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PROVINCE OF THE WESTERN CAPE

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## CONTENTS

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Page

### LOCAL AUTHORITY

Overstrand Municipality: By-Law Relating to the Impoundment of Animals .....	2
Overstrand Municipality: By-Law Relating to Streets, Public Places and the Prevention of Public Nuisances ...	12
Overstrand Municipality: Parking Management By-Law .....	13

## LOCAL AUTHORITY NOTICES

### OVERSTRAND MUNICIPALITY

#### BY-LAW RELATING TO THE IMPOUNDMENT OF ANIMALS

##### PURPOSE AND OBJECTIVE

To provide for the provision, management, maintenance and control of any facility set aside for the impoundment of animals.

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

##### 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-

"**animal**" includes a horse, bovine, donkey, sheep, goat, pig, ostrich, domestic animal excluding a dog or cat, or bird, or the hybrid of any such animal, and "**animals**" will have a corresponding meaning;

"**authorised official**" means 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; and "officer" has a corresponding meaning;

"**Court**" means a Magistrate's Court as referred to in section 166(d) and (e) of the Constitution, 1996, having jurisdiction in the area in which the pound is situated;

"**Municipality**" means the Municipality of Overstrand established in terms of section 12 of the Municipal Structure Act, Act 117 of 1998 and includes any duly authorised agent, service provider or any employee therefore 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;

"**owner**" includes an owner who is known, or whose identity, with the exercise of reasonable diligence, can be ascertained, and in relation to any-

- (a) animal, includes the agent of the owner or other person having the lawful custody or possession of such animal; and
- (b) land, includes the owner, lessee or lawful occupier of such land or his agent;

“**pound**” means a pound established as contemplated in section 4;

“**pound keeper**” means the person appointed from time to time as contemplated in section 5 and includes any person acting for or on behalf of the appointed pound keeper;

“**public place**” means any place to which the public has access including, without limiting the generality of the afore going any-

- (a) square, park, recreation ground, sports ground, open space;
- (b) beach, bridge, cemetery, shopping centre on municipal land, unused or vacant municipal land, commonage or public road.

“**public road**” means a public road as contemplated in section 1 of the Road Traffic Act, 1996 (Act No.93 of 1996) and includes any street, thoroughfare and verge thereof, shoulder of such road and street reserve;

“**service delivery agreement**” means a service delivery agreement as defined in section 1 of the Local Government: Municipal Systems Act, 2000 (Act No.32 of 2000)

## 2. Administration and enforcement

- (1) The Director: Protection Services is responsible for the administration and enforcement of this By-law.
- (2) The Director may delegate in writing any power or duty granted to him / her in terms of this By-law to a competent official or authorised official in his / her Directorate.

## 3. Application

This By-law applies to the area of jurisdiction of the Municipality, provided that nothing prevents any animal detained in terms of this By-law from being impounded in a pound or any similar facility established by any other Municipality, or other lawful authority.

## 4. Establishment of a pound

- (1) The Municipality may establish a pound at any convenient place within its area of jurisdiction, provided that the Municipality may enter into a service delivery agreement with an animal welfare organisation or institution or person mentioned in section 76(b) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), to provide for the establishment and operation of a pound to service its area of jurisdiction.
- (2) The Municipality may close any pound under its control.

## 5. Appointment of pound keeper

The Municipality must appoint a suitably skilled and experienced person as a pound keeper, unless the pound is established and operated in terms of a service agreement contemplated in section 4(1).

## 6. Trespassing or straying animals may be impounded

- (1) Any animal found straying or wandering unattended upon any public road or public place may be seized for impounding by-
  - (a) a member of the South African Police Services;
  - (b) a member of the Provincial Road Traffic Inspectorate;
  - (c) an authorised municipal official or member of the Municipal Protection Services or official of an animal welfare society.

- (2) A person may not keep an animal, seized for purposes of impounding in terms of in sub-section (1), for a period longer than eight (8) hours without supplying such animal with adequate food and water.
- (3) Any person who has seized an animal for purposes of impounding must comply with the applicable provisions of the Code of Good Practice on the Handling and Transportation of Impounded Animals contained in Schedule 1.
- (4) Any person may not work, use or ill-treat an animal found trespassing on any land or whilst it is in the process of being removed to a pound.
- (5) An animal seized for the purposes of impounding as contemplated in section 6, must be removed to the nearest accessible pound, by the shortest practical route, and within the shortest practical time.

#### **7. Information to be supplied to pound keeper**

A person sending animals to the pound must supply the pound keeper with the necessary information to complete Part 1 of the pound register.

#### **8. Acceptance at pound of animals to be impounded**

The pound keeper may not refuse to accept an animal for impounding unless the person envisaged in section 7 deliberately refuses to co-operate to supply information for the completion of Part 1 of the pound register.

#### **9. Pound register**

- (1) The pound keeper must-
  - (a) maintain a pound register containing the information contemplated in Schedule 2, which must be available for public inspection at all reasonable times;
  - (b) complete Part I of the pound register immediately upon the acceptance into the pound of any animal; and
  - (c) complete Part II of the pound register as time progresses.
- (2) The pound keeper is guilty of an offence if he –
  - (a) neglects or refuses to comply with any of the provisions of sub-section (1);
  - (b) knowingly makes a false entry in the pound register;
  - (c) fraudulently destroys or erases any previous entry in the pound register; or
  - (d) wilfully delivers a false copy or extract from the pound register to any person.

#### **10. Notice to owners of animals by pound keeper**

- (1) After complying with the provisions of section 9(1), the owner of an impounded animal must be notified of impoundment by –
  - (a) addressing a written notice to him reflecting the address of the Pound, a description and number of the animals, the fees and cost due and to claim the impounded animals within ten (10) days and upon failure, the animals will be sold within four (4) days after the due date; and
  - (b) placing a copy of the notice to the owner –
    - (i) on the municipal notice board at the main Municipal Office;
    - (ii) at the offices of the Pound; and
    - (iii) on the notice board of the nearest SA Police Services Office to the Pound.
- (2) If the address of the owner is unknown, publishing a notice envisaged in sub-section (1)(a) in a newspaper of general circulation in the Municipality's jurisdiction area.

**11. Care of impounded animals**

- (1) The pound keeper -
  - (a) is responsible for the proper care of all impounded animals;
  - (b) must ensure that fresh water and sufficient food is available to impounded animals at all times; and
  - (c) is liable to the owner of an impounded animal for any damage caused by his wilful or negligent acts or omission.
- (2) If the pound keeper is of the opinion that an impounded animal is dangerously vicious, permanently disabled or terminally ill, he must request a report from the State Veterinarian, and if there is no State Veterinarian available, request a report from a private veterinarian, who may authorise the destruction or other disposal of the impounded animal, if the Veterinarian is satisfied that the condition of such animal warrants its destruction or disposal, after giving written notice and reasons therefore to the pound keeper.
- (3) Where the Veterinarian authorises the destruction or disposal of an animal on application by the pound keeper, the pound keeper must immediately notify the owner in writing of the notice, and with full details of the method of disposal of the carcass.
- (4) If the owner of a destroyed animal cannot be found, the pound keeper shall cause a notice containing particulars of the animal concerned and disposed of the carcass to be published.

**12. Isolation of infected animals**

- (1) If the pound keeper suspects, or is aware, that an impounded animal, or an animal to be impounded, is infected with any disease contemplated in the Animal Disease Act, 1984 (Act No.35 of 1984), he must-
  - (a) provide separate accommodation for such animal;
  - (b) immediately isolate the animal, and report the disease to the nearest State Veterinarian; and
  - (c) immediately notify the owner of the animal of such disease in the quickest way of communication possible.
- (2) If there is no State Veterinarian available, the pound keeper may –
  - (a) request a report from a private veterinarian; and
  - (b) if such a veterinarian is not available, he may apply to the court, which may authorise the destruction or other way of disposal of the impounded animal.

**13. Treatment of impounded animals**

The pound keeper –

- (1) may not work or in any way make use of an impounded animal or permit any such animal to be worked or made use of by any other person; and
- (2) must ensure that all impounded male animals are at all times kept apart from female animals.

**14. Death of or injury to impounded animals**

If an impounded animal is injured or dies, the pound keeper must record-

- (1) the injury or cause of death in the pound register referred to in section 9;
- (2) the details of all steps taken and precautionary measures put in place;
- (3) in case of death, record full details of the method of disposal of any carcass; and
- (4) without delay notify the owner of the animal and the Municipality in writing of the injury or death and the method of disposal of carcass.

**15. Copies of By-laws**

The pound keeper must ensure that copies of this By-law are available at the pound for inspection.

**16. Fees and cost payable**

The pound keeper must -

- (1) charge the owner of an impounded animal the fees as determined by the Municipality from time to time as contemplated in section 75A of the Local Government: Municipal Systems Act, 2000(Act No.32/2000); and
- (2) recover the cost of any dipping, medical treatment, inoculation or other treatment that may be necessary or required in terms of this By-law or in accordance with any other law; and
- (3) recover all cost and expenses relevant to the impoundment.

**17. Release of impounded animals**

- (1) The pound keeper must immediately release an impounded animal, and give the owner a receipt, upon the owner-
  - (a) providing proof of ownership of such animal; and
  - (b) paying the fees and cost contemplated in section 16.
- (2) If the owner of an animal is unable to pay the fees or cost contemplated in section 16, the pound keeper may retain such animal in order to recover such fees or costs as may be due and payable.

**18. Sale of impounded animals**

- (1) If the owner of an impounded animal fails to claim such animal and / or pay the prescribed fees and monies due within fourteen (14) days of the impoundment of an animal, the pound keeper must-
  - (a) apply to the Court for authorisation to sell the animal; and
  - (b) in the application contemplated in sub-paragraph (a) provide the Court –
    - (i) with a statement under oath containing, inter alia, the particulars envisaged in sub-section (2); and
    - (ii) with proof that he lodged a statement as contemplated in sub-section (2) with the owner.
- (2) The statement contemplated in sub-section (1)(b) must include-
  - (a) copies of the pages from the pound register containing the relevant entries regarding the animals;
  - (b) copies of the section 10(1)(a) notice and all other notices sent to the owner;
  - (c) the fees and costs of impoundment as may be due and payable in terms of this By-law;
- (3) The Court, whether the amounts set forth in the statement contemplated in sub-section (1)(b) are disputed or not, must –
  - (a) summarily enquire into the matter;
  - (b) make such order as it considers just and equitable, including an order-
    - (i) as to fees and costs; and
    - (ii) on the process to be followed by the pound keeper if the sale of the animal is not approved.

**19. Pound keeper may not purchase impoundment animals**

The pound keeper, or a family member, or an associate of the pound keeper, a municipal official or councillor or child of such official or councillor, may not purchase an animal offered for sale at a pound sale, either personally or through any other person, directly or indirectly.

**20. Animals unsuccessfully offered for sale**

In the event that any animal is not sold during the authorised public sale as contemplated in section 18 –

- (1) the pound keeper must immediately advise the Court and the owner of its estimated value and the fees and costs incurred; and
- (2) the Court may make such order as it may deem just and equitable.

**21. Proceeds**

All proceeds from the collection of fees and costs contemplated in section 16 and 20 must be paid into the Municipal Revenue Account, provided that in the event that any impounded animal is sold at a price in excess of the fees and costs incurred, such excess must be paid to the owner within thirty (30) days of the sale, unless the identity of the owner has not been established, in which event the excess must be paid into the Municipal Revenue Account.

**22. Procedure to be followed in application to Court**

An application to Court must comply with the procedures contemplated in the Magistrates' Courts Act, 1944 (Act No.32 of 1944), and the Rules of Court.

**23. Action for recovery of damages**

Nothing in this By-law prevents the owner of land or any other person from instituting action against the owner of a trespassing animal, in any court with jurisdiction, for the recovery of damages suffered by reason of such trespassing animal.

**24. Liability**

The Municipality, pound keeper and any officer, employee, or agent of the Municipality acting in accordance with this By-law will not be liable for the death of or injury to any animal arising as a result of its detention, impounding or release, or arising during its impoundment.

**25. Offences and penalties**

A person who –

- (1) releases or attempts to release an animal that was lawfully seized for the purpose of being impounded or which has been lawfully impounded;
- (2) unlawfully seizes an animal for the purpose of impounding it;
- (3) unlawfully impounds or attempts to impound an animal; or
- (4) contravenes any provision of this By-law,

commits an offence and is liable upon conviction to –

- (a) a fine or imprisonment, or to both such fine and such imprisonment; and
- (b) in the case of a continuing offence, to an additional fine or an additional period of imprisonment, 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.

**26. Schedules 1 and 2 - Schedules 1 and 2 to this By-law form part of this By-law.**

**27. Repeal of existing By-laws**

The provisions of any By-laws previously promulgated by the Municipality or by any of the disestablished municipalities now incorporated in the Municipality are hereby repealed as far as they relate to matters provided for in this By-law.

**28. Short title and commencement**

This By-law will be called the Overstrand Municipality By-law relating to the Impoundment of Animals and it will come into effect upon publication in the Provincial Gazette.



## SCHEDULE 1

### Code of Good Practice on the Handling and Transportation of Impounded animals (Section 6(3))

#### Part I: Paddock requirements

- (1) Different species and animals on heat must be kept in separate paddocks.
- (2) Animals may not be penned in overcrowded paddocks, and penning space provided for in each paddock must be sufficient to permit all animals to lie down at the same time and must not be less than 1.5 square metres of floor area for each animal.
- (3) Fractious and animals likely to give birth may not be kept with other animals.
- (4) Young, weaned juvenile animals may not be penned with adult animals, except in the case of mother and offspring.
- (5) Provision must be made in paddocks for –
  - (a) facilities such as racks, mangers or other suitable feed containers that are easy to clean, which will allow the feeding of an animal off the floor, and which can be serviced without disturbing the animals;
  - (b) water troughs with an adequate supply of suitable fresh water at all times;
  - (c) sufficient facilities for the adequate cleaning of paddocks; and
  - (d) facilities for the safe handling of animals.
- (6) The paddocks must at all times be maintained in a good state of repair.
- (7) Sharp points such as wire ends, broken boards, jagged ends or protruding hinges or bolts, which could cause injury to animals, must be removed or otherwise suitably covered.
- (8) The floor of the entire paddock, including the off-loading banks, races and passages, must be so constructed as to provide adequate non-slip surfaces that can be efficiently and suitably cleaned and kept dry and in a condition fit for the holding of animals.

#### Part II: Handling of animals

- (9) Animals must at all times be handled humanely and with patience and tolerance.
- (10) The following must be kept in mind when handling animals-
  - (a) animals respond more readily to being guided when the guide stands behind the animal but within its field of vision; and
  - (b) herd animals respond more readily to being guided when in a group rather than singly.
- (11) Animals may not be dragged by their legs, or carried by their head, ears or tail.
- (12) Young calves must be carried if they cannot walk with ease, by lifting the calf around the chest and hindquarters, alternatively they must be guided with one hand on the hindquarters and the other near shoulder or neck, and walked in the required direction at an appropriate and comfortable pace.
- (13) Only sticks with canvas or belting flaps may be used when guiding animals and it is preferable to strike the ground behind the animal rather than to hit the animal.
- (14) Electric prodders, sticks or goads may not be used on young calves.
- (15) Electric prodders may not be used excessively or indiscriminately or applied to the face, anal or genital areas of animals.

#### Part III: Movement of animals

- (16) Animals guided on the hoof must at all times be under proper and competent supervision.
- (17) Animals on the hoof must be guided in a calm manner at a gait that is relaxed and comfortable, natural to that animal, and not faster than the pace of the slowest animal.
- (18) Animals may not be guided for periods in excess of eight (8) hours without being given rest of at least one (1) hour and provided with sufficient suitable fresh water that is available to all the animals.
- (19) No animal on the hoof may be moved in excess of the following distances-
  - (a) during a journey of not more than one (1) day's duration-
    - (i) 20 kilometres for sheep and goats; and
    - (ii) 30 kilometres for cattle; and
  - (b) during a journey of more than one (1) day's duration-
    - (i) 20 kilometres during the first day and 15 kilometres during each subsequent day for sheep and goats; and

- (ii) 25 kilometres during the first day and 20 kilometres during each subsequent day for cattle.
- (20) Animals must be watered and fed immediately on reaching their night camp or final destination, with sufficient food of a quality and of a type compatible with the species.
- (21) Animals may not be moved in the dark.
- (22) No sick, injured or disabled animal may be moved on the hoof.

#### **Part IV: Vehicles used in transporting animals**

- (23) Vehicles and all trailers used in the transport of hoofed animals must be suitable for the transport of such animals and in a roadworthy condition.
- (24) All vehicles and trailers referred to in item 22 must be such as to ensure –
  - (a) a suitable non-slip floor, adequate ventilation and light and adequate protection from exhaust gasses;
  - (b) sidewalls high enough to prevent animals from escaping or falling out of the vehicle in multi-tier vehicles, heights between decks must be adequate and floors that are solid and impervious;
  - (c) gates, with or without partitions –
    - (i) of a design and construction strong enough and suitable for the conveyance of the intended consignment; and
    - (ii) that open and close freely and are able to be well-secured.
- (25) The density of animals packed into any given space must be such as to ensure the safety and comfort of the animals during transport, and the recommended floor space per animal is –
  - (a) 1,4 square metre per large animal; and
  - (b) 0,5 square metre per small animal.

#### **Part V: Watering and feeding of live animals prior to loading**

- (26) Animals must be provided with sufficient and suitable food and fresh water until the commencement of the journey.

#### **Part V: Loading and off-loading procedure**

- (27) Loading and off-loading into or out of a vehicle must be accomplished as quietly and calmly as possible, with patience and tolerance and without undue harassment, terrifying of the animals, bruising, injury, suffering or undue stress.
- (28) No animal may be loaded or off-loaded by lifting by the head, fleece, skin, ears, tails, horns or legs.
- (29) Ramps must be correctly adjusted to the exact height of the vehicle's floor.
- (30) Journeys must commence as soon as possible after the live animals have been loaded and the animals must be promptly off-loaded onto a vehicle.
- (31) When there is reason to believe that an animal is likely to give birth in the course of a proposed journey, the animal may not be loaded onto a vehicle.
- (32) In the case of an animal giving birth during transport, the necessary measures must be taken to ensure the protection of the mother and offspring from being trampled or otherwise injured or harassed by other animals.
- (33) In the event of-
  - (a) a breakdown of the transport vehicle;
  - (b) an accident or collision in which the transport vehicle is involved; or
  - (c) injury to, or death of, any animal in transit,
 the carrier must immediately report the details to, and request assistance from-
  - (d) (i) in the case of paragraph (a), a break down service;
  - (ii) in the case of paragraph (b), the South African Police and the traffic authorities; or
  - (iii) in the case of paragraph (c), a veterinarian.

#### **Part VII: Restraining of animals during transportation**

- (34) Where the transport of any animal may cause injury to itself or any other animal. It must be restrained in such a manner as to prevent such injury.
- (35) No animals may be kept in restraint for more than four (4) hours in any twenty-four (24) hour period.
- (36) No wire or bailing twine may be used for tying the animal's legs or feet.

- (37) To avoid strangulation or neck-break, a slipknot may not be used where animals are secured to the vehicle by horns or neck, and the rope must be attached to the vehicle at the level of the animal's knees so that in the event of the animal falling, the possibility of serious injury or death is reduced, with the rope being long enough to allow the animal to lie comfortably in a natural position with its head upright.

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## SCHEDULE 2

### **Pound register information**

(Section 9)

A pound register must, at least, contain the following information-

#### **PART 1**

- (1) Date of receipt of animals
- (2) Number and description of animals
- (3) Brands or markings on animal, detail of any disease or injuries
- (4) Name and address of person who seized the animal.
- (5) Name and address of person who delivered the animal to the pound
- (6) Name and address of owner of land where animal was seized
- (7) Name and address of owner of animal if determinable
- (8) Description of place where animal was found
- (9) Distance between place where animal was seized and pound

#### **PART II**

- (10) Ear tag number assigned by the pound keeper
- (11) Transport fees payable
- (12) Description and amount of pound fees
- (13) Details of description or disposal of animal
- (14) Cause of death or injury of impounded animal
- (15) Date of release of animal
- (16) Date of sale of animal
- (17) Proceeds of sale of animal
- (18) Name and address of purchaser
- (19) Excess amount (if any) paid to owner or Municipality
- (20) Receipt number
- (21) Details of Order of Court with regard to animal not sold in execution

**CORRECTION NOTICE****Provincial Notice 6558 dated 5 September 2008**

Page 1472

**BY-LAW RELATING TO STREETS, PUBLIC PLACES AND THE PREVENTION OF PUBLIC NUISANCES**

The Overstrand Municipality wishes to correct the incorrect numbering of Sec 2(3) of the By-law relating to Streets, Public Places and the prevention of Public Nuisances as advertised in the Provincial Notice referred to above.

Section 2.3(i) to (m) replace with:

**2. PROHIBITED BEHAVIOUR**

3. No person shall in a public place –
  - (i) consume liquor or drugs in the open;
  - (j) be drunk or under the influence of drugs;
  - (k) solicit or importune any person for the purpose of prostitution or immortality;
  - (l) engage in gambling;
  - (m) start or keep a fire which is not a designated fireplace, except an official or person duly authorised to do so or acting in terms of the law, or
  - (n) camp or erect any shelter, unless in an area designated for this purpose by, or with the written consent of the Municipality.

CORRECTION NOTICE

**Provincial Notice 7305 dated 5 September 2014**

Page 1500

**OVERSTRAND MUNICIPALITY  
PARKING MANAGEMENT BY-LAW**

**The Overstrand Municipality wishes to correct the incorrect numbering of Sec 13 of the Parking Management By-law as advertised in the Provincial Notice referred to above.**

**Replace Sec 13(1) (l) to (o) with:-**

**13. Unlawful conduct**

(1) It shall be unlawful -

- (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;
- (n) 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;
- (o) 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;
- (p) to allow or permit any vehicle to be parked in any parking space, parking ground or parking garage, except as permitted by the provisions.





