

WEST COAST DISTRICT MUNICIPALITY



POLICY: EXEMPTION IN TERMS OF SECTION 14(1) OF REGULATION 638 OF 2018

POLICY CONTROL SHEET

POLICY TITLE	: Exemption in terms of section 14(1) of Regulation 638 of 2018
POLICY CUSTODIAN	: West Coast District Municipality
POLICY AUTHOR	:
LLF CONSULTATION DATE	:
COUNCIL APPROVAL DATE	:
COUNCIL APPROVAL REFERENCE	:
POLICY INCEPTION DATE	:
POLICY REVIEW DATE	:

Preamble:

The increasing trend of allowing dogs in outdoor areas of restaurants internationally as well as in South Africa has necessitated the need for the development of a stringent hygiene protocol based on international best practise to mitigate risks.

Regulation R638 that governs General Hygiene Requirements for Food Premises, the Transport of Food and Related Matters in South Africa indicates that with the exception of a guide or service dog an animal may not be permitted in a room or area where food is handled.

However, the same Regulation allows a person in charge of a food premises to apply for an exemption from any section of the Regulation with the exception of the need to have a valid Certificate of Acceptability in place.

The National Department of Health has confirmed that Local Authorities have the mandate to consider applications for exemptions to R638.

This Policy therefore serves to provide a set of requirements to ensure the consistent consideration of any application for exemption to permit non-guide/service dogs in designated outdoor seating areas of restaurants in the West Coast District area without compromising health and hygiene standards.

Veterinary experts suggest that the health risks posed by dogs in dining areas are relatively low, particularly if dogs are healthy, vaccinated, and under the control of their owners. To further minimise risks, successful models include:

- ☐ Strict Hygiene Protocols
- ☐ Designated Areas
- ☐ Owner Responsibility
- ☐ Contingency Plans

After consideration of international best practise, the West Coast District Municipality's Municipal Health Service, has decided to consider applications for exemptions relating to Regulation 14(1) of R638.

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1. INTERPRETATION

In this document any word or expression to which a meaning has been assigned has that meaning, unless the context requires otherwise-

"applicant" means a person applying for an exemption in terms of Regulation 14 of Regulation 638;

"food premises" means a building, structure, stall or other similar structure, and includes a caravan, vehicle, stand or place used for or in connection with the handling of food, but in context of this policy it excludes those allocated within malls and shopping centres and retail shop and milking parlours.

"handle" includes manufacture, process, produce, pack, prepare, keep, offer, store, transport or display for sale or for serving. and "handling" has a corresponding meaning:

"person in charge", in relation to food premises, means a natural person who is responsible for the food premises or the owner of such food premises, as the case may be;

"dog friendly outside dining area" means that area (stoep, balcony, terrace, patio) which are not directly connected by a door to the principal structure, where patrons with dogs can be accommodated, provided that:

- i. An outside entrance is provided which give direct access to the dog friendly area.
- ii. Patrons with dogs do not walk through the normal outside dining area reserved for other patrons.

"the Act" means the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972); **"the Regulation"** means the Regulations Governing General Hygiene Requirements for Food Premises, the Transport of Food and Related Matters, Regulation 638 of 22 June 2018.

2. INTRODUCTION

The West Coast District Municipality recognises the right of owners/managers of food establishments to apply for exemptions in terms of Regulation 638, therefore this policy was developed with the intention of improving and diversifying service delivery whilst ensuring compliance to legislation throughout the district.

3. LEGAL FRAMEWORKS

The Regulations Governing General Hygiene Requirements for Food premises and the Transport of Food and Related Matters, R638 of 22 June 2018 promulgated under the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act 54 of 1972) and the Municipal Systems Act, Act 32 of 2000, Schedule 2,

4. PURPOSE OF THIS POLICY

The purpose of this policy is to outline the process contemplated in Regulation 14 (1) of Regulation 638, relating to the application for exemption to ensure the consistent implementation of the Regulation and this policy in the West Coast District Municipality. The Policy serves to provide a set of requirements to ensure the consistent consideration of any application for exemption to permit non-guide/service dogs in a designated outdoor seating areas of restaurants in the West Coast District area without compromising health and hygiene standards.

5. SCOPE OF THIS POLICY

This policy applies to all food establishments (handling, preparation, processing and sales) within the jurisdiction of West Coast District Municipality.

6. PROCESS

6.1 Exemption Committee/Panel: Composition and Duties

(1) The panel comprises of the following member but are not limited to –

- (a) The Chairperson, which will be a Regional Manager: Municipal Health from any of the regions in the West Coast District Municipality.
- (b) An Environmental Health Practitioner from each regional office.
- (c) Ad hoc member – The Environmental Health Practitioner in whose area of jurisdiction the application for exemptions originated.

(2) The duties of the Exemption panel include but are not limited to –

- (a) Ensure that all applications submitted complies with all the requirements set out in this policy,

(b) Ensure that all applications are reviewed impartially, and feedback is given within the prescribed period.

6.2 Submission of Application

(1) An application contemplated in regulation 14 must be accompanied by a completed application form [Annexure A] with the following information:

(a) The name, address and telephone number of the person applying for the exemption;

(b) A document explaining the reasons for the application and details of the specific provision from which the person is requesting exemption.

(c) Applicable supporting documents;

I. Certified copy of an Identification document (Manager/Owner)

II. Diagram/Layout of the premises, indicating the proposed area and/or structure intended to be utilised as the dog friendly area, drawn on scale 1:50.

III. Copy of Public Liability Insurance certificate/confirmation letter

(2) Regional Manager: Municipal Health/Chairperson of Exemption panel must, within 14 calendar days from the receipt of the application for exemption, acknowledge receipt in writing. [Registered letter/notice per e-mail]

(3) A person applying for exemption from a provision of this Regulation must give notice to all potential interested and affected parties by-

(a) Written notice that contains the following information; (i) the name, address and telephone number of the person applying for the exemption;

(ii) a brief description of the exemption applied for and where a copy of the application can be viewed or can be obtained from

(iii) the postal address, e-mail address, contact details of the person applying for the exemption to whom comments must be submitted, in this case the Chairperson of the Exemption panel request it

(iv) the date on which comments on the exemption application must be submitted, considering that a minimum of thirty (30) calendar days must be allowed for the submission of comments;

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- (b) Giving written notice to – (i) the owner of the erf/property requesting formal permission to apply for exemption
 - (ii) owners, persons in control of, and occupiers of land adjacent to the site;
 - (iii) apply to local municipality regarding compliance to municipal By-laws and applicable legislation
- (4) If an exemption is granted an applicant must re-apply for a Certificate of Acceptability, in line with the approved tariff structure.

6.3 Consideration of application

- (1) The Exemption Panel, may upon receipt of the application for exemption, request the person applying for an exemption to furnish additional information within 14 calendar days.
- (2) The Exemption Panel must consider the application for exemption, additional information, if such information was submitted and all comments and objections and must reach a decision within 60 calendar days from the date that all information was received.

6.4 Decision on application

- (1) Subject to Regulation 14 of the Regulation 638, the Exemption panel may grant or refuse to grant an exemption based on the content of the application.
- (2) The Chairperson of the Exemption Panel will make recommendations on the application to the Senior Manager: Municipal Health Services for final consideration. The decision must be communicated/referred to the relevant Regional Manager: Municipal Health in whose area the application for the exemption originated,
- (3) In the case that the application for the exemption is;
 - (a) Granted, the Regional Manager: Municipal Health must issue a written notice to the person applying for exemption stating;
 - (i) The name, address, and telephone number of the person to whom the exemption is granted;
 - (ii) The conditions subject to which exemption is granted; and provision of the legislation from which exemption is granted;
 - (iii) The period for which exemption is granted.
 - (iv) That the approval of this application is not an exemption from any other relevant legislation.

- (b) Not granted the Senior Manager: Municipal Health Services, must, in writing and within five (5) calendar days (i) notify and make available to the applicant the decision on the application for exemption; and
- (ii) give written reasons for the decision.

6.5 Appeals

- (1) The applicant must within 14 days of receipt of the notice notify (registered post and/or email) the West Coast District Municipality of their intention to appeal, using the Appeals form in Annexure B.
- (2) The appeal form with full written motivation must be submitted by registered post and/or email to the West Coast District Municipality within 30 days of lodging of the notice of intention to appeal.
- (3) The appeal authority is the Municipal Manager in terms of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000)

6.6 Review of exemptions

- (1) The Exemption Panel, may- (a) review exemptions granted in terms of these Regulations annually, and can;
- (b) on good grounds suspend, withdraw, or amend the exemption, or any part thereof on proposal from the relevant Environmental Health Practitioner and the Regional Manager of the region where the exemption originated.
- (2) Before a decision is taken to suspend, withdraw or amend an exemption granted in terms of the Regulation, the Chairperson of the Exemption Panel must give notice of intent to the person to whom the exemption was granted and must provide the person with an opportunity to make written representations within a specified period.
- (3) The Senior Manager: Municipal Health Services must consider any comments submitted in terms of sub-section (2) before deciding on the suspension, withdrawal or amendment of any exemption granted.
- (4) The Senior Manager: Municipal Health Services must decide on the suspension, withdrawal or amendment of any exemption granted within thirty (30) calendar days after receipt of any comments submitted in terms of sub-section (2).

6.7 Validity period of exemption/s

The exemption issued in terms of Regulation 14 of Regulation 638 is only valid for a period of three (3) years, after which the applicant must re-apply for the exemption.

7 POLICY REVIEW

When required

8 REFERENCES

1. Regulations Governing General Hygiene Requirements for Food premises and the Transport of Food and Related Matters, R638 of 22 June 2018 promulgated under the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act 54 of 1972) and the Municipal Systems Act, Act 32 of 2000, Schedule 2,
2. The Municipal Systems Act, Act 32 of 2000, Chapter 7, Section 62.

9. ANNEXURES

ANNEXURE A: APPLICATION FOR EXEMPTION

WESKUS DISTRIKSMUNISIPALITEIT WEST COAST DISTRICT MUNICIPALITY

Rig alle korrespondensie aan:
Address all correspondence to:

MUNISIPALE BESTUURDER/
MUNICIPAL MANAGER

Navrae/Enquiries :
Verw.Nr./Ref. No.:



Posbus / P O Box 242
MOORREESBURG 7310

Telefoon / Phone: (022) 433-
8400
Faks / Fax: 086 692 6113

E-pos Adres / E-mail Address:
westcoastdm@wcdm.co.za

Munisipale Gesondheidsdienste / Municipal Health Services

**AANSOEK OM VRYSTELLING VAN REGULASIE NR 638 VAN 22 JUNIE 2018 INGEVOLGE REGULASIE 14(1)
SOOS GEPROMULGEER KRAGTENS DIE WET OP VOEDSELS, SKOONHEIDSMIDDELS EN
ONTSMETTINGSMIDDELS 1972 (WET 54 VAN 1972)**

**APPLICATION FOR EXEMPTION FROM REGULATION NO 638 OF 22 JUNE 2018 IN TERMS OF REGULATION
14(1) AS PROMULGATED UNDER THE FOODSTUFFS, COSMETICS AND DISINFECTANTS ACT 1972 (ACT 54
OF 1972)**

BESONDERHEDE VAN AANSOEKER / DETAIL OF APPLICANT

Volle naam van applikant / Full name of applicant:	
I.D. Nommer / I.D. Number:	
Woonadres / Residential address:	
Posadres/ Postal address:	
Kontaknommer / Contact number:	
Epos adres/ E-mail address:	

BESONDERHEDE VAN PERSEEL DETAIL OF PREMISES

Naam van besigheid / Name of business:	
Sertifikaat nommer/ Certificate number:	
Straatnaam en nommer / Street name and number:	
Kontaknommer/ Contact number:	
Epos adres/ E-mail address:	
Persoon in beheer/ Person in charge:	
ID nommer/ ID Number:	

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VRYSTELLING (Noem die afdeling waarvan u vrystelling versoek)

EXEMPTION (State the section from which you are requesting exemption)

Hoofstuk/ Heading	
Nommer/ Number	
Sub-section	

INDIENING VAN ONDERSTEUNENDE DOKUMENTASIE (Moet aansoekvorm vergesel) [Dui met X aan indien aangeheg]

SUBMISSION OF SUPPORTING DOCUMENTATION (Must accompany application form) [Indicate with X if attached]

Diagram/uitleg van die perseel, wat die voorgestelde area en/of struktuur aandui wat bedoel is om as die hondvriendelike area gebruik te word. <i>Diagram/Layout of the premises, indicating the proposed area and/or structure intended to be utilised as the dog friendly area.</i>	
Afskrif van identifikasiedokument (ID) van aansoeker (eienaar/bestuurder) <i>Copy of identification document (ID) of applicant (owner/manager)</i>	
Afskrif van geldige COA <i>Copy of valid COA</i>	
Alle kommentaar ontvang van die publiek met betrekking tot die vrystelling <i>All comments received from the public pertaining to the exemption</i>	
'n Gedetailleerde skoonmaakskedule vir "hondvriendelike area" (indien aansoek gedoen word vir vrystelling van Regulasie 10). <i>A detailed cleaning schedule for "dog friendly area" (if applying for exemption from Regulation 10).</i>	
Bewys van betaling wat die verskafde verwysingsnommer weerspieël <i>Proof of payment reflecting provided reference number</i>	
Afskrif van Openbare Aanspreeklikheidsversekeringssertifikaat/bevestigingsbrief <i>Copy of Public Liability Insurance certificate/confirmation letter</i>	

Neem asseblief kennis: Aansoek sal nie oorweeg word, tensy al die vereiste dokumente ingedien is.
Please note: Application will not be considered unless all the required documents listed above are submitted.

AANSOEKER / APPLICANT

Handtekening van aansoeker /Signature of applicant	
Datum / Date	

ENDOSSEMENT / ENDORSEMENT

Die indiening van 'n aansoek om vrystelling verleen nie outomaties magtigting dat honde op die perseel toegelaat word nie. Goedkeuring is onderhewig aan verdere hersiening en bevestiging van voldoening aan toepaslike regulasies. <i>Submission of an application for exemption does not automatically grant authorization for dogs to be allowed on the premises. Approval is subject to further review and confirmation of compliance with applicable regulations.</i>
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ANNEXURE B: APPEALS FORM

WESKUS DISTRIKSMUNISIPALITEIT WEST COAST DISTRICT MUNICIPALITY

Rig alle korrespondensie aan:
Address all correspondence to:

MUNISIPALE BESTUURDER/
MUNICIPAL MANAGER

Navrae/Enquiries :
Verw.Nr./Ref. No.:



Posbus / P O Box 242
MOORREESBURG 7310

Telefoon / Phone: (022) 433-
8400

Faks / Fax: 086 692 6113

E-pos Adres / E-mail Address:
westcoastdm@wcdm.co.za

ANNEXURE B: APPEALS FORM

PARTICULARS OF THE APPALLENT (Person who lodges the appeal)

Volle naam van aplikant / Full name of applicant:	
I.D. Nommer / I.D. Number:	
Posadres/ Postal address:	
Kontaknommer/ Contact number:	
Epos adres/ E-mail address:	

GROUND FOR APPEAL

(If the provided space is inadequate, please continue on a separate page and attach it to this form. All the additional pages must be signed)

State the ground on which the appeal is based	
State any other information that may be relevant in considering the appeal	



ANNEXURE C: VARIANCE FROM REGULATION 638: CRITERIA TO ALLOW DOGS IN AN OUTDOOR DINING AREA

In accordance with Regulation 10 of the **REGULATION GOVERNING GENERAL HYGIENE REQUIREMENTS FOR FOOD PREMISES AND THE TRANSPORT OF FOOD AND RELATED MATTERS R 638 OF 22 JUNE 2018**, a person in charge of food premises must ensure that an animal, subject to the provisions of any law, is not kept or permitted in a room or area where food is handled, except that-

- (a) A guide or service dog accompanying a person with a disability may be permitted in the sales or serving area of the food premises;
- (b) Fish, molluscs or crustaceans may be kept alive until prepared for consumption

Dogs will only be allowed in outdoor/outside seating areas of food establishments under the following conditions/stipulations:

The designated outdoor area must adhere to the following requirements;

Structural requirements:

1. Animals will only be accommodated in an "outside designated area" as contemplated in the definition in the exemption policy.
2. The area must be fully separated from the food premises by a solid partition or barriers. The partition or barrier must be so designed that it limits the contact between dogs in the "dog friendly area"/ outside dining area and people and dogs on the sidewalk
3. The outdoor dining area must have a separate entrance for patrons with dogs. Dogs must not be allowed to move through the food establishment, which includes part of a stoep, a terrace.

The premises must have a designated outdoor space which does not require the traverse of animals through any indoor area of the premises, and does not require the traverse of

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any clients not wanting to be exposed to dogs through the outdoor space to gain entry or exit the premises.

4. The floor surface must be impenetrable, with a run-off to an approved disposal system, to facilitate cleaning and disinfection. If a grass surface is available an approved disinfectant spray must be used to disinfect soiled surfaces.
5. No food or drinks will be prepared in the area where dogs are allowed.
6. Single use serving dishes, utensils, tableware, paper products, etc. will be used in the dog friendly area, and once used, will be disposed of into a refuse bin with a close-fitting lid.
7. No food will be offered or served to dogs in the dog friendly area.
8. Any food given to dogs within the dog friendly area shall be provided by the dog owner itself. Dog owners will also be responsible to provide their own receptacles.

MARKET PLACES

If an Owner/Manager of a Market place wants to accommodate dogs the following principles must apply:

1. A Designated food court must be provided/established to which dogs have no access.
2. A Demarcated area must be provided where owner's and their dogs can dine (enjoy their meals) without affecting the comfort of other patrons.

RESPONSIBILITY OF THE PERSON IN CHARGE (OWNER/MANAGER)

Take note: The Owner/Manager of a food establishment that has a dog is not excluded from the conditions or requirements of this policy.

It is the responsibility of the restaurant owner/manager to ensure that;

1. Compliance with the applicable legislation at all times.
2. The "dog friendly area" is only used by patrons with dogs.
3. A Hygiene programme must be compiled and implemented.
4. Any dog entering the establishment is clean and in a good state of health.
5. A notice board is available with the rules applicable to the requirements for dog owner.
6. A disclaimer with the following words must be placed in a conspicuous place:

"Health Risk Disclaimer (Regulation R638 of 2018)

In terms of Regulation R638 of 2018, food premises are required to maintain conditions that prevent contamination and ensure food safety.

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The presence of animals may introduce contamination risks, including bacteria, parasites, hair, saliva, and allergens, which can compromise food safety, hygiene standards, and public health. These risks may be more significant for vulnerable individuals, including young children, the elderly, and persons with weakened or compromised immune systems, who may be more susceptible to infection or allergic reactions.”

7. The number of dogs accompanying a patron is limited to one.
8. Dogs are always kept on a leash and under control of the customer and must not be allowed to stand, sit or lay in the aisles.
9. Dogs are not allowed sit or lay on chairs, benches or on any other furniture.
10. Dogs are well behaved and not a nuisance to other patrons. Disruptive or aggressive dogs must not be allowed access to the restaurant.
11. The patron with a dog cleans up after the dog in the case of discharge and that waste is disposed of appropriately as to minimise contamination.
12. Clean-up bags are always available to customers when the area is open for use.
13. Food handlers/Staff refrain from touching dogs.
14. Hand washing facilities/ sanitising station is available at the entrance to the main dining area to ensure that staff/waiters can wash their hands.
15. No crockery, cutlery or any form of utensils and napkins are stored, displayed or pre-set on tables in the “dog friendly area”.
16. A pest control plan is in place.
17. Waste bins, with tight fitted lids are always available for the disposal of animal waste, which must be cleaned and disinfected daily.
18. No dog food or treats are provided to dogs by the food establishment.
19. Comply with public liability insurance certificate conditions.