipality signed it.
- (2) Any notice or other document that is served on a person in terms of these by-laws is regarded as having been duly served –
  - (a) when it has been delivered to that person personally;
  - (b) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of 16 years;
  - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic, and an acknowledgment of the posting thereof from the postal service is obtained;
  - (d) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided by paragraphs (a), (b) or (c);
  - (e) if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the land or business premises to which it relates;
  - (f) in the event of a body corporate, when it has been delivered at the registered office of the business premises of the body corporate; or
  - (g) when it has been delivered, at the request of that person, to his or her e-mail address.
- (3) Service of a copy is deemed to be service of the original.
- (4) When any notice or other document is served on the owner, occupier, or holder of any property, or right in any property, it is sufficient if that person is described in the notice or other document as the owner, occupier, or holder of the property or right in question, and it is not necessary to name that person.

## Matjhabeng Municipality, Commonages By-Law



### 8.6 Appeal

An aggrieved person may in terms of section 62(4)(b) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), appeal to the Municipality against a finding of the Municipal Manager or delegated person

### 8.7 Transitional Arrangements

Any permission obtained, rightly granted, condition imposed, activity permitted or anything done under a repealed law, shall be deemed to have been obtained, granted, imposed, permitted or done under the corresponding provision (if any) of these by-laws, as the case may be.

### 8.8 Penalties

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

### 8.9 Repeal of by-law

All by-laws relating to commonages adopted by the Municipality or any Municipality now comprising an administrative unit of the Municipality is repealed from the date of promulgation of these by-laws.

### 8.10 Short title and commencement

This By-law is called the **Matjhabeng Municipality, Commonages and Individual Farms By-law** and comes into operation on the date of publication thereof in the Provincial Gazette.

#### Schedule (Section 17(1) and (2))

#### BOUNDED AREAS (SECTION 14(1) AND ROUTES (SECTION 14(2))

1. Bounded Areas: Matjhabeng Municipal land  
(Section 14(1))
2. Routes: Matjhabeng Municipality, Free State Provincial Roads and National Roads  
(Section 14(2))