

# OVERSTRAND MUNICIPALITY PARKING MANAGEMENT BY LAW

Under the provisions of section 156(2) of the Constitution of the Republic of South Africa, 1996, the Overstrand Municipality enacts as follows:-

## **Purpose of By – Law**

The purpose of this By-law is to achieve a safe environment for the benefit of residents within the area of jurisdiction of the municipality, and to provide for the supply, regulation and control of parking in the area of jurisdiction of the Overstrand Municipality.

## **1. Definitions**

In this By-law, words used in the masculine gender include the feminine, the singular includes the plural and vice versa, the English text prevails in the event of an inconsistency between the different texts and unless the context otherwise indicates-

**"coin"** means a coin of South African currency;

**"director"** means the Director: Protection Services appointed in terms of section 56 of the Local Government: Municipal Systems Act, No.32 of 2000.

**"fee"** means such fee as may from time to time be fixed by resolution of the Council, shown on the parking meter or pay and display machine for a metered period in any metered parking space;

**"metered parking space"** means a parking space in respect of which a parking meter has been installed;

**"metered period"** means the maximum period for which a vehicle may be parked in any metered parking space, shown on the parking meter or pay and display machine;

**"Municipality"** means the Municipality of Overstrand established in terms of section 12 of the Local Government: Municipal Structures Act, No.117 of 1998, and includes duly authorised agent, service provider or any employee thereof acting in connection with this By-law by virtue of a power vested in the Municipality and delegated or sub-delegated to such agent service provider or employee;

**"notice, notice board or sign"** means an adequate notice in two of the three official languages of the Province, or as acknowledged by the Municipality, erected or posted in a prominent position or positions and maintained in a legible state. It includes an emblem board as approved by the Municipality;

**"officer"** means-

- (a) a traffic officer appointed under the Road Traffic Act, No.29 of 1989;
- (b) a member of the South African Police Services as defined in the South African Police Services Act, No.68 of 1995;
- (c) a peace officer contemplated by section 334 of the Criminal Procedure Act, No.51 of 1997;
- (d) an employee of the Municipality or any other person who is appointed or authorised thereto by the Municipality to perform any act, function or duty related to the provisions of this By-law, or exercise any power in terms of this By-law.

**"parking"** means to keep a vehicle, whether occupied or not, stationary in a parking space for a period of time longer than is reasonably necessary for the actual loading or unloading of persons or goods, but does not include any such keeping of a vehicle by reason of a cause beyond the control of the driver of such vehicle.

**"parking attendant"** means an appointed person who on his own initiative<sup>1</sup> offers a service to the public, whether in expectation of a reward or out of goodwill, at the request or with the consent of the person in charge of a vehicle, to supervise or render assistance while such vehicle is being parked or in the employ of an organisation who provide a parking attendant service;

**"parking ground"** means any area of land set aside by the Municipality, or any area controlled by, or of which the Municipality has gained control, as a parking ground or garage for the parking of vehicles therein by members of the public, whether or not charges are prescribed by this By-law for use thereof;

**"parking meter"** means a device for the automatic registration and visible recording and display of the passage of the parking period, operated by the insertion of a coin therein, and includes any post or fixture to which it is attached; or a device for registering and visibly recording the passage of the parking period and operated by inserting a coin therein and turning the handle, which is attached for this purpose, as far as possible in a clockwise direction, or a hand held device operated by a parking marshal;

**"parking period"** means that period of time of parking in a metered parking space which is determined by the insertion into a parking meter or pay and display machine of the appropriate coin;

**"parking space"** means an area demarcated by means of parking lines, a parking bay painted on a street or otherwise indicated;

**"pay and display machine"** means a machine installed at a pay and display parking ground for the sale of tickets on which the following are reflected-

- (a) the date or day of issue of the ticket; (b) the amount paid for the ticket;
- (c) the departure time;
- (d) the machine code number;

**"public road or street"** means any road, street, cycle path, thoroughfare, parking bay or any other place and includes:

- (a) The verge of any such public road;
- (b) Any foot path, sidewalk or similar pedestrian portion of a road reserve;
- (c) Any bridge, ferry or drift traversed by any such public road;
- (d) Any other object belonging to such public road, which has at any time been:
  - (i) Dedicated to the public,
  - (ii) Used without interruption by the public for a period of at least 30 years,
  - (iii) Declared or rendered such by a Municipality or other competent authority, or
  - (iv) Constructed by a local authority; and
- (e) Any land, with or without buildings or structures thereon, which is shown as a public road on:
  - (i) Any plan of subdivision or diagram approved by the Municipality or other competent authority and acted upon,
  - (ii) Any general plan as defined in the Land Survey Act, No. 8 of 1997, registered or filed in a deeds registry or Surveyor General's office, unless such land is on such plan or diagram described as a private public road;

**"Road Traffic Act"** means the National Road Traffic Act, No.29 of 1989;

**"road traffic sign"** means any sign erected or given to enhance road safety, traffic signs are boards with letters or sign thereon to warn or inform drivers of vehicles or pedestrians;

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

solely by such person.

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

## **2. Application**

- (1) This By-law shall apply on all premises situated on public property and shall be valid in the area of jurisdiction of the Municipality in so far as it is applicable and not inconsistent with or excluded by the Road Traffic Act, No.29 of 1989 or any other Act.
- (2) If a provision of this By-law is contrary to any other By-law of the Municipality, the most restrictive By-law shall be applicable.
- (3) All actions performed and contraventions connoted, proceedings imposed or pending in terms of any repealed By-law shall not be affected by such repeal and all licenses issued and actions performed in accordance with a repealed By-law shall be valid and regarded to be executed and issued in terms of this By-law.
- (4) The Director is responsible for the administration and enforcement of this By-law and may delegate in writing any power or duty granted to him in terms of this By-law to a competent official in his Directorate.

### **PART 1: PARKING**

## **3. Control of parking**

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

## **4. Parking in ticket-controlled parking grounds**

- (1) No person may park a vehicle or allow it to be or to remain in a parking ground wherein parking is controlled by the issuing of admittance tickets -
  - (a) without a ticket;
  - (b) except in a parking space and in compliance with any directions which may be given by an authorised official or where no such space has been marked, except in a place indicated by the authorised official;
  - (c) after an authorised official has indicated to the person that the parking ground is full;
  - (d) after the expiry of the parking period.
- (2) No person may remove or permit the removal of a vehicle from the parking ground unless -
  - (a) that person has produced to the authorised official a ticket authorising him to park in the parking ground and which was issued to that person upon entering or leaving that parking ground;

- (b) that person has upon entering or leaving the parking ground, paid the prescribed fee.
- (3) If a person fails to produce a ticket authorising him to park in the parking ground, that person is deemed to have parked the vehicle from the beginning of a period as prescribed and indicated on a notice board in the parking ground until the time that person wants to remove the vehicle and he must pay the prescribed fee for that period.
- (4) No person may, after failing to produce a ticket, remove or cause or permit the removal of any vehicle parked in the parking ground, until that person has produced other proof, to the satisfaction of an authorised official, of his right to remove such vehicle.
- (5) If a vehicle has not been removed from a parking ground by the end of the parking period for which the prescribed fee has been paid, a further prescribed fee is payable for the next parking period.

#### **5. Monthly tickets**

- (1) Notwithstanding anything contrary contained in this By-law, the Municipality may in respect of any parking ground controlled by the issue of tickets, issue at a prescribed fee, a ticket which entitles the holder to park a vehicle in that ground for one calendar month or any lesser period specified therein, at the times specified by the ticket, if a parking space is available.
- (2) The Municipality may issue to any of its employees a ticket, which entitles the holder when using a vehicle regarding the business of the Municipality, to park free of charge in a parking ground specified in the ticket, if a parking space is available in the parking ground.
- (3) A ticket issued in terms of sub-sections (1) and (2)-
  - (a) may not be transferred to any other person, or be used in respect of any vehicle other than the vehicle specified in the ticket, without the prior written consent of the Municipality; and
  - (b) must be affixed to the vehicle in such a manner and place that it is readily legible from the outside of the vehicle.

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

- (1) The Municipality may reserve parking areas for the disabled, diplomatic corps; South African Police Services and any other groups identified by the Municipality, and may designate such areas by notice or road signage and may impose conditions appertaining to the issue of special parking facility permits.
- (2) No person may stop, park or leave a vehicle at any time in any designated parking space other than a vehicle displaying a designated parking permit or a vehicle used by a disabled person displaying a valid disabled permit issued in terms of regulation 80 of the National Road Traffic Act, No.93 of 1996.

#### **7. Pay and display parking grounds**

- (1) No person may park or permit any vehicle to be parked or allow a vehicle to be or remain in a pay and display parking ground, unless upon entering the parking ground -
  - (a) the person purchases a ticket issued by means of a pay and display machine in that parking ground, in accordance with the instructions displayed on, or within a distance not further than 2 meters from such machine;
  - (b) the person displays such ticket by affixing it to the inside of the driver's side of the front windscreen of the vehicle in such a manner and place that the information printed on the ticket by the pay and display machine is readily legible from the outside of the vehicle.

## **8. Installation of parking meters**

- (1) The Municipality may, by Council Resolution, install or cause to be installed a parking meter at any demarcated parking space within the municipal boundaries.
- (2) Every such meter shall be placed upon and fastened to the kerb, footpath or sidewalk adjoining the parking space in respect of which it is installed and each meter shall-
  - (a) clearly indicate the time allowed for parking in such metered parking space and the prescribed coin which may be inserted;
  - (b) be fitted with an easily visible device (hereinafter referred to as an indicator) which shall indicate clearly that the time allowed for parking has expired or that the parking meter has not yet been set in motion, as the case may be;
  - (c) where the meter is not automatically activated by the insertion of a prescribed coin, shall clearly indicate the action to be taken to set the meter in operation once the prescribed coin has been inserted.
- (3) All fees deposited in any parking meter or pay and display machine shall be the property of the Municipality and shall be disposed of as the Municipality deems fit.

## **9. Use of parking spaces and parking meters**

- (1) No person shall during the hours indicated on the parking meter, park or stop any vehicle at any metered parking space, unless after such vehicle has been parked at such metered parking space, he deposits the prescribed fee in the parking meter regulating parking at such parking space, and causes such meter to come into operation in accordance with any direction displayed thereon.
- (2) Any person who parks a vehicle at a metered parking space before the commencement of the hours indicated on the parking meter and allows such vehicle to remain at such metered parking space until the commencement of the hours indicated on the parking meter, shall immediately after such commencement deposit the prescribed fee in the parking meter regulating parking at such metered parking space or remove his vehicle from such metered parking space.
- (3) Where a vehicle occupies or a combination of vehicles occupy by reason of their length so much of an adjoining metered parking space or spaces, that it is not possible to park a vehicle at the adjoining metered parking space in the manner prescribed in this By-law, the person parking the first mentioned vehicle or combination of vehicles at such metered parking spaces, shall cause the parking meters of all the parking places occupied by such vehicle or combination of vehicles to be set in operation in the manner prescribed.
- (4) No person who parks any vehicle at a metered parking space shall allow such vehicle to remain at such metered parking space after the expiration of the period of parking time for which there has been deposited in the parking meter the fee prescribed on the parking meter.
- (5) Any person who parks or causes to be parked any motor vehicle at a metered parking space shall, immediately upon the expiration of the metered period -
  - (a) remove or cause such motor vehicle to be removed from such parking space; or
  - (b) deposit in the parking meter erected at such place, a coin in payment of the requisite fee, whereupon the motor vehicle may remain in the parking space for a further period as indicated on the parking meter.
- (6) When any parking meter indicates that the metered period has expired, it shall be deemed as sufficient evidence that any motor vehicle occupying the relative metered parking space, has been parked for a period in excess of the metered period.
- (7) Save for the provisions of section 13, the insertion of the prescribed coin at a metered parking space shall entitle the person inserting it to stop or park a vehicle in the appropriate metered parking space for a

period corresponding with the payment made; provided that notwithstanding the making of a payment aforesaid, nothing in this By-law shall entitle any person to contravene any road traffic sign prohibiting the parking of vehicles between specified hours.

- (8) Notwithstanding anything to the contrary in this By-law, any person may stop or park any vehicle in any vacant metered parking space where the parking meter indicates that some portion of the parking time is unexpired for a period not exceeding such unexpired portion, without depositing any fee in the parking meter.
- (9) Where a person has ascertained that the parking meter at any metered parking space is not operating, he shall be entitled to leave a vehicle in that space but shall in that case immediately inform the Traffic Department of the Municipality, of the defect by the quickest possible means, as well as the parking meter number and the vehicle registration number; or remove his vehicle from such metered parking space.
- (10) The prescribed fee for parking in a parking space which is controlled by a meter, shall be as determined in the Municipality's Tariff Policy, or pending such promulgation, a decision by Council in terms of section 75A of the Local Government: Municipal Systems Act, No.31 of 2000, and such fee and parking time shall be indicated by an appropriate notice affixed to the parking meter.

#### **10. Parking in a loading zone**

- (1) No person who operates or who is in charge of a vehicle on a public road may allow, subject to subsections (2) and (3), the vehicle to remain stationary in a loading zone—
  - (a) between the hours of 07:00 and 18:00 on Mondays to Saturdays, except where such day is a Public Holiday;
  - (b) between the hours of 07:00 to 14:00 on Sundays, except where such day is a Public Holiday; or
  - (c) between other restricted hours as may be specified in respect of a particular loading zone by a road traffic sign or marking.
- (2) No person who operates or who is in charge of a vehicle on a public road may allow a vehicle, other than a goods vehicle, to remain stationary in a loading zone for more than ten (10) minutes continuously, except while actually loading or off-loading persons or goods and while a licensed driver is in attendance at the vehicle.
- (3) No person who operates or who is in charge of a vehicle on a public road may allow a goods vehicle to remain stationary in a loading zone for more than ten (10) minutes continuously, except while the vehicle is being actually loaded or off-loaded.
- (4) The driver of a vehicle, other than a goods vehicle, stationary in a loading zone must immediately remove the vehicle from the loading zone upon being directed to do so by an authorised officer, even if the vehicle has not been stationary therein for longer than the maximum period allowed in respect of a vehicle of that class.

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

- (1) No person may cause, allow, permit or suffer any vehicle to be parked in a parking bay, except as permitted by the provisions of this By-law.
- (2) Where any vehicle is found to have been parked in contravention of this By-law, it is deemed to have been parked, or caused to be parked, or allowed to have been parked by the person in whose name the vehicle is registered unless and until he or she adduces evidence to the contrary.
- (3) The Municipality may—
  - (a) attach a wheel clamp to any unlawfully parked vehicle;
  - (b) or cause an unlawfully parked vehicle to be removed to a place designated by the Municipality; and
  - (c) charge a fee for the removal of a wheel clamp attached in terms of subsection (3)(a) or the release of a vehicle which was removed in terms of subsection (3)(b), which fees will be payable upon removal of such

wheel clamp or release of such vehicle.

## **12. Work zone permits**

- (1) Subject to any conditions the Municipality may impose, a work zone parking permit may be granted for parking or other building or construction purposes in a parking bay or parking ground or on the verge of a road or in the road reserve if the Municipality is satisfied that –
  - (a) the part of the road or the area referred in subsection (1) to which the application relates is adjacent to the site of the proposed building or construction work; and
  - (b) the carrying out of the building or construction work is lawful; and
  - (c) having regard to the nature of the building or construction work and the characteristics of the site of the work, it is not reasonably practical for all work activity involving vehicle loading and unloading and associated vehicle movements to be confined within the site

## **13. Unlawful conduct**

- (1) It shall be unlawful -
  - (a) to park or leave anything except a vehicle at any parking space;
  - (b) to insert or attempt to insert into a parking meter or pay and display machine any coin other than a coin of South African currency of a denomination as indicated by any direction on the parking meter or pay and display machine;
  - (c) to insert or attempt to insert into a parking meter or pay and display machine, any false or counterfeit, damaged or bent coin or any foreign object;
  - (d) to damage or deface, soil or obliterate or otherwise render less visible the face or dial a parking meter or pay and display machine, or to write or draw thereon, or to affix any handbill, poster, placard or other article, whether or not of an advertising nature, to a parking meter;
  - (e) in any way whatsoever to cause or attempt to cause a parking meter or pay and display machine to record the passage of time otherwise than by the insertion therein of the coin referred to in subsection (d);
  - (f) to jerk, knock, shake or in any way interfere with a parking meter or pay and display machine which is not working properly or at all, in order to make it do so, or for any other purpose;
  - (g) to deface, soil, obliterate or otherwise render less visible or to interfere with any mark painted on the roadway, or any legend, sign or notice affixed or erected for the purpose of this By-law;
  - (h) to remove or attempt to remove the mechanism or any other part of a parking meter or pay and display machine from the post or other structure to which it is attached;
  - (i) to attach any device or object to any part of a parking meter or pay and display machine;
  - (j) to place any advertisement on any part of a parking meter or pay and display machine without prior written consent from the Municipality and the payment of any fees as determined by the Municipality;
  - (k) to provide and use any parking facilities, road markings, signs, cones and barriers on any part of a public road, without the prior written consent of the Municipality;
  - (l) to defraud the Municipality, forge, imitate, deface, mutilate, alter or make any mark upon any ticket issued in terms of this By-law; (m) to allow any parked vehicle to cause a nuisance in any manner whatsoever;
  - (m) to park or allow a vehicle to be parked in such a position in a parking space, parking ground or parking garage, that is likely to obstruct or to impede the movement of other vehicles or persons;
  - (n) to clean, wash, work on or effect repairs to a vehicle, except minor emergency repairs, in a parking space, parking ground or parking garage, unless with the prior written permission of the Municipality;
  - (o) to allow or permit any vehicle to be parked in any parking space, parking ground or parking garage, except as permitted by the provisions.

#### **14. General provisions**

- (1) The Municipality may, whenever it deems it necessary or expedient to do so in the interest of the movement or control of traffic, place or erect a road traffic sign indicating that there shall be no parking in any metered parking space or spaces, and it shall be unlawful for any person to stop or park a vehicle or cause or permit a vehicle to be stopped or parked in such metered parking space during the hours in which stopping or parking therein is prohibited in accordance with the indications on such sign.
- (2) No person may, on a parking ground, drive a vehicle negligently or in a manner dangerous to the public or to another vehicle. The Municipality may by sign indicate the maximum speed that may be travelled in a parking ground.
- (3) No person in charge of a vehicle, shall park such vehicle or cause or allow any vehicle to be parked -
  - (a) at any metered parking space which is being used by some other vehicle;
  - (b) at any metered parking space in such manner that any portion of the vehicle protrudes over or beyond any of the lines of demarcation of such metered parking space;
  - (c) in an area demarcated for commercial loading purposes; unless immediately utilized by such delivery vehicle for that purpose.
- (4) The Municipality may also set aside and demarcate within the parking area smaller spaces for the parking of two-wheeled vehicles, and the provisions of this By-law shall be applicable to such smaller spaces.
- (5) Any motor vehicle which has been left in a metered parking space, or a parking ground or in a parking garage for a continuous period of 7 days or more during any period within which this By-law operates, may be removed under the direction of the Chief Traffic Officer, or any other officer duly authorised by him. The vehicle shall be deemed to be an abandoned vehicle and shall be dealt with in accordance with the procedures prescribed in terms of the National Road Traffic Regulations, 2000.
- (6) The cost of such removal and custody and any other costs and expenses incurred in connection therewith shall be recovered from the person having control or being in charge of such motor vehicle, or the registered owner thereof.
- (7) The Municipality shall not be liable for any damage caused to any motor vehicle during the removal thereof or while it is in the custody of the Municipality in terms of this section.
- (8) An authorised officer may refuse to admit into a parking ground a vehicle which, together with its load, is longer than five meters, or is, by reason of its width or height, likely to cause damage to persons or property, or to cause an obstruction or undue inconvenience.
- (9) The Municipality may, by notice exhibited in the parking ground, reserve a portion of a parking ground for the parking of vehicles owned by the Municipality or vehicles used by members of its staff on the business of the Municipality. A person who parks a vehicle in a portion reserved for the parking of vehicles owned by the Municipality or for members of the Municipality's staff commits an offence.
- (10) No dealer or seller of a vehicle may park or allow to be parked on the verge of a public road within the municipal area, a vehicle which is advertised for sale or for rental

#### **15. Exemptions**

- (1) Notwithstanding any other provision contained in this By-law contained, the driver or person in charge of the following vehicles may, subject to the provisions of this By-law, park in a metered parking space without payment of the prescribed fee -
  - (a) a vehicle used as an ambulance and being used on urgent ambulance service at the time;
  - (b) a vehicle used by a fire brigade for inspection purpose or for attendance at fires and being used by the fire brigade in carrying out inspection or its duties of preventing or suppressing fires at the time;
  - (c) a vehicle used by a police or traffic officer, and being used in connection with the execution of urgent



duties at the time;

(d) a vehicle used for rescue or urgent bona-fide medical purposes and being used in carrying out a rescue, or for professional medical reasons at the time.

- (2) Any disabled person who has been exempted from the laws relating to parking in accordance with the laws of any province, and to whom proof of such exemption has been issued, shall be deemed to be so exempted from the By-law applicable in the area of jurisdiction of the Municipality, but only to the extent to which that disabled person is originally exempted.

## **PART 2: PARKING OF TAXI'S, BUSES, HEAVY VEHICLES, TRAILERS AND CARAVANS**

### **16. Definitions**

- (1) The words and expressions used in this part of the By-law shall have the meaning assigned thereto in the National Road Traffic Act, No 93 of 1996.

### **17. Parking**

- (1) No person shall park a vehicle with a gross vehicle mass exceeding 3 500 kg; or any trailer with a gross vehicle mass exceeding 1 000 kg on a public road or road reserve within the jurisdiction of the Municipality or property of the Municipality for a period of more than one hour between 06:00 and 19:00 daily; and no parking between 19:00 and 06:00 daily with the exception of -
- (a) when a temporary parking permit has been issued for such a vehicle or trailer by the Municipality; and
  - (b) when a vehicle or trailer is parked in a parking bay specifically provided for the parking of such vehicles or trailers.
- (2) Subject to the provisions of the By-law on Caravan Parks, no person shall park a caravan on public road or road reserve or on the property of the Municipality or within the jurisdiction area of the Municipality for a period exceeding 24 hours, unless he is in possession of a written authorisation thereto.
- (3) The Municipality may on application, issue a temporary parking permit to vehicles and trailers, which must park on public roads or road reserves for specific periods, because of agricultural, general heavy duty transport, business or industrial activities.

### **18. Taxi parking**

- (1) A driver of a taxi may, subject to any other by-law of the Municipality relating to taxis—
- (a) park a taxi at a special parking place or taxi holding area only and only for the purpose of conducting business directly related to the taxi; or
  - (b) pick up or drop off passengers only at a special parking place or a taxi stopping place provided.
- (2) In emergencies or at recreational and other similar functions, the Municipality may set aside temporary taxi facilities identified by the Chief Traffic Officer as suitable for the parking and stopping of taxis.

### **19. Use of taxi ranks**

- (1) Subject to any other by-law of the Municipality relating to taxis, a driver—
- (a) may park a taxi at the taxi rank specified on the rank access token issued with respect to that taxi, if space is available and only for the purpose of conducting business directly related to the taxi; and
  - (b) must, if no space is available, remove and park the taxi at a holding area
- (2) The driver must, when plying for hire at a taxi rank, do so in a queue and must—
- (a) position his or her taxi in the first vacant place available in the queue immediately behind any other taxi already in front; and
  - (b) move his or her taxi forward as the queue moves forward.

- (3) When plying for hire at a taxi rank, a driver—
  - (a) of any taxi which occupies the first, second or third position from the front of any queue at a rank must be in close and constant attendance of his or her taxi so long as it remains in such a position;
  - (b) may not position his or her taxi ahead of any taxi that arrived and took up a position in the queue before he or she did; and
  - (c) may, if his or her taxi is the first taxi in the queue, and any person calls for a taxi, respond to the call, unless the person clearly indicates his or her preference for a taxi not in front of the queue.
- (4) No person may park or stop a taxi which is not in good working order as required by the Act, in a taxi rank, or cause or permit the taxi to remain in a rank.
- (5) No person may park a vehicle or allow a vehicle to remain stationary in a taxi rank except a taxi in possession of a valid operating licence and for which a rank access token, specifying the rank, has been issued for the year in question.

**20. Behaviour prohibited at a taxi rank**

A person who causes a disturbance or behaves in a riotous or indecent manner commits an offence in terms of this By-law and may be removed from a queue, taxi rank or the vicinity of a taxi facility by any authorised officer.

**PART 3: PARKING ATTENDANTS**

**21. Registering as a parking attendant**

- (1) No person shall operate as a parking attendant or falsely hold him out to be a parking attendant in a parking area, any public road or in any public place in the area of jurisdiction of the Municipality, unless he is in possession of a valid registration permit issued to him by the Municipality.
- (2) A person who wishes to render the service of a parking attendant must apply on the prescribed form obtainable from the Municipality, for the issuing of a permit registering him as a parking attendant for a specific area in the Municipality.
- (3) A person applying for registration in terms of sub-section (2) must submit a copy of his identity document as well as avail himself to have his fingerprints taken. The Municipality reserves the right to submit any application received in terms of sub section (2), to the South African Police Services for a report.
- (4) The Municipality may consider any application and may grant, partially grant or refuse an application and must furnish the reasons for the decision at the request of the applicant. The decision of the Municipality shall be final. After the Municipality is satisfied with the application and the acceptability of the area where he wishes to render his services, after conclusion of a written agreement, a registration permit may be issued to the applicant, which registration permit shall be valid for a period of not more than 12 (twelve) months, subject to the stipulations of sub-section (9). The approved period may be extended on application.
- (5) Approved parking attendants must submit themselves for training before the issuing of the permit.
- (6) A registration permit issued in terms of this By-law shall indicate the identity of the parking attendant, in which area the parking attendant may render his services and the period of validity of the permit.
- (7) A registration permit must on demand be provided to an authorised officer or employee of the Municipality.
- (8) Every parking attendant must, while on duty and presenting himself as available for service, be neatly dressed in a bib or prescribed jacket and must ensure that the identification card is displayed in a visible

position.

- (9) A parking attendant may only render his service in the area indicated on his registration permit.
- (10) The Municipality reserves the right to restrict the number of registered parking attendants in a particular area, and may after investigation, withdraw the registration permit granted and cancel the agreement, in terms of this By-law under the following circumstances or as may be stipulated in the agreement -
  - (a) if a parking attendant has been convicted in a court of law for any contravention of this By law or any form of criminal activity which involves dishonesty;
  - (b) if a parking attendant misbehaves or cause a nuisance at the place where he renders his services, which misbehavior or nuisance can or may harm the image of the Municipality;
  - (c) if a parking attendant operates under the influence of intoxication liquor or any narcotic substance;
  - (d) if a parking attendant partakes in gambling, fighting, or any harassment of any other person at the place where he renders his services;
  - (e) through intimidation or threat demands a donation or fee for his services as parking attendant;
  - (f) interferes with the movement of pedestrians, vehicular traffic or the parking of vehicles or tempers with parked vehicles;
  - (g) if the person lacks the aptitude, competency or suitability to perform the duties as a parking attendant on purpose.
- (11) The issuing of a permit and the signing of a contract with a parking attendant is for purposes of suitability and to manage service providing, and does not vest or establish any relation or rights -
  - (a) to practice any business activities on municipal property; or
  - (b) as an agent, representative, service provider or employee of the Municipality.
- (12) A person who parked his vehicle in an area where a parking attendant operates is not obliged to make use of the service provided by the parking attendant but his actions is on a voluntarily basis and at his own risk.

## **22. Conduct of parking attendant**

- (1) No person that renders services as a parking attendant shall -
  - (a) take up a position of place himself in such a way or manner that pedestrian traffic, vehicular traffic or the parking of vehicles is or may be obstructed or interfered with;
  - (b) in any way obstruct free access to any -
    - (i) entrance or exit from a building;
    - (ii) fire hydrant or emergency equipment;
    - (iii) municipal service or municipal service works;
  - (c) sleep overnight at the approved parking area where he renders his services;
  - (d) provide his service in such a manner as to -
    - (i) create a public nuisance;
    - (ii) create any traffic hazards;
    - (iii) prohibit proper traffic control in streets, a public area or parking area;
  - (e) disregard any notice, whether verbally or written, given by an officer to refrain from the conduct and actions as set out in this section or any other lawfully instruction;
  - (f) force or demand from any person to made use of his services;
  - (g) cleans or washes or offers to clean or wash any motor vehicle;
  - (h) damage or threaten to damage a vehicle in any way for not receiving a donation or fee;
  - (i) refuse to produce a permit on request;
  - (j) use a false permit to operate as a parking attendant in a public place or on a public road;
  - (k) act as a parking attendant or hold himself out to be available to act as a parking attendant at any place other than the place allocated to him.
- (2) The issuing of a registration permit to a parking attendant does not indemnify or preclude him from complying with stipulations of the Private Security Industry Regulation Act, Act no 56 of 2001, if applicable, or any other legislation regarding the registration for and rendering of his services.

## **23. Organisations**

- (1) No organisation may organize the guarding of vehicles or parking services in public places or on public roads through parking attendants without being approved and registered by the Municipality as a parking attendant organisation.
- (2) Only organisations that are registered with the Municipality as parking attendant organisations may provide a guarding or parking attendant service in public places, parking areas or on public roads of the Municipality.
- (3) The Municipality, on receipt of an application for registration, may call for documentary or other proof of the capacity of the organisation to provide guarding/parking attendants, including information regarding the finances of the organisation or other relevant information. The processing of any application must be on a fair and competitive method.
- (4) When approving an organization's application for registration regarding a specified geographic area, the Municipality must issue a permit prescribing the geographic areas within which the organisation may operate and the period of time for which it is granted.

## **24. Code of Conduct**

### **(1) Organisations-**

- (a) must enter into a contract with the Municipality and adopt the prescribed code of conduct for such organizations set out in Schedule 1, before the issuing of the permit;
- (b) must keep detailed attendance and duty records reflecting the following in respect of their parking attendants -
  - (i) name of the parking attendant;
  - (ii) time at which the parking attendant goes on and off duty;
  - (iii) place of assignment of the parking attendant; and
  - (iv) incidents and occurrences.
- (c) is responsible for issuing the following to its parking attendants -
  - (i) a bib or prescribed jacket and any equipment necessary;
  - (ii) a supply of vouchers as envisaged in sub-article (2); and
  - (iii) an identification card with a photo and with full particulars of the bearer thereof and the organisation.
- (d) must train parking attendants, and may incorporate all qualifying unauthorised parking attendants who adhere to the requirements of conduct for organisations and for parking attendants;
- (e) provide its parking attendants with supervision, preferably by means of direct supervision or radio or cell phone contact with the organisation's control office;
- (f) handle and resolve all parking disputes of differences, claims or other problems that may arise in the assigned areas of the parking attendants;
- (g) instruct all parking attendants under contract to comply with the Municipality's By-laws;
- (h) ensure that the organisation's officials make themselves available to attend meetings as and when requested to do so with their clients;
- (i) keep detailed attendance and duty records of the daily activities of its parking attendants.

- (2) A parking attendant must, whenever he assisted the parking of a vehicle, hand the driver a voucher, which identifies him and the organisation.
- (3) When a person who is a member of the organisation act illegally as a parking attendant or commits any other offence in terms of this By-law, the owner or directors of that organisation, save for normal legal requirements, are equally responsible and liable for the offence.

#### **PART 4: GENERAL**

##### **25. Presumptions**

- (1) Whenever a vehicle is parked in contravention of any provision of this By-law, it shall be presumed, until the contrary is proved, that such vehicle was so stopped or parked by the owner thereof;
- (2) For the purpose of sub-section (1), it shall be presumed, in the absence of evidence to the contrary, that, where the owner of the vehicle concerned is a corporate body, such vehicle was parked by a director or employee of the corporate body in the exercise of his powers or in the carrying out of his duties as director or employee or in furthering or endeavoring to further the interests of the corporate body;
- (3) Whenever an advertisement is placed on any part of a parking meter or pay and display machine, it shall be presumed that the owner, or director, of a business or organisation advertising goods or services, personally placed the advertising sign, poster, notice, banner or similar object on the parking meter or pay and display machine.

##### **26. Closure of parking grounds**

Notwithstanding anything to the contrary contained in this By-law, the Municipality may at any time close any parking space, ground or garage or part thereof temporarily or permanently and must indicate the fact and the period of such closure by a road traffic sign display<sup>1d</sup> at the entrance to the enclosed parking space, ground or garage or part thereof, as the case may be.

##### **27. Limitation of liability**

The Municipality is not liable for any damages or loss caused by -

- (a) the exercise of any power or the performance of any duty in good faith under this By-law; or
- (b) the failure to exercise any power, or perform any function or duty in good faith under this By-law.

##### **28. Offences and penalties**

- (1) Any person who continues to commit an offence after notice has been served on him or fails to cease committing such offence after he has been convicted of such offence, is guilty of a continuing offence.
- (2) Any person, who obstructs, hampers or handicaps an authorised official or any person in the execution of any power or the performance of any duty or function in terms of any provisions of this By-law shall be guilty of an offence.
- (3) Any person who contravenes or fails to comply with any provision of this By-law, a notice issued or a condition imposed, furnishes a false statement or false, incorrect or misleading information shall be guilty of an offence and liable on conviction to –
  - (a) a fine or imprisonment or to both such fine and such imprisonment;
  - (b) in the case of a continuing offence, to an additional fine or an additional period of imprisonment or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued; and
  - (c) a further amount equal to any costs and expenses found by the court to have been incurred by the Municipality as result of such contravention or failure.

**29. Short title and commencement**

This By-law shall be known as the By-law relating to Traffic and Parking of the Overstrand Municipality and shall come into operation on the date of publication thereof in the Provincial Gazette.

## Schedule 1

### CODE OF CONDUCT FOR ORGANISATIONS PROVIDING A PARKING ATTENDANT SERVICE

Any organisation that provides a parking attendant service on a parking area, public road or in a public place, must undertake to do the following:

- (1) Register its parking attendants and train them.
- (2) Incorporate *all* qualifying unauthorised parking attendants who adhere to the company's code of conduct and employee's code of conduct.
- (3) Provide its parking attendants with supervision, preferably direct supervision of by means of cell phone or direct radio contact with the organisations control office.
- (4) Supply uniforms (bibs or prescribed jackets), identification cards and the other relevant equipment to the parking attendants.
- (5) Process and resolve all parking disputes or differences, claims or other problems that may arise in the assigned areas of the parking attendants.
- (6) Instruct all parking attendants under contract to comply with the provisions of this By-law on public places, roads and in parking areas.
- (7) Ensure that the organisation's officials make themselves available to attend meetings with their clients when required.
- (8) Establish communication with the SA Police Services and the Municipality.
- (9) Make sure that all of its parking attendants have been screened and have undergone a security clearance.
- (10) Keep detailed attendance and duty records of the daily activities of its parking attendants and car watchers