STANDARD DRAFT COMMONAGE BY-LAW

LETSEMENG LOCAL MUNICIPALITY

7 GROOTTREK STREET

NO. 176 OF 2011

NOTICE IN TERMS OF SECTION 14(2)(a)(i) OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000 (ACT NO. 32 OF 2000) STANDARD COMMONAGE BY-LAWS

In terms of section 14(2) (a) (i) of the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000), make standard by-laws as set out in the Schedule.

SCHEDULE COMMONAGES STANDARD BYLAW Purpose of By-Laws

The purpose of these by-laws is to -

(a) Set aside land identified as commonage for the pasture of animals and for the purpose of establishing garden allotments; to assist with local development and provide for an inexpensive portion of land to people with a focus on registered indigents; to provide for the conservation of the commonage through the prohibition of certain activities, the damaging of vegetation, bird- and animal life and to provide for matters incidental thereto, and

(b) Manage together with the Department of Agriculture land made available by the Provincial Land Reform Office of the Free State to assist categories of emerging farmers.

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Definitions

1. In these by-laws, unless the context otherwise indicates,

"Animal" means any livestock defined hereunder: cattle, sheep, goat (ruminants); horse, mule, donkey (non-ruminants) ostrich (monogastic) and pig or the hybrid of such animal).

“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,

irrigation land or plots for gardening or other economic activity, excluding any farm the municipality is leasing to a commercial farmer as an entity;
“commonage management committee” means a representative management body comprising at least 1member but not more than 2 members of the owner, X members of the beneficiary group and X other persons agreed to by the Owner and the Beneficiary Group;
“Department of Agriculture” means the National Department responsible for Agriculture;
“Commonage manager” means a manager appointed in terms of Section 56 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) by a Municipal Council, after consultation with the municipal manager, who is directly accountable to the municipal manager.
"Municipal area" means any land situated inside the area of jurisdiction of the Municipality of which the Municipality is the owner, but outside the boundaries of any residential area;
"Municipality" means the …… Local Municipality established in terms of Section 12 of the Local government: Municipal Structures Act, 1998 (Act No. 117 of 1998), and includes 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;
"Municipal Manager" means the person appointed in terms of section 82 of the Local Government: Municipal Structures Act 1998 (Act No. 117 of 1998);
"Permit holder" means the person to whom a permit has been issued by the Municipal Manager in terms of these by-laws;
“Plot” means any portion of a commonage set aside by the municipality for other purposes than grazing or irrigation farming.

Commonage

2. (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 suitable municipal land as commonage,
   (b) At any time add defined municipal land to the commonage so reserved, and
   (a) At any time, partly or wholly in consultation with the Premier of the Free State withdraw any land which forms part of the commonage.
   (2) The Provincial Land Reform Office may purchase and make available land to the municipality in terms of section 10 of the Provision of Land and Assistance Act, 1993 (Act No. 126 of 1993) for the purpose of farming activities by categories of emerging farmers.
   (3) The Municipality must subject to the provisions of any law or any restrictions regarding the use of land in the
   Title deed of that land manage together with the Department of Agriculture any land acquired by the Provincial Land Reform Office and transferred to the Municipality for the purpose of a commonage as such;
   (4) The Municipality may subject to the provisions of any law or any restrictions regarding the use of land in the title deed of that land at any time, partly or wholly withdraw any land which forms part of the commonage, excluding the commonage or portion of the commonage mentioned in subsection (2), in consultation with the Premier of the Free State.

Eligibility Criteria

3. The following persons would be eligible for using the commonage:
   (a) residents of the town owning the commonage, and
   (b) households that qualify in terms of municipality’s indigent policy

Commonage Fees

4. The Council by resolution may set fees for the use of commonage land and for this purpose may differentiate between categories of commonage users.

Commonage Management Committee

5. (1) Users of land on the commonage must establish a commonage management committee facilitated by the Municipal Manager as set out in Annexure A;

(2) The Municipal Manager in the event of leasing the commonage to a functioning commonage management committee may not issue grazing or irrigation permits to or enter into a lease agreement with any individual person or group of persons in respect of that commonage;

(3) The Municipal Manager shall lease the commonage as a unit to a commonage management committee established in terms of subsection (1) for a period not exceeding 9 years and eleven months under such conditions as determined by the Council;

(4) The commonage management committee must sub-let grazing camps or irrigation land for farming activities to specific interest groups and or farmers recognised by that commonage management committee in respect of the specific categories of users and farmers identified in sections 11 or 12 for a period of not less than one year but not exceeding five years.

(5) The original lease or rent agreement mentioned in subsection (4) must be handed to the Municipal Manager for safekeeping.

(6) The lessee of a camp, plot, or land on the commonage shall not sublease such camp land or field.

(7) The lease agreements contemplated in subsection (4) and the agreements contemplated in subsection (6) shall not lapse when the commonage management committee ceases to exist. In such event the municipal manager must forthwith facilitate the election of a new commonage management committee in terms of Annexure A to take over the powers, functions, assets, liabilities and budget of the previous commonage management committee.

Functions of the commonage management committee

6. The commonage management committee should serve as an advisory body, or in its absence, the Municipal Manager or nominated municipal official must: —

(1) Divide each piece of land reserved as commonage in terms of section 3, in separate camps suitable for the grazing of animals, gardening plots, or irrigational land allocating a number to each camp, garden plot and irrigational land;

(2) Provide, in each camp, plot or irrigational land in consultation with and assistance of the Department of Agriculture such facilities as may be necessary for the maintenance of animals, gardening or irrigation in that camp plot or land;

(3) Compile proper maps of each piece of land reserved as part of the commonage, indicating at least the boundaries of camps, plots, gates and waterholes; (4) Establish and maintain the following:-

(a) A separate budget for the commonage;

(b) A commonage management plan linked to the Municipal Integrated Development Plan, and (c) A register of all registered animals kept on municipal commonages.

(5) Allocate the animals of each permit holder, lessee or renter to a specific camp or camps and notify such permit holder accordingly;

(6) Ensure that the necessary infrastructure (fences, water, roads etc.) is in place before any permit is issued or lease or rental agreements are entered into;

(7) Ensure that the minimum water requirements as set out in Annexure B are met, and in the event where available water for grazing animals falls below the minimum requirements, the Municipality will support commonage users to restore the recommended levels subject to the availability of funds and resources.

(8) Ensure that leases or rental agreements are fair and fully understood by the lessee or renter

(9) Ensure that the Municipality, permit holders, lessees and renters adhere to the commonage management plan.

(10) Ensure that commonages are accessible to persons registered as indigent in terms of the municipality's

Indigent policy and endeavour to terminate as soon as possible any leases or users agreements with any institutions or persons other than registered indigent persons or the commonage management committee;

(11) Develop and implement a proper program of rotation of grazing on land reserved as commonage by the Municipality; and

(12) Keep proper records, open for public inspection, regarding- (i) all permit or lease holders or renters;

(ii) dates of expiry of all permits;

(iii) Payments or exemptions of payment of all permit holders, and any other matter which, in the opinion of the Municipal Manager, needs to be recorded.

Grazing permit required to graze animals on commonage

7. (1) a person must not graze animals on the commonage of the Municipality, unless;

(a) he or she is the holder of a grazing permit issued by the Municipal Manager in consultation with the Commonage Management Committee, in respect of a category 1 user as identified in section 10, 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;

(b) He has paid the applicable fees, determined by the Municipality in respect of the period for which the grazing permit was issued.

(2) A permit holder may partly or wholly be exempted from the payment of such commonage fees in terms of the indigent policy of the Municipality.

Application for and issue of grazing permit

8. (1) An application for a grazing permit by a category 1 user as identified in section 12 must - (a) be directed to the Municipal Manager

(b) be on the prescribed form made available by the Municipality for this purpose;

(c) contain adequate proof that the applicant is a South African citizen and 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 commonage management committee together with Municipal Manager must take into account the availability and condition of land in the commonage of the Municipality to accommodate the required number of animals for which application is made;

(3) After due consideration of the application, the commonage management committee together with the Municipal Manager must -

(a) issue the permit as applied for by the applicant;

(b) issue a permit for a lesser number of animals than applied for; or

(c) Give written notification to the applicant that his or her application was unsuccessful and state the reasons thereof.

(4) 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 commonage management committee and Municipal Manager.

(5) A permit for the grazing of animals on the municipal commonage is —

(a) valid for not less than one year or more than 5 years and all permits shall lapse on the 30th June of the year of termination;

(b) subject to the conditions set out in the permit, and;

(c) Subject to prior payment of the applicable fees determined by the Municipality.

(6) The Municipal Manager in consultation with the Commonage Management Committee or designated official may withdraw a permit for the grazing of animals on the municipal commonage if the permit holder contravenes or fails to—

(a) comply with a condition subject to which the permit was issued;
(b) comply with any provision of this By-law;

(c) comply with a lawful direction by the Municipal Manager or of the veterinary surgeon appointed by the Municipality, or
(d) pay the applicable fees as determined by Council within 30 days after becoming due,

Provided a permit holder had been given a 14-day notice to comply or provide reasons why his permit should not be withdrawn.

(7) A permit to graze animals on the commonage of the Municipality is not transferable and may not be subleased.

Management and Maintenance of Commonage

9. (1) The Municipal Manager is responsible for the proper management and maintenance of all land, infrastructure and equipment forming part of the commonage.

(2) The Municipal Manger must register and keep record of all animals kept on the commonage in terms of a valid permit or lease or rental agreement.

(2) The Municipality has the right to gather all animals on the commonage from time to time to ascertain if the animals are registered with the Municipality. All animals, which are not registered, will be impounded.

(3) It is the owner's responsibility to mark and register his animals.

Appointment of Municipal Commonage Manager

10. The Municipality may appoint a commonage- manager with agricultural-, business- and communication skills on a performance based fixed term contract as contemplated in section 57 of the Local Government: Municipal Systems Act, Act, 2000 (Act No. 32 of 2000) or any suitable person or official to fulfil the functions prescribed by the Municipal Manager.

Categories of commonage users and pasture farming

11. Only a person or farmer falling within one of the following categories may obtain a grazing permit from the municipality or commonage management committee or enter into a livestock farming agreement with the commonage management committee for a period not less than one year but not exceeding five years:-

(1) Category 1 user consisting of:-
(a) new entrants into the commonage farming system;
(b) Subsistence or indigent users using commonage land to supplement income but are not able to graduate to commercial farming.
(c) Minimum requirements for a person to qualify as category 1 user:- (i) be a registered owner of animals;
(ii) must be resident in the town owning the commonage
(iii) must obtain an annual grazing permit from the commonage management committee or municipality;
(iv) must have a maximum number of 5 cattle, or 30 sheep or 30 goats or a combination of animals equal to 5 cattle as determined by Department of Agriculture.

(2) Category 2 user consisting of farmers:-
(a) sharing a piece of the commonage with a maximum number of 4 other commonage farmers in

terms of a lease agreement with the commonage management committee, and

(b) having at least 5 cattle, or 30 sheep or 30 goats or a combination of animals that is equivalent to 5 cattle; but not more than 15 cattle, or 90 sheep or 90 goats or a combination that is equivalent to 15 cattle.

(3) Category 3 users consisting of farmers:-

(a) renting or leasing his or her own piece of land from the commonage management committee, and

(b) having at least 15 cattle, or 90 sheep or 90 goats or a combination of animals equal to 15 cattle but not more than 30 cattle, or 180 sheep or 180 goats or a combination of animals equal to 30 cattle;

(4) Any farmer with more livestock than mentioned in subsection (3) (b) must be assisted by the Provincial Land Reform Office to purchase own land not forming part of the commonage.

Categories of farmers and irrigation farming

12. Only a farmer falling within one of the following categories may enter into an irrigation farming agreement with the commonage management committee for a period not less than one year but not exceeding five years:- (1) Category 1 farmers consisting of farmers:- (a) belonging to a farming co-operative;

(b) Who have a constitution approved by the municipality or commonage management committee, and (c) with a maximum allocation of 3ha irrigational land.

(2) Category 2 farmers consisting of farmers:-

(a) who have been allocated not less than 3ha and not more than 10ha irrigational land for personal use, and

(b) with a rental agreement signed with the municipality or commonage management committee.

(3) Any farmer with more than 10ha irrigational land must be assisted by the Provincial Land Reform Office to purchase own land not forming part of the commonage.

Prevention of Veld Fires

13. The Municipal Manager or Fire Protection Association established in terms of the National Veld and Forest Fires Act, 1998 (Act No. 101 of 1998) must provide a firebreak to a permit holder, lessee or renter.

Prohibited Actions

14. (1) A person is not allowed to keep any animal in any residential area or on the boundaries thereof

(2) A person is not allowed to keep a pig on the commonage in any place other than in an enclosure or cage as approved by the Municipal Manager;

(3) A person is not allowed to keep on the commonage any animal of which he is not the bona fide owner;

(4) A person is not allowed to kill and or slaughter any animal on the commonage, save for the purpose of disposing of the carcass of a dead animal.

(5) A person is not allowed in, on or at any of the Municipality's water resources without prior written approval from the Municipality;

(6) A person must not erect any hut, shelter, kraal, habitation or structure of any kind nor occupy, camp or squat on any portion of the commonage or in any street, or road, thoroughfare or public place without the prior written consent of the Municipality;

(7) A person must not 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;

(8) A person must not on the commonage dig or remove soil, clay, sand, gravel or boulders without a valid and current permit issued by the municipality;

(9) A person must not make bricks, or erect brick-, lime - or charcoal kilns, on any portion of the commonage, 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;

(10) A person must not 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;

(11) A person must not 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;

(12) A person must not make use of any road over the commonage other than such roads as must be allowed open by the municipality from time to time;

(13) A person must not deposit or in any way leave any poison for whatever purpose on the commonage without the written permission of the municipality;

(14) The municipality may cause traps to be set for vermin on the commonage and any person interfering with or damaging such traps in any way or letting loose or removing or causing to be loosened 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, is guilty of an offence;

(15) A person must not kill, catch, capture, hunt, remove or attempt to kill, any game on the commonage;

(16) A person must not set traps of whatsoever description on the commonage without the prior written consent of the municipality;

(17) A person must not remove any bees, hives or honey from the commonage without the written permission of the Municipality;

(18) A person is not allowed to make an open fire on the commonage, unless it is for the purpose of making or maintaining a fire break.

(19) A person must not 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, and

(20) If the Municipality is of the opinion that it is in the public interest, it may, for such period and subject to such conditions as it may deem fit, exempt any person, group or category of persons in writing from compliance with any prohibited action in terms of this section.

Liability

15. The permit holder, lessee or renter is liable for:-

(1) Any damage or claims, which originate from damage caused by his or her animal or animals outside the commonage, and.

(2) Any damage to or loss of the infrastructure or installations on a grazing camp, irrigation field or plot on a commonage at the expiry of the permit or lease agreement.

(3) Any damages resulting from non-compliance of the conditions of the permit.

Penalties

16. (1) A person who contravenes or fails to comply with any provision of this By-law or any requirement, condition hereunder or to pay the prescribed commonage fees due in terms of this by-law is guilty of an offence.

(2) A person convicted of an offence in terms of subsection (1) is liable to a fine or to imprisonment or to both a fine and such imprisonment.

Transitional Arrangements

17. Any permission obtained, right granted, condition imposed, activity permitted or anything done under a repealed law, is deemed to have been obtained, granted, imposed, permitted or done under the corresponding provision (if any) of this By-law, as the case may be.

Repeal of by-laws

18. Any 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.

Short title

19. These by- laws are called the Municipal Commonage By - Law, 2011.

ANNEXURE A Commonage Management Committee Structure

1. The Municipal Manager must facilitate the establishment of interest groups of commonage users in each town to form interest groups representative of all like-minded users who must develop a constitution, ground rules, and an informed leadership structure who will manage the group's production and financial affairs positively;
2. Each interest group must in consultation with the Department of Agriculture develop and maintain a management plan for the respective enterprises of that interest group;
3. Two members of an interest group should be elected to a Commonage Management Committee;
4. The Commonage Management Committee should elect three or four representatives (or one each from the interest groups) to the Municipal Commonage Management Committee;
5. Each Commonage Management Committee must in consultation with the Department of Agriculture develop and maintain an overall management plan for its area, and
6. The Municipal Commonage Committee is accountable for all lease agreements, commonage management plans, maintenance of assets, collecting of rentals from the interest groups and the payment thereof to the Municipality.

ANNEXURE "B"

Daily water requirements of grazing animals

Animal	Age	Weight kg	Condition	Water requirements litres per day

Cattle	4 weeks 8 weeks 12 weeks 16 weeks 20 weeks 26 weeks 60 weeks 84 weeks 1-2 months 2-8 months 2-8 months	51 69 93 119 148 189 354 464 464-545 545-726 545-726	growing growing growing growing growing growing growing pregnant fattening lactating grazing	0.3-5.7 5-7 8-9 11-13 15-17 17-23 23-30 30-38 30-34 39-95 17-34
Pigs		14 27-36 36-57 91-180 91-180 91-180	growing growing growing maintenance pregnant lactating	1-4 2.6-4.5 4.0-7.5 5.7-13 15-19 19-25
Sheep and Goats		9 23 68-91 68-91 68-91 68-91	growing growing grazing grazing (salty) hay and grain good pasture	1.9 1.5 1.9-5.7 8 0.4-3.0 <1.9
Horses				45