

# **NEWCASTLE MUNICIPALITY**



## **BY-LAWS**

### **METERED PARKING**

**CERTIFIED  
TRUE COPY**

## **METERED PARKING BY-LAWS**

### **ENABLING PROVISIONS**

The Newcastle Municipality acting in terms of Section 156(2) of the Constitution of the Republic of South Africa Act 1996, (Act 108 of 1996) Read with Section 13 of the Local Government: Municipal Systems Act (Act 32 of 2000) hereby publishes the by-laws as set forth hereafter as by-laws made by the Municipality.

### **APPLICATION**

The By-laws shall apply to the public roads or portions thereof (hereinafter referred to as the metered zones) in which parking meters have been installed at demarcated parking bays: provided that any other By-laws of the Council for the time being in force regulating and controlling the parking of vehicles in public roads shall continue to apply to a metered zone, except to the extent to which such By-laws are inconsistent or in conflict with any of the provisions of these By-laws.

### **COMMENCEMENT**

These By-laws shall come into operation on the date of publication thereof in the Provincial Gazette.

**BE ENACTED** by the Newcastle Local Municipality, as follows:-

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## 1. DEFINITIONS

In these by-laws any word or expression to which a meaning has been assigned in the Act, shall have the meaning so assigned to it and, unless the context otherwise indicates:

- 1.1 **"Authorised officer"** - shall mean a Peace Officer, Traffic Warden or person appointed by the Council to carry out enforcement of these bylaws;
- 1.2 **"Ambulance"** - shall mean a motor vehicle specially constructed or adapted for the purposes of conveyance of the sick or injured to or from a place for medical treatment;
- 1.3 **"Breakdown vehicle"** - shall mean a motor vehicle designed or adapted solely for the purposes of recovery or salvaging motor vehicles and which is registered as a breakdown vehicle;
- 1.4 **"Council"** - shall mean the Newcastle Municipality, as established under Proclamation 343 of 2000, in terms of the Local Government : Municipal Structures Act, 1998 (Act No. 117 of 1998);
- 1.5 **"Fire-fighting vehicle"** - shall mean a motor vehicle designed or adapted solely or mainly for fighting fires and which is registered as a fire-fighting vehicle;
- 1.6 **"Kerb line"** - shall mean the boundary between the shoulder and the verge or in the absence of a shoulder, the part between the edge of the roadway and the verge;
- 1.7 **"Methods of Payment"** - shall include South African coins, credit or smart card, whichever is indicated on the meter or pay and display machine;
- 1.8 **"Metered parking"** - shall be parking within the jurisdictional area of the Newcastle Municipality, for which the stay of a motor vehicle shall be metered by either a parking meter or a pay and display machine, and charged out at the prescribed rate determined, by the Municipality in accordance with the Municipal Finance Management Act, 2003 (Act No. 56 of 2003);
- 1.9 **"Metered parking bay"** - shall mean an area demarcated for parking by means of road markings in terms of the Road Traffic Act, to which a meter or pay and display machine is installed or used for measuring parking;
- 1.10 **"Motor Vehicle"** - (1)shall mean any self-propelled vehicle and includes:-
  - (a) a trailer

- (b) a vehicle having pedals and an engine or an electrical 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) any vehicle which is propelled by electrical power derived from storage batteries and which is controlled by a pedestrian;
  - (ii) any vehicle with a mass not exceeding 230 kilograms and specifically 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.

1.11 **"Owner"** – (1) in relation to a motor vehicle shall mean: -

- (a) the person who has the right to the use and enjoyment of a motor vehicle in terms of the Common Law or a contractual agreement with the title holder of such motor vehicle.
- (b) a motor dealer who is in possession of a vehicle for the purposes of sale and who is registered as a motor dealer.

1.12 **"Park"** - for the purposes of these bylaws means to keep a vehicle stationary, whether occupied or not, and whether the engine is running or not, within a metered parking bay;

1.13 **"Parking Warden"** - means a person generally employed by the parking management service provider to operate pay and display machines and who is responsible for the collection of parking fees from drivers and issuing parking tickets;

1.14 **"Parking Meter"** - shall mean any mechanical, electrical or electronic device or appliance designed for the purpose of automatically measuring and indicating the period of time within which a motor vehicle is or may legally be parked in a metered parking bay, and may include any stand to which the meter is affixed;

1.15 **"Pay and Display Machine"** - is a parking meter (including the plinth if any) which upon payment of the prescribed fee issues a ticket indicating the date of issue and period of time within which a vehicle may be legally parked in a metered parking bay;

1.16 **"Public Road"** - shall mean a road or street or thoroughfare or any other place which is commonly used by the public or any section thereof which the public or any section thereof has a right of access and includes the verge of any such road, street or thoroughfare;

- 1.17 **"Prescribed Fee"** - shall mean Councils Tariff of Charges in South African currency, as contained in Schedule 1;
- 1.18 **"Pound"** - shall mean a place declared as a pound where impounded vehicles are stored;
- 1.19 **"Shoulder"** - shall mean that portion of the road or street or thoroughfare, between the edge of the roadway and the curb line;
- 1.20 **"Ticket"** - in relation to parking, shall be a written record of the period and time purchased from a pay and display machine and shall indicate, inter alia, the date of purchase, to which it applies and the time of expiry of the validity;
- 1.21 **"Unique number"** - shall mean the exclusive serial number, which is printed on the ticket generated by the pay and display machine;
- 1.22 **"Verge"** - shall mean that portion of the road, street or thoroughfare, between the" road edge and the boundary demarcating the road reserve and which includes me sidewalk;
- 1.23 **"Act"** – means the Road Traffic Act 93 of 1996 as amended
2. **ONUS OF PROOF** – (1) Where in any prosecution in terms of these by-laws, it is material to prove who parked the motor vehicle, it shall be presumed until the contrary is proved by the owner adducing evidence of the driver, that such vehicle was parked by the owner.
3. **POWERS OF COUNCIL IN RELATION TO METERED PARKING** –(1) The Council shall have the power to –
- (a) Determine areas which are suitable for metered parking within its jurisdiction;
  - (b) Charge a fair and reasonable parking fee, which fee may be increased or decreased when the Councils annual budget is approved;
  - (c) Prescribe a different fee for different public roads within the areas designated for metered parking;
  - (d) Change or upgrade the method of payment as it deems fit and must then notify the public of such change within a reasonable period, so as to enable users of the system to be equipped for such change/s;

- (e) Temporarily cordon off metered parking bays, when it is sufficiently necessary to do so, by displaying a sign at least at the beginning and the end of the bays which will be affected by such cordon;
- (f) Cause to be towed away by authorised officers, any motor vehicle; without notice to the owner/driver of such vehicle ; -
  - i. where such vehicle is parked:
    - aa. in a dangerous manner or causes an obstruction to vehicular or pedestrian traffic;
    - bb. in a loading zone; and
    - cc. in a bay allocated for disabled persons to park.
  - ii. twenty minutes after issuing the appropriate notice in terms of section 341 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), or AARTO 31, where such motor vehicle is parked:
    - aa. after the expiry of the time indicated on a valid parking ticket or display; and
    - bb. in a bay where the parking meter is inoperable.

4. **INSTALLATION OF PARKING METERS AND PAY AND DISPLAY MACHINES** – (1) The Municipality may by resolution install, operate or cause to be installed or operated, parking meters and/or pay and display machines, on any public road, or portion thereof or any public place within its area of jurisdiction;

(2) The Municipality shall determine the number of metered parking bays and demarcate the metered parking bays in accordance with Regulations;

(3) The Municipality shall identify metered parking bays, in a manner which is clearly visible.

5. **INFORMATION TO BE DISPLAYED ON PARKING METERS AND RECORDED BY PAY AND DISPLAY MACHINES** - (1) Parking meters shall display the following information:-

- (a) The time period for which the owner has paid for such parking, up to a maximum time allowed as stated on the meter;

- (b) An indicator which shows the expiration of the time period in 5.1.1 above as having lapsed;
- (c) Times of operation of meters;
- (d) Methods of payment;
- (e) Instructions on how to operate meters.

(2) A pay and display machine shall record the following information, in a printed format on the ticket: -

- (a) The time at which the owner purchases parking, i.e. the time at which the ticket is generated;
- (b) The time period for which the owner of the vehicle may park;
- (c) The machine at which the ticket was printed; and
- (d) The unique number.

6. **MANNER OF DISPLAY OF TICKET** – (1) The ticket generated by the Pay and Display machine must be displayed on the inside of the motor vehicle securely on the dashboard, or in a licence disc holder on the windscreen, and the printed side must be visible from outside the front windscreen.
7. **MANNER OF PARKING** – (1) Every motor vehicle shall be parked wholly within the parking bay and no part of such motor vehicle shall protrude outside the limits of that demarcated bay.
8. **EXEMPTIONS** – (1) Despite the provisions of these bylaws, persons in charge of a motor vehicle set out hereunder shall be exempt from payment of the prescribed parking fee.
- (a) a vehicle used as an ambulance whilst being used for ambulance duties;
  - (b) a vehicle used as a fire brigade whilst attending fire and rescue operations;

- (c) a vehicle being used by a member of any police force or Traffic Officer or authorised officer whilst exercising his urgent police duties;
- (d) a motor vehicle being driven by a person with a permanent physical disability or mobility impairment or a motor vehicle being used to convey a person;
- (e) a vehicle used in connection with road construction, water supply, electricity supply or other like essential public service and being at the time necessarily used in connection with any such service.

(2) There shall be no charge for metered parking:-

- (a) on Saturdays from 14h00;
- (b) on Sundays and public holidays, unless, otherwise stated on signage; and
- (c) on any weekday after 17h00 until 8h00 the following day, or as may be indicated on signage.

9. **PARKING FOR PERSONS WITH A PERMANENT PHYSICAL DISABILITY OR MOBILITY IMPAIRMENT** - (1) A person with a permanent physical disability or mobility impairment must display his permit when making use of metered parking.

(2) Any person issued with such permit in 9.1 above, must display such permit on the right hand corner of the motor vehicle windscreen, in a manner which is obvious and clearly visible at all times whilst parked in a metered parking bay.

10. **INOPERABLE / FAULTY METERS PAY AND DISPLAY MACHINES** – (1) No person shall park in a metered parking bay where a parking meter is inoperational or faulty.

(2) Where a pay and display machine is inoperable a person may park within the demarcated bay and make payment at any other operable pay and display machine.

(3) Where a pay and display machine is otherwise operable and has recorded payment but fails to produce a properly printed ticket, the paying person may park in the demarcated parking bay

but must make payment again utilising any other operable pay and display machine, whereafter, the person so paying shall produce his faulty ticket as proof of payment and be refunded the money so paid.

11. **TOWING OF MOTOR VEHICLES** – (1) Authorised Officers may cause any motor vehicle towed in terms of clause 3.6 above to be impounded, until such time as payment has been made, and the driver of the vehicle has produced his identification document or drivers licence and address.

(2) The Council shall not be liable for any damage caused to a vehicle so towed and impounded.

12. **OFFENCES** – (1) No Person shall

- (a) Park in a metered parking bay, without paying the prescribed fee, unless exempt by clause 8 hereto;
- (b) Remain in a metered parking bay, after the expiration of the period for which he may remain legally parked, whether he pays for his overstay or not;
- (c) Deface or tamper with a parking meter or pay and display machine or appurtenance thereto, or affix or attempt to affix or place any placard, advertisement, notice, list, document; board or thing, or paint or write thereon;
- (d) Remove, deface or tamper with a parking ticket;
- (e) Use anything other than the means of payment indicated on the parking meter or as stipulated for the pay and display machine for the payment of parking;
- (f) Utilise a physically challenged persons permit issued to a physically disabled person when such person is not in the vehicle;
- (g) Park and stop a vehicle in a metered parking bay at any time prohibited by a road traffic sign displayed in accordance with any other law.

13. **INDUCING AN AUTHORIZED OFFICER OR PARKING MARSHAL TO FORSAKE HIS OR HER DUTY** – (1) No person shall connive with or induce or attempt to induce any authorized officer or parking marshal to omit to carry out his or her duty or to commit an act in conflict with his or her duty.

14. **PENALTY CLAUSE** – (1) Any person who contravenes any section of these bylaws shall be guilty of an offence and liable upon conviction to payment of a fine, or imprisonment of not more than six months.

15. **NON-EXEMPTION** – (1) Persons who pay another person to perform a security function, or to watch over his motor vehicle, shall not be exempt from paying the prescribed fee for parking.

16. **TARIFF OF CHARGES**

As per Schedule 1

## SCHEDULE 1

ACTIVITY	AMOUNT
Fees for metered Parking per hour	R
Fee for towing	R
Fee for storage of vehicle, per day after forty eight (48) hours	R
Miscellaneous fees: Telephone: Administration:	R R