

OVERSTRAND MUNICIPALITY



MAINTAINING FIRE - WISE VACANT ERVEN

DRAFT

*Approved by Council
28 September 2022*

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Preamble

The Overstrand municipal region has over the years experienced many devastating fires. The presence of highly combustible vegetation, alien invasive plants and indigenous/endemic, combined with a rapidly increasing population and continuing urban and suburban development, pose a heightened risk of fires occurring. The Overstrand Municipality has a responsibility in terms of the Constitution to provide a safe and healthy environment by managing and reducing the risks of fires in and around urban and suburban areas. This is a responsibility which landowners share.

Fires result in the destruction of property, cause socio-economic hardship and have a negative impact on the welfare of communities. For this reason, strategies are needed to protect against the ravages of fire. Such strategies are an important part in developing a sustainable economy and in creating safe living conditions.

If the devastation that results from vegetation fires is to be mitigated, it is important to acknowledge that the condition of vacant erven in urban and suburban areas has to be managed and maintained in collaboration with communities in a manner that instils an awareness to be fire-wise.

Chapter 1

Definitions and Abbreviations

Administration Fee	Means a tariff as approved by Council and provided for in the tariffs list of the Overstrand Municipality
Appeal Process	Means the process made provision for in section 62 of the Local Government: Municipal Systems Act, (Act 32 of 2000).
Biosphere	Biosphere reserves are 'learning places for sustainable development'. These are sites for testing interdisciplinary approaches to understanding and managing changes and interactions between social and ecological systems, including conflict prevention and management of biodiversity. They are places that provide local solutions to global challenges. Biosphere reserves include terrestrial, marine, and coastal ecosystems. Each site promotes solutions reconciling the conservation of biodiversity with its sustainable use.
Brush Cutter	Means a handheld mechanical tool, powered by an electrical or petrol motor, and used to cut down shrubs and small trees.
Bush-cutter (Bossiekapper)	Means a machine drawn behind a tractor, powered by a power take-off (PTO) from the tractor, and is used to cut down shrubs and large areas of vegetation
Chain Saw	Means a hand-held mechanical saw powered by an electrical or petrol motor and used to fell trees and cut logs and branches.
Combustible material	Means combustible refuse, combustible waste, or any other material capable of being ignited manually or spontaneously.
Community Fire Safety By-law	Means the Overstrand Municipality By-Law Relating to Community Fire Safety P.N. 6454 of 2007
Conservation Use	Means the use or maintenance of land in its natural state, or rehabilitation to its natural state, with the objective of preserving the biophysical and heritage characteristics of the land including flora and fauna on the land aligned with conservation use.
Contract	Means an agreement whether written or verbal entered into by and between 2 (two) or more parties which gives rise to certain rights and obligations and must require the performance or non-performance in the future by one or more of the parties to be legally binding.
Contractor	Means a person, natural or juristic, who undertakes to execute the provisions of a written contract to render a service that is awarded by the Overstrand Municipality under the terms and conditions stipulated therein.

Environmental management overlay Zone Regulation	Means the regulation of land use management in addition to existing statutory land use controls, whereby Council may give effect to specific guidelines in a spatial development framework or policy plan or address a specific management issue.
Erf (erven)	A plot(s) of land in urban and suburban areas zoned for the development of residential, commercial and industrial buildings.
Fire Brigade Services Act	Means the Fire Brigade Services Act, No. 99 of 1987
Fire hazard	Means any situation, process, material or condition which may cause a fire or explosion or provide a ready fuel supply to increase the spread or intensity of the fire, and which poses a threat to life or property.
Green Belt (s)	Means a land use designation for areas set aside as undeveloped natural areas surrounding or within urban areas.
Hazard	Means any physical situation with the potential to cause a fire or the accumulation of excess waste material
Fire Hazard	A Fuel complex defined by kind, arrangement, volume, condition, and location that forms a special threat of ignition or of suppression difficulty.
Herbicide	Means a chemical substance (weed killer) that is registered under relevant legislation to control or destroy specific plants in accordance with the directions for the use of such a weed killer.
Indigenous Vegetation	Means a species that occurs, or has historically occurred, naturally in a free state in nature, but excludes a species that has been introduced into South Africa as a result of human activity (as per the NEM:BA)
Invasive Alien Vegetation	Means vegetation declared invasive in terms of NEM:BA and CARA (Conservation of Agricultural Resources, Act) that landowners are legally required to remove from their property, and which is deemed to be a verified fire hazard in terms of this policy and NEMBA.
Land	For the purposes of this policy, means all undeveloped land, whether owned privately or by the state, province or municipality.
Land owner	Means any person, natural or juristic, including the State, in whose name land is registered,
Land reducing	Means actions required to ensure that fire hazard conditions are minimized on all land; that rubble, dead and dry vegetation and waste material are removed
Land user	Means any person, natural or juristic, including the State, who is the owner of the land, or who leases the land or who has any legal right to use the land or the vegetation or other organic material from the land, irrespective of whether that person resides on the property or not.

Manual reducing	Means the removal of vegetation and/or other material by hand or with hand-held tools.
Mechanical reducing	Means the removal of vegetation and/or other material by means of mechanical equipment such as tractor driven lawnmowers or bush-cutters ('bossiekappers').
Municipal service provider	Means a person, natural or juristic, who undertakes to execute a contract awarded by the Overstrand Municipality under the terms and conditions stipulated in such contract.
Municipality	Means the Overstrand Municipality, a local authority established in terms of the Local Government: Municipal Structures Act, No. 117 of 1998 and whose head office is situated at Magnolia Street, Hermanus, Western Cape.
Nature reserve	Means a national park, a national environment management protection area or an environmental conservation area declared or registered as a nature reserve in terms of legislation whether in public or private ownership, for the purpose of conserving and managing flora and fauna, in a natural habitat.
NEM:BA	Means the National Environmental Management: Biodiversity Act, 2004 (Act 10 of 2004), and the Alien and Invasive Species Regulations, promulgated under NEM:BA (1 August 2014) for the management of invasive species.
Open Space Zone 1	Means land used primarily for Nature Reserve or Conservation use.
Park	Means land with or without trees and shrubs and lawn areas, used mainly for recreation purposes.
Playing Field	Means a privately, state or municipal owned facility where various sporting activities take place.
Procedure	Means a dedicated single process to complete a required task or tasks comprising certain steps or tasks , responsibilities, regulations or requirements, and involving any number of people as may be required.
Protected area	Means an area that has been declared a Protected Area in terms of the National Environmental Management: Protected Areas Act, No. 57 of 2003.
Public Garden	Means a garden that is open to the public for <u>botanical</u> and recreation purposes.
Public Open Space	Means land which is in public ownership, used primarily for outdoor play, recreation, or as a park area or nature area, and includes associated infrastructure and uses.

Responsible fire safety official	Means an official of the Overstrand Municipal Fire Brigade Service who is responsible for ensuring compliance with fire prevention standards.
Roadside Verge	Means that portion of a road, street, or thoroughfare, including a sidewalk, which is not the roadway or shoulder
Vacant Land	Means undeveloped land with insignificant or no vegetation cover
Sidewalk	Means that portion of a verge intended for the exclusive use of pedestrians
Suburban area	Means development areas situated on the outskirts of a city or town.
Urban area	Means an area situated within a city or town
Urban edge	Means areas situated as demarcated in the Overstrand Urban Conservation EMOS
Vacant Erven	Vacant land is land that has no buildings on it and is not being used. It can be zoned for either residential, industrial, or commercial usage depending on the area.
Waste material	Means superfluous, discarded or unstable matter: combustible or non-combustible rubble, rubbish, or debris accumulated on a property.

Chapter 2

Purpose and Objectives of the Policy

- 2.1 This policy is specific to municipal and privately owned vacant land within residential areas and bordering urban edges.
- 2.2 The Community Fire Safety By-law, pertaining to overgrown vegetation, does not distinguish between alien and endemic/indigenous vegetation and as such it is the main objective of the policy to provide the Municipality and private land owners with the minimum standards and guidelines for managing and controlling fire hazards presented by overgrown erven and includes mechanisms to combat the proliferation of combustible vegetation on vacant erven, in order to mitigate or remove the threat and danger of fires in residential areas.
- 2.3 This policy gives effect to the following legislation:
 - 2.3.1 Section 152(1)(d) of the Constitution of the Republic of South Africa, 1996 - the promotion of a safe and healthy environment;
 - 2.3.2 Sections 4 and 34 of the Overstrand Municipality Standard By-law relating to Community Fire Safety P.N. 342/2006 (Provincial Gazette 6454, 27 July 2007) – Prevention of fire hazards on properties;
 - 2.3.3 Fire Brigade Services Act, No. 99 of 1987
 - 2.3.4 Local Government: Municipal Finance Management Act, No. 56 of 2003 – Prescribed regulations with regard to financial aspects of local government,
 - 2.3.5 Local Government: Municipal Systems Act, No. 32 of 2000 – Prescribed regulations with regard to the functions of a municipality.

- 2.3.6 The National Veld and Forest Fire Act, No. 1998 101 of 1998 – Duty to prepare and maintain fire breaks.
 - 2.3.7 The National Forests Act of 1998 (Act No. 84 of 1998) – Protection of certain tree species declared as protected under the Act.
- 2.4 The objectives of the policy are:
- 2.4.1 To prevent the outbreak and spread of fire by the removing and reducing fire hazards presented by an overgrowth of combustible vegetation on erven irrespective of the type of vegetation.
 - 2.4.2 To provide for the identification of fire hazards on all vacant erven within the urban areas of the Overstrand Municipality, including, Open Spaces 1 and 2 that are managed by the Municipal Environmental Management and Conservation Division and Parks Section described in the Environmental Management Overlay Zone Regulations (EMOZ) as areas of conservation concern.
 - 2.4.3 To enable the process of notifying owners of the fire hazards presented by overgrown erven and of their obligations to comply with the relevant legislation to prevent such situations from arising.
 - 2.4.4 To ensure that fire hazards are controlled and reduced in accordance with prescribed standards.
 - 2.4.5 To ensure that all privately and publicly owned vacant erven, including public open spaces within urban borders, continuously conform to the minimum standards.
 - 2.4.6 To enable and enforce the reduction of vegetation cover as stipulated in Chapter 8
 - 2.4.7 To achieve a balance between fire safety and biodiversity by permitting the managed retention of indigenous vegetation, guided by site-specific risk assessments and relevant environmental overlays.

Chapter 3

Principles of the Policy

- 3.1 All officials and contractors of the Overstrand Municipality, and all residents, landowners and appointed agents shall be subject to the provisions of this policy and shall be required to follow the procedures and any processes as prescribed.
- 3.2 All landowners are obligated in terms of sections 34 of the Community Fire Safety By-law to maintain their vacant erven in such a manner that the land is in a acceptable
- 3.3 condition, as determined by the Chief Fire Officer, in that it does not present a fire hazard to the surrounding environment and community.
- 3.4 Brush cutting must be scheduled outside of peak wildlife breeding seasons (e.g., August to October), where practical, especially in ecological corridors or erven bordering greenbelt systems.
- 3.5 Landowners must comply with the standards determined by the Municipality.
- 3.6 Only manual methods shall be used for reducing fire hazards in areas proclaimed as protected areas. Mechanical reducing shall be permitted in areas that are not proclaimed as protected in accordance with the relevant legislation. No machines that may disturb the soil such as bulldozers shall be used.
- 3.7 Manual methods for reducing fire hazards includes using hand tools such as bow-saws, pruning

scissors, motor operated handheld chain saws or motor operated handheld brush cutters.

- 3.8 Mechanical methods for reducing fire hazards may include industrial driven motorised lawnmowers or tractor drawn bush cutters ('bossiekappers').
- 3.9 Fire Breaks shall be created on urban perimeters where necessary, as determined by the Chief Fire Officer in order to assist in preventing fires from spreading and to provide the necessary access for firefighting vehicles of all types to control fires.
- 3.10 Fire breaks must be a minimum of 2 meters wide unless a site-specific risk matrix determines otherwise. Fire breaks adjacent to thatched roof structures shall be a minimum of 10 meters.
- 3.11 Where permitted, driven motorised lawnmowers or tractor drawn bush cutters ('bossiekappers') may be used at the discretion of a landowner, who is encouraged to consider the protection of animals and natural vegetation in the process.
- 3.12 Areas such as roadside verges, public gardens, parks, fire breaks or sports/playing fields where continuous maintenance takes place, are subject to compliance with the minimum standards of this policy.

Chapter 4

Responsibilities, procedures and rights of the Municipality

- 4.1 Any delegated official of the Overstrand Fire, Rescue and Disaster Management Service is empowered, in terms of section 4 of the Community Fire Safety By-law and section 19 of the Fire Brigade Services Act, to enter upon any erf to ensure compliance with the requirements of the Community Fire Safety By-law and to order the removal of any hazard if it is found that there is a violation of any regulated Fire Safety standard. Non-compliance will result in the municipality exercising its statutory powers of enforcement.
- 4.2 In accordance with the Municipality's by-laws, policies and directives as to when and how an erf shall be cleared, officials with delegated authority for the identification of fire hazards shall have the final decision on the standard of reducing of an erf. If an erf is not identified as a fire hazard, but is in breach of other municipal legislation, the matter will be referred to the relevant department(s) for further action.
- 4.3 The minimum standards for the reducing of vacant erven are determined by the controlling authority - (the municipality), as reflected in this policy.
- 4.4 This policy may be reviewed from time to time, and any amendments shall be subject to council approval after public participation and council review.
- 4.5 When the municipality appoints or hires vegetation-reduction contractors, it must do so by following the Municipality's official Supply Chain Management (SCM) Policy.
- 4.6 The appointed contractor(s) will be provided with specific instructions, including plot numbers and time frames for vegetation reduction to be completed.
- 4.7 The contractors shall be paid for completed work, only after their submitted invoices have been verified and cleared erven have been inspected to ensure that the work has been completed according to the prescribed standards of this policy and the specifications of the tender contract.

- 4.8 The responsibility of the Municipality in terms of Chapter 4 of the Veld and Forest Fires Act is to ensure that fire breaks are prepared and maintained and in view of this the Municipality has prepared a maintenance work plan for municipal owned land inside urban edge properties of Overstrand Municipality in accordance with NEMBA. The Municipality has also developed the EMOS which categorizes areas of conservation concern from this document and in compliance with said document the Evasive Alien Management Plan has been developed.

Chapter 5

Obligations of Landowners

- 5.1 Landowners must comply with the provisions of section 34 of the Overstrand Municipality's Community Fire Safety By-law, P.N 6454 of 2007 and Categories 1,2 and 3 of NEM:BA.
- 5.2 Vegetation reduction of a property shall be in compliance with the norms and standards as prescribed by this policy.
- 5.3 Failure to comply with the requirements of a vegetation reduction notice will result in the institution of legal proceedings in terms of section 58 of the said By-law.
- 5.4 Landowners are encouraged to retain indigenous groundcover where it contributes to soil stabilisation and does not increase the ladder fuel risk. The removal of alien invasive species is mandatory in terms of NEM:BA.

Chapter 6

Appeal Process

Section 62(1) of the Local Government: Municipal Systems Act No. 32 2000 provides that a person whose rights are affected by a decision taken by a staff member of the municipality in terms of a power or duty delegated or sub-delegated by a delegating authority to the staff member may appeal against that decision by giving written notice of the appeal and reasons to the Municipal Manager within 21 (twenty one) days of the date of the notification of the decision.

Chapter 7

Prescribed Standards for Reducing Vegetation

- 8.1 Cutting of any invasive alien plants (IAP) must be treated with the appropriate herbicides to control regrowth.
- 8.2 Contractors appointed by the Municipality are not permitted to spray of herbicide to control overgrown plots.
- 8.3 The reducing of vegetation that constitutes a fire hazard shall be in compliance with the following prescribed standards:
- 8.3.1 All erven shall be cleared of all deadwoods and any other combustible material not associated with the growth of vegetation.
- 8.3.2 All invasive alien vegetation shall be eradicated (cut down) and removed from the erven. In

- accordance with National Legislation: CARA and NEM:BA. Stumps not uprooted, shall be treated with suitably registered herbicides and implement application methods under the direction of the landowner or appointed supervisor to prevent re-growth if the property are deemed non compliance with this policy
- 8.3.3 Grass and indigenous ground-covering plant species must be maintained at a maximum height of 500mm (0.5m); Ground cover provides protection of the topsoil from erosion and drought.
- 8.3.4 The area around trees shall be cleared of growth to a minimum height of 1.5m on the underside of the canopy with all ground level deadwood removed from the said area.
- 8.3.5 On erven that are surrounded by 1.2m or higher boundary walls the overall density of indigenous vegetation must be reduced by a minimum of 50%, priority should be given to removing alien invasive species and dead biomass first.
- 8.3.6 On properties larger 1000m², adequate fire breaks must be provided as determined by the Chief Fire Officer.
- 8.3.7 Erven that are located within 50m of thatched roof structures shall be cleared of vegetation to the minimum standard at all times, irrespective of vegetation species and location, with the exception of trees, which must be trimmed in accordance with section 8.2.4 of this chapter.
- 8.3.8 The reducing of erven shall be done in a manner that does not contribute to soil erosion.
- 8.3.9 All vegetation refuse produced by the reducing action of erven **must be removed from the cleared erf and may not be left on an erf or on the verge for a period exceeding 3 (three) days**
- 8.3.10 Cut material may be chipped into pieces not larger than 100 x 100mm in size, which may either be removed or spread uniformly over the total area of the cleared erf but may not be left as heaps that will give rise to spontaneous combustion.
- 8.3.11 Garden refuse, cuttings and excess combustible material (including that produced during the reducing process) shall be removed from the property and disposed of at the relevant municipal refuse transfer station.
- 8.3.12 For purposes of removal of garden refuse, cuttings, and combustible material it is recommended that private landowners make use of the registered contractors available on the Municipal database or contractor list supplied on request from the relevant administrators as they are aware of the minimum requirements and terrain.
- 8.3.13 The reduction of vegetation shall be done in a manner that does not contribute to soil erosion and destabilization.

Chapter 8

Prescribed Procedures of the Plot Reducing Management Process & Recovery of Costs

- 9.1 Should it be necessary for the Municipality to institute legal proceedings all costs and interest pertaining thereto shall be recoverable from the landowner which shall include the cost of the contractor's service and the administrative fee as determined in the municipal tariff structure and shall the said cost be billed against the defaulting owner's municipal account as provided for in Section 4(4) of the Community Fire Safety By-law P.N. 6454/2007.
- 9.2 There shall be deemed two outcomes from landowner cooperation, either cooperative (the landowner clears the property or grants the municipality permission to clear the property) or non-cooperative (no response is received from the landowner).
- 9.3 The non-cooperative protocol includes three (3) attempts to contact the property owner, email threads attempting to contact the property owner, and or telephone records where verbal

communication may have been established. Where all attempts were exhausted to contact the property owner, the section will request alternative contact details from the Revenue, Collection & Finance Department (Accounts)

- 9.4 The Portfolio of Evidence will consist of the following documentation: Inspection records of 1st, 2nd and 3rd inspections with accompanying photographs, property owner(s) information as extracted from SAMRAS, 14-day compliance notice issued, 1st, 2nd and 3rd follow up email notifications, assistance records where alternative details were obtained, detail correspondence record, of attempts to contact them or owners.

NO.	ACTION	RESPONSIBLE DEPARTMENT OR DIVISION
Standard procedures		
1.	Receipt of complaints. Official complaints may be received via the following platforms: walk-in clients, telephone calls, e-mails, Collaborator, Citizen App	n/a
2.	1 st compliance inspection	Chief: Fire Services or delegate
3.	Feedback of the 1 st compliance inspection Outcomes: No hazard (no further action needed) or fire hazard	Chief: Fire Services or delegate
4.	If 1 st compliance inspection resulted in fire hazard, a 14-day compliance notice is issued in accordance with the policy	Chief: Fire Services or delegate
5.	First Notice email will be sent to the landowner per email. Landowner is requested to mitigate the identified fire hazard(s). The process ends if the landowner is cooperative	Principal Clerk: Fire Safety
6.	A 2 nd compliance inspection will be conducted after the 14-day notice expiry date to assess whether the fire hazard has been addressed.	Chief: Fire Services or delegate
7.	Second Notice email will be sent to the landowner per email. Landowner will again be requested to mitigate the identified fire hazard(s). Landowner must indicate when mitigation work will be carried out The process ends if the landowner is cooperative	Principal Clerk: Fire Safety
Recovery of cost		
8.	Non-cooperative protocol will commence	Principal Clerk: Fire Safety
9.	If the owner cannot be reached, the Fire Safety Section will provide one (1) week for feedback on planned mitigation on the property. Thereafter a Portfolio of Evidence will be compiled for remedial action or intervention	Principal Clerk: Fire Safety
10.	Approval for the clearing of the property based on the Portfolio of Evidence	Deputy Chief or Chief Fire Services

11.	The municipal appointed contractor will be notified via the Fire Safety section to clear the non-compliant property in accordance with the policy	
12.	The municipal appointed contractor will inform the Fire Safety section that the clearing is completed. A final inspection will be conducted by the section, with accompanying photographs to annex to the Portfolio of Evidence	Chief: Fire Services or delegate
13.	The payment process for the municipal appointed contractor will commence	Chief: Fire Services
14.	Cost recovery from property owners & administration fee	Chief: Fire Services or delegate

Chapter 9

Milkwood Trees and other Protected / Protected Species (Also see DFFE information document appended hereto)

Protected tree species, including the White Milkwood (*Sideroxylon inerme*), are safeguarded under the National Forests Act, No. 84 of 1998. In terms of the general exemption published under Government Notice No. 773 (Government Gazette No. 30183 of 24 August 2007), pruning of the canopy is permitted up to a maximum of 25%, provided that the activity does not constitute topping, which is strictly prohibited. No topping or excessive pruning, particularly for the purpose of enhancing sea views, is permitted under any circumstances.

Pruning of milkwood trees from ground level to a maximum height of 1.5m shall be considered to meet the allowable 25% of a canopy/crown. No pruning shall take place where these trees are part of a natural forest, i.e. along the coastline, in green belts and proclaimed nature reserve areas.

Destruction of protected trees and/or natural forest and/or any other protected/endangered plant species without a permit obtained from the relevant controlling authority is a criminal offence.

GN 773: THE EXEMPTION READS: '3. *Pruning or de-limbing of trees on private property in established urban areas and around any homesteads. Up to a maximum of 25% trimming of the crown, without mutilating the tree. Topping of tree crowns i.e. obstructing views, and trees growing in a natural forest ecosystem, are excluded from this exemption.*'

Policy Section	Protection Services
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