



# **CAPE AGULHAS MUNICIPALITY**

## **DRAFT BY-LAW FOR THE KEEPING AND IMPOUNDMENT OF ANIMALS**

**TABLE OF CONTENTS**

PURPOSE OF BY-LAW ..... 3

1 DEFINITIONS ..... 3

2 GENERAL RESTRICTIONS ON THE KEEPING OF ANIMALS ..... 5

3 POULTRY AND BIRD KEEPING ..... 6

4 BEE-KEEPING ..... 6

5 KEEPING OF CATS AND DOGS ..... 6

6 KEEPING OF SMALL BIRDS ..... 8

7 KEEPING OF EXCESS ANIMALS ..... 8

8 GENERAL CONDITIONS FOR STRUCTURES, ENCLOSURES AND FENCES ..... 8

9 STRUCTURES FOR POULTRY KEEPING (EXCLUDING PIGEONS DOVES & BIRDS) ..... 9

10 STRUCTURES FOR PIGEONS, DOVES OR BIRD KEEPING ..... 9

11 STRUCTURES FOR DOG & CAT KEEPING ..... 10

12 STRUCTURES FOR PIG KEEPING ..... 11

13 PET SHOPS ..... 11

14 PET SALONS ..... 12

15 DEAD ANIMALS ..... 13

16 STOCK SLAUGHTER ..... 13

17 PROHIBITION ON KEEPING OF CERTAIN ANIMALS IN AN URBAN AREA ..... 14

18 PERMISSION GRANTED BY THE MUNICIPALITY ..... 14

19 ACCESS TO PREMISES ..... 14

20 PROCESS WITH NUISANCES, STRAY ANIMALS AND NON-COMPLIANCE ..... 14

21 IMPOUNDMENT FOR TRESPASSING ..... 15

22 PROCESS FOR THE IMPOUNDMENT OF STRAY OR DANGEROUS ANIMALS ..... 15

23 POUND TO WHICH ANIMALS ARE TO BE SENT ..... 16

24 RELEASE OF STRAY ANIMALS ..... 18

25 NOTICE OF SALE ..... 18

26 AUCTIONEER ..... 19

27 SALE OF STRAY ANIMALS ..... 19

28 INDEMNITY ..... 19

29 ILLEGAL IMPOUNDING AND PENALTIES ..... 19

30 USE, DETENTION AND ILL-TREATMENT OF STRAY ANIMALS ..... 19

31 NAPIER OVERLAY ZONE ..... 20

32 OFFENCES AND PENALTIES ..... 21

33 REPEAL OF EXISTING BY-LAWS ..... 21

34 SHORT TITLE AND DATE OF EFFECT ..... 21

## **CAPE AGULHAS MUNICIPALITY**

### **DRAFT BY-LAW FOR THE KEEPING AND IMPOUNDMENT OF ANIMALS**

#### **PURPOSE OF BY-LAW**

To promote a safe and healthy environment for the benefit of residents within the area of jurisdiction of the Cape Agulhas Municipality; with consideration of personal rights as prescribed in the Constitution of the Republic of South Africa and the Promotion of Administrative Justice Act, Act 3 of 2000.

To provide for the care, control and management of animals and the procedures, methods and practices to regulate the impoundment of stray or dangerous animals or animals that constitutes a nuisance.

#### **1 DEFINITIONS**

In this by-law, words used in the masculine gender includes the feminine and vice versa, the singular includes the plural and vice versa, any reference to a natural person is also a reference to a legal person and vice versa unless the context indicates otherwise:

**“Animal”** - is any animal as generally defined and includes a dog, cat, horse, mule, donkey, bovine, pig, sheep, goat, bird, poultry (excluding roosters), fish, bee or domesticated animal.

**“Complainant”** – is an owner, possessor, lessee or occupier of land in the proximity where an animal constitutes a nuisance or where a stray or dangerous animal is, or any person observing an animal that constitutes a nuisance or observes a stray animal or dangerous animal on a road, street, road reserve or public place or a person threatened by a stray or dangerous animal or is due to suffer damages as a result of a stray or dangerous animal or a person observing that any other person is due to suffer damages as a result of a stray or dangerous animal.

**“costs”** – is any costs incurred with the prevention of nuisance or the impoundment of a stray or dangerous animal and includes pound fees, transport costs, advertising costs, auctions cost, legal costs, municipal tariffs and disbursements.

**“dangerous animal”** – is an animal that constitutes a danger to any person or person’s property.

**“excessive noise”** – is audible noise made by an animal in excess of more than six minutes in an hour or noise made by an animal in excess of the noise levels prescribed in the Noise Control Regulations of the Province of the Western Cape.

**“keep or keeping”** – is the owning, looking after, harbouring, caring for or being in charge of an animal by the owner or custodian of an animal.

**“kennel”** – is the premises or structure upon which boarding facilities for dogs or cats are provided or dogs or cats are bred for commercial purposes.

**“licence”** – is the licence issued to the owner of an animal that keeps a dog on his/her premises, which license tag is kept on the person of the dog in the form of a metal disk, issued by the municipality.

**“license fee”** – is the fee payable to the municipality to obtain to license

**“municipality”** - is the Cape Agulhas Municipality, a municipality proclaimed in terms of Section 12 of the Municipal Structures Act, Act 117 of 1998 and Section 155(1) of the Constitution of the Republic of South Africa by Provincial Notice 495 (as amended) in Provincial Notice 5591 on the 22 September 2000, with its offices at 1 Dirkie Uys Street, Bredasdorp. The definition includes any office-bearer, official, councillor, duly authorised agent, employee or Law Enforcement Officer thereof, acting in terms of this by-law by virtue of authority vested in the municipality and delegated or sub-delegated to such office-bearer, official, councillor, agent, employee or Law Enforcement Officer.

**“non-urban area”** – is an area that is not defined herein as an urban area.

**“nuisance”** – is any act or omission of an owner in relation to an animal or condition of an animal or an act, omission or condition relating to the premises upon which an animal is kept, that constitutes a nuisance to a person or persons in the proximity of the animal or owner. This includes stray animals, any excessive noise made by an animal, behaviour by an animal that constitute a danger to a person or property, animals with a health risk to itself or to persons, dirty animals, animals that have pests, disease, vermin or decomposing carcasses. It also includes premises that accumulate excess food, manure, droppings or premises with unpleasant odours. Whether any owner, animal or premises constitutes a nuisance as defined herein, shall be determined in the sole and exclusive opinion of the municipality.

**“organized fighting”** – is any form of fighting between animals, organized by persons for the purpose of entertainment or gambling.

**“owner”** – in relation to the keeping of animals, licences, stray or dangerous animal, or an animal that constitutes a nuisance, any person who is the owner of such animal or any person in possession of such animal or a person who should be in possession of a such animal or a person under whose care or containment or control a such animal is or a person under whose care or containment or control a such animal should be.

**“permission”** – is the written permission by the municipality, given and prescribed in terms of this by-law

**“Poultry”** - shall mean fowl, guinea fowl, chickens, geese, ducks, turkeys, peacocks, turkeys, pheasants, swans, muscovy ducks, pigeons, doves and all other types of domestic or rare/exotic birds kept in henhouses or aviaries, whether domesticated or wild, but excludes roosters.

**“pound”** – is contained area, consisting of enclosures created to house and care for stray animals, under the control of a pound master, irrespective if such pound is situated within the area of jurisdiction of the municipality

**“pound master”** – a person who is temporarily or permanently employed by a municipality or a person that is appointed by a service delivery contract to have and operate a pound.

**“Premises”** means any piece of land registered in a deeds registry as a farm or an erf, lot, plot, or stand as part of a township or informal settlement and includes a stand or lot forming part of a piece of land laid out as a township, but not yet registered or a portion of such erf, stand or lot and includes residential sites outside townships provided by government departments, semi-government institutions or industries.

**“Stock inspector”** – a person competent and qualified to inspect stock and for purposes of this by-law, appointed by the Department of Agriculture; and

**“Stray animal”** - any animal that is not under the care or control of its owner, regardless the sex of such animal, which animal should be under such owner’s care or control, or an animal that is without care and control, on a road, street, road reserve or public place. The definition includes the definition of dangerous animal, where the context requires same.

**“tariff”** – municipal tariffs for the keeping of stray animals in a pound, distinguishing between different kinds of stray animals and the keeping and feeding of such animals in separate enclosures.

**“unit”** – means the maximum number of animals that may be kept on land, where the definition is applicable. One unit means either one large animal or six small animals. Large animals are defined as any one head of cattle, horse, mule or donkey. Small animals are defined as any six head of sheep, goats, pigs or lama’s. Any head of large or small animals, shall be regardless of age or sex.

**“urban area”** – is an area within the jurisdiction of the municipality, proclaimed as a township in the deeds office of Cape Town or an un-proclaimed informal settlement.

**“veterinary surgeon”** - a person who is qualified as such in accordance with the provision of the Veterinary and Para Veterinary Professions Act, 1982 (Act 19 of 1982).

**“wild animal”** – is an animal that is not normally domesticated and includes, without limiting the definition hereof, snakes, spiders and reptiles.

## KEEPING OF ANIMALS

### 2 GENERAL RESTRICTIONS ON THE KEEPING OF ANIMALS

- (1) No owner shall keep any animal on his/her premises in contradiction to this by-law or, if in the sole and exclusive opinion of the municipality, there is a likelihood that the animal is or will be a nuisance. The keeping of animals in Napier is regulated by Section 31 of this by-law
- (2) Every owner, keeping an animal, shall collect the animal’s manure or faeces, including soiled straw or litter bedding and droppings from animal enclosures and either keep it in fly proof bins or containers or shall bury it under at least 50mm of soil.
- (3) Every owner keeping animals, other than cats and pigeons shall be responsible for ensuring that the animal is caged or otherwise restrained within the boundaries of the private land on which they are kept.
- (4) Every owner shall ensure that the premises wherein an animal is kept, is regularly maintained and cleaned.
- (5) No person shall keep a wild animal without the written permission of the municipality. In deciding whether to grant permission, the municipality may consult with relevant persons or agencies such as the Ministry of Agriculture and Forestry and may impose terms and conditions on the permission or may decline the permit if the keeping of the animal is considered to be a potential nuisance or a threat to biosecurity or public health or safety.
- (6) No person shall keep any pigs in an urban area.
- (7) No person shall operate a pet shop, dog kennel or cattery, without the prior written permission of the municipality.
- (8) No person shall abuse or maltreat an animal.
- (9) No person shall participate in any organized fighting nor allow any organized fighting on his/her premises.

- (10) No person may have any animal aesthetically altered, save by a Veterinary Surgeon and with such Veterinary Surgeon's approval.
- (11) Plans for all type of structures, enclosures and erected fences where animals are kept, must be submitted and approved by the municipality in terms of the National Building Regulations and Standards Act 1977, the municipal Zoning Regulations and the environmental Health by-law prior to commencement of any construction or occupation thereof.

### **3 POULTRY AND BIRD KEEPING**

- (1) No person shall keep more than 12 hens in an urban area, if the birds are confined to a henhouse or an aviary. Five hens may be kept, when they are permitted to free-range. The maximum number of birds, other than hens, shall be determined by the municipality on application. The keeping of any roosters in an urban area is prohibited
- (2) Henhouses and aviaries must at all times be kept clean and free from offensive odours.
- (3) Henhouses and aviaries must be maintained in good repair and must be free from any offensive smell or overflow. Vermin and other pests must be controlled. Henhouses and aviaries must be free from accumulations of manure and food.
- (5) Nothing in this by-law shall prevent any person keeping poultry in an auction room for not more than 24 hours or in a retail premises for the purpose of sale of poultry and/or eggs, where such use is allowed for under the municipal zoning of the premises.
- (6) Aviaries for racing pigeons shall generally meet the requirements of the Code of Conduct produced by Pigeon Racing Unions.

### **4 BEE-KEEPING**

- (1) No person shall keep more than 1 beehive in an urban area and then only with the permission of the municipality.
- (2) Every owner keeping bees or causing or permitting bees to be kept on a premises, must ensure that the bees are kept in such conditions or sited in such a way as to not create or be likely to create a nuisance to any person.

### **5 KEEPING OF CATS AND DOGS**

- (1) No person shall keep more than 3 cats or 2 dogs over the age of 4 months on premises in an urban area, without the written permission of the municipality
- (2) Provision must be made for adequate holding facilities for all non-neutered male cats.
- (3) Wildlife must be protected where possible from cats.
- (4) All dog bitches must be spayed, unless written exemption is obtained from the municipality or if the bitch is shown to be registered with any dog breeder's institution, such as The SA Kennel Union, The National

Federation of Jack Russell Terriers of South Africa, The national Federation of Boxer Clubs of South Africa, or the German Shepherd Dog Federation of South Africa.

- (5) Subject to the terms and conditions of written approval by the municipality, the restriction on the number of dogs that may be kept on a premises, might not apply to:
- (a) A dog breeder.
  - (b) An owner of a pet shop.
  - (c) An owner of premises where guide dogs for the blind are being kept or trained.
  - (d) An owner of a veterinary clinic or registered animal welfare society.
  - (e) An owner of dogs used as watch-dogs or for tracking purpose by any association, institution, organisation or statutory body which is in receipt of financial assistance from the State or in which the State or in which the State has a sufficient pecuniary interest.
  - (f) An owner of premises in a non-urban area.
- (6) The municipality may, by future proclamation, determine that dogs be licenced. Should this occur, licence tags must be attached to the dog's collar, identifying the dog's name, name and address of its owner and contact details of the owner. Licenses will be valid until the end of June of every year and must be renewed annually. The municipality will register the dog in its register and issue the owner with a tag for every licensed dog, upon payment of the prescribed tariff.
- (7) No person may keep a dog:
- (a) That is dangerous or fierce, to such an extent that the dog is a danger to any person who legally enters upon premises, unless the dog is muzzled or held on a leash under control of a responsible person.
  - (b) That is dangerous, without a notice, approved by the municipality, to the effect that a dangerous dog is being kept on premises. The notice must be displayed in a visible place.
  - (c) That barks, whimpers, howls or has another habit that constitutes a nuisance.
  - (d) That suffers from an infectious disease or has vermin, which, in the opinion of a veterinary surgeon, is of such a nature that such dog cannot be beneficially treated or boarded at a veterinary clinic;
  - (e) On premises that are not fenced in such a manner that such dog is at all times confined to the premises.
- (8) Subject to any provision to the contrary in this by-law or any other law, no person may:
- (a) Bring a dog into any public space or allow it to be done if that dog is wild, dangerous and ferocious, is in a habit of charging at or chasing people or vehicles or is an unsterilized female dog which is on heat.
  - (b) Allow or cause to be allowed any dog to be in a public place unless it is kept on a leash under control of a responsible person.
  - (c) Urge any dog to attack, worry or frighten any person or animal, except where necessary for the defence of such person or his/her property or of another person.
  - (d) Allow a dog to be in any public road or public place while suffering from mange or any other infectious or contagious diseases.
  - (e) Allow a dog to trespass on private property.
- (9) If any dog defecates in any public road or public place, any person in charge of such dog shall forthwith remove the excrement; place it in a plastic or paper bag or wrapper and dispose of it.

- (10) Any person in control of a dog in a public place, excluding a blind person who is led by a guide-dog, must remove any defecation or other offensive matter of such dog by placing it in a plastic bag or wrapper and dispose of it.
- (11) An owner or person in control of any shop or other place where food is prepared, sold or exposed for sale, shall not permit any dog to be on premises.

## **6 KEEPING OF SMALL BIRDS**

- (1) An owner may keep budgies, finches or small domesticated birds on his/her premises.
- (2) Bird cages must at all times be kept clean and free from offensive odours.
- (3) Bird cages must be able to accommodate the number of kept birds and must be maintained in good repair and must be free from any offensive smell or overflow.
- (4) Vermin and other pests must be controlled. Bird cages must be free from accumulations of manure and food.

## **7 KEEPING OF EXCESS ANIMALS**

- (1) Any owner may apply in writing to the municipality to keep more than the prescribed number of animals, which application may be granted in the sole and exclusive opinion the municipality and on such terms and conditions as the municipality may impose. The written permission required from the municipality includes the keeping of animals as prescribed by Section 5(5) of this by-law.
- (2) Any approval so granted, may be revoked by the municipality on 14 (fourteen) days' notice, should the municipality be of opinion that the excess animals kept, constitutes a nuisance or if any term or condition stipulated in this by-law or term of condition of permission granted by the municipality is transgressed.

## **8 GENERAL CONDITIONS FOR STRUCTURES, ENCLOSURES AND FENCES**

- (1) Applications for the erection of animal structures submitted to the municipality shall be accompanied by a detailed site and construction plan, indicating all structures and fences on the premises to be used for animals.
- (2) The number, kinds and sex of animals shall be indicated on the plan.
- (3) Notwithstanding anything to the contrary contained in this by-law, the municipality may refuse to approve the application and plans if, in its opinion, the property, owing to its location, siting or geographical features, is unsuitable for the keeping of animals thereon.
- (4) All structures housing animals shall be constructed in a workmanlike manner and of materials approved by the municipality.
- (5) Unless the contrary appears in this by-law, no structure shall be sited within a distance of 15 meters from any dwelling or staff quarters or the boundary of urban premises and 8 meters from any road boundary.



- (6) Every part of the structure shall be properly maintained and/or painted as often as the local authority may determine.
- (7) No animals shall be kept in a structure or premises which are considered by the local authority to be undesirable to be undesirable or objectionable by reason of its locality, construction or manner of use.
- (8) All structures, enclosures and fences must be constructed of suitable robust materials which are aesthetically pleasing and compatible with the norms of the surrounding area.

## **9 STRUCTURES FOR POULTRY KEEPING (EXCLUDING PIGEONS DOVES & BIRDS)**

- (1) Henhouses and fences for poultry may not be erected within 1.5 meters (or such greater distance as the municipality may determine in a particular case) of any neighbouring premises or within 10 meters of a dwelling, public building or premises where people are employed or where food is stored, prepared, manufactured or sold.
- (2) A henhouse shall be:
  - (a) Of sound construction.
  - (b) Have a floor of smooth concrete or other easily cleaned approved materials with a fall of 1 in 50 to the front.
  - (c) Have an enclosed run attached.
  - (d) Have a rainproof roof.
  - (e) Have a floor area of not less than 0.40 square metres for each bird.
  - (f) Have a height not less than 1 metre from floor to ceiling.

## **10 STRUCTURES FOR PIGEONS, DOVES OR BIRD KEEPING**

- (1) All aviaries and holding facilities must be purpose built and be constructed of appropriate materials, of a quality of construction and maintenance that is acceptable to the municipality. It must be designed to be vermin proof, well ventilated, have an impervious surface and not cause or be likely to cause injury to birds.
- (2) Structures may not be erected within 1.5 meters (or such greater distance as the municipality may determine in a particular case) of any neighbouring premises or within 10 meters of a dwelling, public building or premises where people are employed or where food is stored, prepared, manufactured or sold.
- (3) Structures may not exceed 3.6m in height from the ground and have a concrete floor with a fall of 1 in 50 to the front.
- (4) All food must be stored in sealed vermin-proof containers and must not be left uncovered.
- (5) Flooring must be constructed of an impervious material or in some external situations, sand or gravel with a rodent proof mesh underlay with fall of 1 in 50 to the front.
- (6) Excessive noise and odour must be controlled by the use of sound proofing materials, distance and choice of bird species.
- (7) Waste must be disposed of in an approved manner.

- (8) All aviaries and facilities must be well maintained by the owner and the owner must avoid the escape of birds.
- (9) An adequate rodent and pest control program must be in place.
- (10) Adequate protection from predators must be provided.
- (11) The keeping of domestic pigeons by hobbyists and racing enthusiasts in an urban area may be permitted, with the permission of the municipality.

## **11 STRUCTURES FOR DOG & CAT KEEPING**

- (1) Structures shall be roofed and be constructed of durable materials and the access thereto shall be adequate for cleaning purposes.
- (2) The floor on permanent structures, shall be constructed of concrete or other durable or impervious material brought to a smooth finish and graded to a channel 100 mm wide, extending over the full width of the floor and situated within the enclosure, which channel shall be graded and shall drain into a gully connected to the local authority's sewer system by means of an earthenware pipe or a pipe of any other approved material with a minimum diameter of 100 mm, or to another approved disposal system.
- (3) A kerb 150mm high shall be provided along the entire length of the channel adjacent to the surrounding outside area, to prevent storm water from such area from entering the channel.
- (4) A dog kennel of moulded asbestos or other similar material, which is movable, must be placed on a base constructed of concrete or other durable material with an easily cleaned finish, without cracks or open joints. If the base of such kennel is not rendered waterproof, a sleeping board which will enable the dog to keep dry shall be provided in every such kennel.
- (5) A concrete apron at least 1m wide shall be provided at the entrance of each enclosure over its full width, the apron to be graded for the drainage of water away from the enclosure.
- (6) A supply of potable water, adequate for drinking and cleaning purposes, shall be provided in or adjacent to the enclosure.
- (7) All food shall be stored in a rodent-proof store-room, and all loose food shall be stored in rodent-proof receptacles with close-fitting lids in such store-room.
- (8) At least 5m of clear, unobstructed space shall be provided between any shelter or enclosure and the nearest point of any dwelling, other building or structure used for human habitation or any place where food is stored or prepared for human consumption.
- (9) Isolation facilities for sick dogs and cats must be provided to the satisfaction of the municipality, where required.
- (10) If cages are provided for the keeping of cats, such cages shall be of durable, impervious material and constructed so as to be easily cleaned.

**12 STRUCTURES FOR PIG KEEPING**

- (1) Pigs may only be kept in non-urban areas.
- (2) Roofs of sleeping pens in pigsties shall be provided and be watertight.
- (3) Walls of sleeping pens shall be constructed to prevent the accumulation of filth thereon and to provide a surface that is easily cleaned and impervious.
- (4) Floors of sleeping and feeding pens shall be of concrete or other approved impervious material finished to a smooth even surface and graded to a fall on 1 in 25 to an approved outfall.
- (5) All effluent from sleeping and feeding pens shall be disposed of in such a manner as to not create a health nuisance or the pollution of any waterway.
- (6) The pigsty including runs, drains, catch pits and settling tanks shall be maintained in a clean condition.
- (7) Accumulated manure and offensive matter shall be removed and disposed of so as not to create a nuisance.
- (8) Troughs from which pigs are fed shall be watertight and able to be easily cleaned and shall be maintained in a clean condition.
- (9) Troughs whether in feeding pens or elsewhere shall be placed on a smooth concrete slab with a raised nib wall all round and of sufficient size to prevent pollution of the area or ground surrounding the trough.
- (10) No manure or offensive matter from pigsties or any swill be stacked, accumulated or stored in any place within 50 metres from any occupied building, or public place, or the boundary of any adjoining private land or in such a way as to give rise or likely to give rise to a nuisance, or be likely to be injurious to health or offensive.
- (11) Pigswill shall be conveyed and stored in impervious receptacles, with close-fitting covers, to prevent the escape of odour and the swill, or access by flies.
- (12) Any storage area for pigswill shall be sited at least 50 metres from the edge of any watercourse and shall be located above the estimated 50 year return flood period level of the watercourse.
- (13) Every vehicle, receptacle, cover or utensil in the handling of pigswill or pig feed of a perishable nature shall be thoroughly cleaned daily. The washing from these items shall be disposed of in such a manner that no direct or indirect discharge to any watercourse occurs.
- (14) No untreated meat, or food waste containing untreated meat shall be fed to pigs in accordance with the biosecurity (Meat and Food Waste for Pigs) Regulations of 2005, to reduce the risk of an outbreak of foot-and-mouth disease or other diseases.

**13 PET SHOPS**

- (1) No person shall conduct the business of a pet shop upon any premises unless the premises are zoned according to the municipal requirements and plans for the structures have been approved by the municipality.

- (2) Structure for pet shops must be constructed and equipped in accordance with the following requirements:
- (a) Every wall, including any partition of any building, shall be constructed of bricks, concrete or other durable material and shall have a smooth internal surface and shall be painted with a light coloured washable paint or given some other approved finish.
  - (b) The floor of any building shall be constructed of concrete or other durable and impervious material brought to a smooth finish.
  - (c) The ceiling of any building shall be constructed of durable material, have a smooth finish, be dustproof and be painted with a light coloured washable paint.
  - (d) Sanitary facilities shall be provided in terms of the National Building Regulations.
  - (e) A rodent-proof store-room shall be provided to the satisfaction of the local authority.
  - (f) Facilities for the washing of cages, trays and other equipment shall be provided to the satisfaction of the local authority.
  - (g) If required, change room or locker facilities shall be provided to the satisfaction of the municipality.
  - (h) No door, window or other opening in any wall of a building on the premises shall be within 2 m of any other door, window or other opening to any other building in which food is prepared, store or sold for human consumption or is consumed by humans.
  - (i) There shall be no direct access to any habitable room or any room which clothing or food for human consumption is stored.
  - (j) Separate movable cages for the separate housing of animals, poultry or birds shall be provided.
  - (k) Cages shall be constructed entirely of metal or other durable, impervious material and shall be fitted with a removable metal tray below the floor thereof to facilitate cleaning.
  - (l) Every cage shall be free from any recess or cavity not readily accessible for cleaning and every tubular or hollow fitting used in connection therewith shall have its interior cavity sealed
  - (m) If rabbits are kept in a cage, a metal tray shall drain into a removable receptacle.
  - (n) Every cage shall be fitted with drinking vessel kept filled with water and accessible to pets kept in the cage.
  - (o) Rodent-proof receptacles of impervious material with close-fitting lids in the store-room shall be provided, in which all pet food shall be stored.
  - (p) The premises and every cage, tray, container, receptacle, basket and all apparatus, equipment and appliances used in connection with the pet shop shall be maintained in a clean, sanitary condition, free from vermin and in good repair.
  - (q) Effective measures will be taken to prevent the harbouring or breeding of, and to destroy, flies, cockroaches, rodents and other vermin, and to prevent offensive odours arising from the keeping of pets on the premises.
  - (r) Isolation facilities will be provided in which every pet which is or appears to be sick shall be kept whilst on the premises.
  - (s) A constant supply of potable water for drinking and cleaning purposes shall be provided;
  - (t) The premises will at all times be so ventilated as to ensure sufficient movement of air for the comfort and survival of the animals.
  - (w) The number of pets per cage will allow the free movement of animals.

## 14 PET SALONS

- (1) No person shall conduct the business of a pet salon upon any premises unless the premises are zoned according to the municipal requirements and plans for the structures have been approved by the municipality.
- (2) Structure for pet salons must be constructed and equipped in accordance with the following requirements:

- (a) A room shall be provided with a minimum floor area of 605m<sup>2</sup> for the washing, drying and clipping of dogs or cats.
- (b) The floor of such room shall be constructed of concrete or other durable, impervious material brought to a smooth finish and graded to a channel drained in terms of the National Building Regulations.
- (c) The surface between the floor and the wall of such room shall be coved and shall have a minimum radius of 75 mm.
- (d) Every internal wall surface shall be smooth-plastered and be painted with a light-coloured washable paint.
- (e) The room shall be equipped with a bath or similar facility, with a constant supply of hot and cold water, drained in terms of the National Building Regulations, an impervious-topped table, a refuse receptacle of impervious durable material with a close-fitting lid for the storage of cut hair pending removal.
- (f) If cages are provided for the keeping of cats and kennels for the keeping of dogs, such cages and kennels shall be of durable material and constructed so as to be easily cleaned.
- (g) Every cage, including its base, shall be of metal construction and movable.
- (h) Pesticide preparations, and preparations used for the washing of dogs and cats and the cleaning of equipment and materials will be stored in separate metal cupboards;
- (i) All tables used for the drying and grooming of dogs and cats shall be of metal with durable and impervious tops.
- (j) The premises and every cage, tray receptacle, basket and all apparatus, equipment and used in connection with the pet shop shall be maintained in a clean, sanitary condition and kept in good repair, free of vermin.
- (k) Every dog or cat shall always be kept inside the building on the premises, unless otherwise approved by the municipality.
- (l) Portable storage receptacles of impervious material with close-fitting lids shall be provided for the storage of dogs and cat faeces, which will be removed from premises at least once every 24 hours.

## **15 DEAD ANIMALS**

- (1) No person shall leave or permit or suffer to remain any dead animal or vermin, or part thereof, on any land or body of water or premises that they own or occupy so as to create a nuisance.
- (2) No person shall bury any animal or part thereof of more than 10 kilograms body weight (other than in a non-urban area) without the approval of the municipality. Any animal or part thereof may be disposed of at the disposal facilities provided by the municipality for this purpose.

## **16 STOCK SLAUGHTER**

- (1) No person shall slaughter any stock in an urban area, without the permission of the municipality.
- (2) The following persons shall be exempted from Section 16(1):
  - (a) A veterinary surgeon registered under the Veterinary Surgeons Act 1956.
  - (b) An inspector appointed for the purpose of the Animals Act 1967.
  - (c) An inspector appointed for the purposes of the Animal Protection Act 1960.

**17 PROHIBITION ON KEEPING OF CERTAIN ANIMALS IN AN URBAN AREA**

- (1) No person shall keep any horse, goat, lama, sheep, donkey, cattle, roosters or large birds (other than hens and pigeons) on any premises in an urban area, without the written permission of the municipality.

**18 PERMISSION GRANTED BY THE MUNICIPALITY**

- (1) Any permission granted by the municipality in terms of this by-law, must be in writing, setting out the terms, conditions and duration of such permission. Any such permission granted, shall be in the sole and absolute discretion of the municipality and may be amended or withdrawn on reasonable notice.

**19 ACCESS TO PREMISES**

- (1) Notwithstanding anything to the contrary contained herein, the municipality may enter upon any premises and at any hour of the day, within its area of jurisdiction in order to inspect, investigate or monitor compliance in terms of this by-law.

**20 PROCESS WITH NUISANCES, STRAY ANIMALS AND NON-COMPLIANCE**

- (1) Upon taking note of any non-compliance of this by-law or of a permission granted, or on receipt of a report by a complainant about a stray or dangerous animal or a nuisance, the municipality shall cause an official or an authorized agent to investigate the complaint on its behalf.
- (2) On completion of the investigation, the investigating officer or agent shall compile a written report on his/her findings and if *prima facie* grounds for the complaint, stray or dangerous animal or if non-compliance exist, the municipality shall, in the case of:
  - (a) A stray or dangerous animal, follow the process described in this by-law, dealing with stray or dangerous animals.
  - (b) A nuisance or non-compliance of this by-law or permission, direct a written notice to the owner, setting out the nature of the nuisance and/or non-compliance and demand that the owner refrain from a continuation of the nuisance or compliance with the permission, within a time limit determined by the municipality.
  - (c) Dangerous animals will be dealt with in terms of the process prescribed under Section 22(5)
- (3) Should the owner refuse and/or neglect to adhere to the demand, the municipality may:
  - (a) Proceed with an interdict against the owner, in order to enforce compliance with this by-law.
  - (b) Proceed with a criminal complaint against the owner.
  - (c) Proceed to impound the animal.
  - (d) Levy a fine against the owner
- (4) The municipality may, at its sole and absolute discretion, institute any of the processes referred to in Section 20(3), either jointly or severally.

**21 IMPOUNDMENT FOR TRESPASSING**

- (1) The municipality may, with knowledge of any stray or dangerous animal that trespasses or on notice from any complainant of a trespassing or dangerous animal, impound the animal in terms of this by-law.

**22 PROCESS FOR THE IMPOUNDMENT OF STRAY OR DANGEROUS ANIMALS**

- (1) The complainant must inform the municipality of any stray or dangerous animals, with particulars relating to type of animal, sex, identifying marks, number, place where the animal is to be found, time and if known, the owner of the animal.
- (2) The municipality must investigate the matter to establish whether the animal is stray or dangerous, or constitutes a nuisance as set out herein.
- (3) If the owner of the animal is unknown, the municipality must take all reasonable steps to ascertain the identity of the owner and if the municipality cannot establish the identity of the owner, the municipality may transport the animal to the nearest pound. In such event, the municipality must forthwith advertise the removal of the animal in languages recognized in the Western Cape Province, containing the information as set out in section 22(4), in newspapers that circulates within the area where the animal was removed. Should the animal not be released from the pound within a period of 30 (thirty) days after placement of the notice, the municipality may proceed with legal action in any court with jurisdiction, in order to obtain a court order to sell the animal by way of public auction, as set out in this by-law.
- (4) If the identity of the owner of the animal is known, the municipality must notify the owner in writing to remove the animal and take it under his control within such reasonable period as the municipality may determine, which notice must be served by the municipality on the owner, or be served on an occupier above the age of 16 (sixteen), occupying the dwelling of the owner and the municipality must explain the nature and content of the notice to the owner or occupier. The notice to the owner must contain the following:
  - (a) The type of animal, with particulars of the number, sex (if known), distinguishing marks and/or brand markings and the place where the stray animal is;
  - (b) That, if the animal is not removed and controlled, that legal action will be instituted against the owner by means of an application to court, to obtain a court order to impound the stray animal, sell it and recover costs and tariffs;
  - (c) The distance the animal must be transported to the nearest pound;
  - (d) The location and particulars of the pound where the animal will be transported;
  - (e) That the owner will be liable for costs and tariffs, should the animal be impounded;
  - (f) The liability of the owner for any damages that the animal have caused and the legal effect of such liability;
  - (g) That the animal will be sold by public auction if the owner neglects to pay the costs and tariffs; and
  - (h) That any animal not sold by public auction, may be destroyed.
- (5) Any dangerous animal may be impounded by the municipality, without notice to the owner prior to such impoundment, provided the municipality gives the owner notice after such impoundment, as set out in Section 22(3) or 22(4), as the case may be.
- (6) The owner of any nuisance, stray or dangerous animal will at all times be liable for costs and tariffs of impoundment and all damages caused by such animal.

- (7) Should an owner refuse, neglect or fail to adhere to the written demand, the municipality may proceed forthwith with an application to court, wherein the legal relief as set out in this by-law is requested. Should the address of an owner of an animal be unknown, the municipality may serve notice of the application by substituted service, as prescribed by the rules of court where the application is brought.
- (9) Notwithstanding anything to the contrary contained herein, a Magistrates Court within whose jurisdictional area a transgression of this by-law occurs, will have jurisdiction to grant any legal relief in terms of this by-law.
- (10) With the granting of a court order, the municipality may take the stray animal into custody and transport it to the nearest pound, either personally or through a transport contractor
- (11) The municipality may contain any animal in a pound until final judgement is given by a court and may thereafter sell the animal by way of public auction in terms of the court order.
- (12) The owner may release the animal from the pound at any time prior to the sale of the animal by public auction, in terms of Section 24.
- (13) The owner of an animal will be liable for all costs and tariffs with regards to the impoundment of his stray animal.
- (14) Should any animal cause any damage, such damage must be recovered directly from the owner by the person who suffered such damages.

## **23 POUND TO WHICH ANIMALS ARE TO BE SENT**

- (1) Any stray or dangerous animal must be transported to the nearest available pound, albeit in the jurisdictional area of another municipality, by a passable road or thoroughfare, with the shortest route from the land trespassed upon, or such other pound designated by the municipality.
- (2) It is the duty of every pound master to take under his care, all stray or dangerous animals, brought to him by the municipality or any person duly authorized by the municipality, in writing, during the hours prescribed by the municipality.
- (3) Any pound master whom unreasonably refuses to receive any animal brought to his pound, will be guilty of an offence and in addition be responsible for all damages the owner of the animal or any other person may suffer due to such refusal; provided that should a stray or dangerous animal visibly suffering from a disease, be brought to the pound, such animal shall be held separately from all other animals, and the pound master may destroy such an animal under the provisions of this by-law.
- (4) Should the municipality erect its own pound:
  - (a) The pound shall have at least five separate camps, in good condition and as far as possible free of all contamination and shall make separate provision for ostriches and horses; cattle; sheep, goats and pigs; dogs; and cats;
  - (b) The municipality may consent to a smaller number of camps.
  - (c) The appointed pound master must keep a pound register in which the following particulars are to be recorded:



- (i) The date on which, and reason why all animals received by him, was impounded;
  - (ii) The amount and description of such animals;
  - (iii) The name, address and contact details of the owner or suspected owner;
  - (iv) The date and particulars on which the animal is released or sold;
  - (v) All other information the municipality may require.
- (d) The entries into the register must be done as soon as reasonably possible. In the case of the death or injury of an impounded animal, the pound master must record a description of such animal and the cause of death or injury in the pound register.
- (e) Every pound register must at all times be available at the pound or any approved location, for inspection by any authorized official of the municipality, vet, livestock inspector, and any member of the South African Police Force or of the public.
- (f) Every pound master must submit a copy of all entries in his pound register to the municipality, within fourteen days of every pound sale. The municipality must keep all such copies for any person to inspect, should it be required.
- (g) When a sale of impounded animals is to take place, the pound master or the person authorized to oversee the sale, must take along the pound register to the place of sale, and such register must be open for inspection, free of charge, by any person who requires to do so.
- (h) The municipality may prescribe the tariffs for the keeping of animals in the pound and when doing so, may distinguish between the different animals and the keeping and feeding of such animals in separate camps.
- (i) Every pound master must claim all costs and tariffs prescribed by the municipality in terms of this by-law, in respect of all animals he impounds.
- (j) Should the pound master not be an official of the municipality, the municipality may provide compensation, where the selling price doesn't cover the costs incurred, to the Pound Master for any losses he may have suffered due to the keeping of the wandering animals.
- (5) Should an animal be transported to the pound of another municipality, the municipality will be responsible for payment of any pound fees prescribed by the by-law of the municipality to which the animal is transported, provided that any such fee and transport costs incurred by the municipality shall be recoverable from the owner by the municipality.
- (6) The municipality may transport any animal or contract with a private person to transport any stray animal, where required.
- (7) The municipality shall ensure that they receive a receipt from the pound master for every animal impounded for safe keeping.
- (8) A pound master may destroy or cause to be destroyed, any impounded animal suffering from an injury or a contagious disease, or which may prove dangerous to human life or other animals impounded; provided that no such animal shall be destroyed unless a veterinary surgeon has examined it and has agreed with the pound master as to the necessity for its destruction.
- (9) A pound master may destroy or cause to be destroyed any impounded animal that is not released or sold in public auction.
- (10) The municipality shall ensure that the pound master shall forthwith give written notice to any owner that his/her animal has been impounded, in the same manner and with the same information as prescribed in Section 22(3) or 22(4) of this by-law.

- (11) The municipality shall ensure that entries of impounded animals and animals sold by public auction are kept in the pound register.

## **24 RELEASE OF STRAY ANIMALS**

- (1) Prior to releasing any stray animal from the pound to the owner, the costs and tariffs determined by the municipality in terms hereof must be paid by the owner of the stray animals to the municipality. All impounded animals may be detained by the pound master in security of payment of the said costs and tariffs, provided that:
  - (a) If the value of the stray animal that is impounded, is in excess of the total amount due thereon, as determined in terms of this by-law, and if the owner is unable to pay the said amount, the pound master shall detain only so many of the said animals as may be sufficient to secure the total amount due for all the stray animals, and shall deliver the remainder of the stray animals to the said owner, and
  - (b) Any pound master who retains any greater number of such stray animals than is reasonable necessary to secure such amount, shall be liable to the owner for any damages sustained by him on account of such retention of his stray animals.
- (2) No pound master shall release any impounded animals until the prescribed costs and tariffs have been paid to him.
- (3) No pound master shall release any impounded animal, unless the owner of such animal has proven ownership of the animal.

## **25 NOTICE OF SALE**

- (1) Whenever any impounded animal has not been released by the owner within 7 (seven) days, from the date of a final court order in terms whereof the impounded animal may be sold, the stray animal may be sold by public auction to defray costs and tariffs in terms of this by-law.
- (2) The municipality must notify the pound master, in whose jurisdiction the pound is situated, of such sale and the notice must indicate the type of stray animal, sex, number, branding and distinguishing marks and regarding horses and cattle, also their colour met reference that the stray animals described will be sold at the next auction as well as the time and place of such sale.
- (3) When an impounded animal is to be sold, the municipality must advertise the sale in terms of the rules of court where the application was brought, provided that the owner is liable for the advertising costs and such costs be deducted from the proceeds of the sale of the stray animal, provided further that:
  - (a) If such notice refers to more than one animal, the municipality must divide the cost of such notice pro-rata in respect of the animals referred to therein, and
  - (b) If the owner of an impounded animal is unknown and the proceeds of the sale does not cover the amount as aforesaid, the municipality must make good the deficiency,

## **26 AUCTIONEER**

- (1) Every sale of impounded stock shall be conducted by a person duly authorized thereto by the municipality concerned and commence at a place, time and on a day to be determined by the municipality.
- (2) No person conducting a sale may have any direct or indirect interest in any purchase or sale done by him.

## **27 SALE OF STRAY ANIMALS**

- (1) No stray animals shall be put up for sale unless a final court order has been obtained therefore;
- (2) All stray animals, except sheep and goats shall be sold individually;
- (3) Sheep and goats shall be sold in lots of not more than 5 (five), and sheep and goats, or sheep or goats with different marks or brands shall in no circumstance be sold together in the same lot;
- (4) Stray animals shall be sold for cash, provided that:
  - (a) Any money, being the proceeds of the sale of any impounded animal as aforesaid, which remains in the hand of the municipality for a period of 3 (three) years without being claimed by the owner of such animal, shall become the property of the municipality;
  - (b) Should any stray animal die in the pound and the owner cannot be traced, the expenses of destroying the carcass shall be borne by the municipality;
  - (c) The municipality may fix a reserve price for any stray animal offered for sale, and
  - (d) The auctioneer may withdraw any stray animal from the sale if the highest bid received is not in his opinion satisfactory, irrespective of whether not a reserve price has been fixed by the municipality.
- (5) Any shortfall in money, after sale of the animals, must be paid by the municipality and may be recovered from the owner.

## **28 INDEMNITY**

- (1) Save as for specifically provided for in this by-law, the municipality, pound master and any employee of the municipality shall not be liable for the erroneous release, death of or injury to a stray animal as a result of its impoundment or as a result of its release to the owner from the pound

## **29 ILLEGAL IMPOUNDING AND PENALTIES**

- (1) Any person who illegally causes the impoundment of any stray animal shall be guilty of an offence and shall be liable to the owner for all damages, costs and tariffs resulting therefrom.

## **30 USE, DETENTION AND ILL-TREATMENT OF STRAY ANIMALS**

- (1) No person shall use or detain any animal of which he/she is not the owner.

- (2) No person shall ill-treat or harass any animal found trespassing.

### 31 NAPIER OVERLAY ZONE

- (1) Animals, in addition to the number of prescribed cats and dogs, may be kept within the area designated as the Napier Local Area Overlay zone as follows:

<b>Designated Areas</b>	<b>Animals</b>
Commonage & small holding	Cattle, Sheep, Lama's, Pigs, Goats, Horses, Donkeys, Mules, Poultry, Birds and any other animals as may regarded appropriate by the Municipality
Bo-Dorp from Almond Street eastwards, and between Reservoir and Sarel Cilliers Street, including the erven on the northern side of Sarel Cilliers Street, and  Tamatiekraal: the area between Sarel Cilliers Street and Eskom Street, which is the area on both sides of the Klippedrift River.	All of the above excluding pigs
Remainder of the Napier	Poultry and birds same as in Agulhas Municipal Area.

- (2) The municipality may prescribe, for appropriate management and control purposes, additional regulations with regard to, but not restricted to:
- The number of animals that may be kept per square meter area; and
  - Health regulations for animals, and
  - Rights of animals to have appropriate nutrition, shelter, space and nurturing.
- (3) Urban agriculture may be practiced within the area designated as the Napier Local Area Overlay zone, provided that the Municipality may prescribe additional regulations with regard to but not restricted to:
- The use of pesticides and organic fertilizers, and
  - The storage of implements and produce.
- (4) The size of the premises and not he zoning will depend on how much animals can be kept and will be as follows:

1 000m <sup>2</sup> – 3 000m <sup>2</sup>	-	One unit
3 001m <sup>2</sup> – 4 500m <sup>2</sup>	-	Two units
4 501m <sup>2</sup> – 6 000m <sup>2</sup>	-	Three units
6 001m <sup>2</sup> – 1 ha	-	Four units
1 ha– 3 ha	-	Five units
3 ha – 6 ha	-	Eight units

**32 OFFENCES AND PENALTIES**

- (1) Any person who contravenes or fails to comply with a provision or notice in terms of this by-law, irrespective if such contravention or failure has been declared an offence elsewhere in this by-law, is guilty of an offence.
- (2) Any person who deliberately obstructs, hampers, hinders or handicaps any person in the exercise of any power or time performance of any duty or function in terms of any provision of this by-law, , is guilty of an offence.
- (3) Any person who furnishes false, incorrect or misleading information, , is guilty of an offence.

Any person found guilty of an offence, is liable upon conviction to:

- (a) A fine or imprisonment or either such 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 imprisonment and additional fine or imprisonment without the option of a fine, for each day on which such offence is continued; and
- (c) A further amount equal to any costs and tariffs to be incurred by the municipality as result of such contravention or failure, after finding by the court.

**33 REPEAL OF EXISTING BY-LAWS**

- (1) The following by-law and the regulations of any by-law in contradiction with this by-law is herewith repealed:

Cape Agulhas Municipality:

<b>Provincial Notice No.</b>	<b>Title</b>	<b>Extent of repeal</b>
P.N. 7363 dated 6 March 2015	Animal Care and Control By-Law for the Keeping of Animals, Poultry and Bees	In total

**34 SHORT TITLE AND DATE OF EFFECT**

- (1) This by-law will be known as by-law for the Keeping and Impoundment of Animals and will come into effect on the date upon which is published in the Provincial Gazette.

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