

**OVERSTRAND MUNICIPALITY
BY-LAW RELATING TO THE KEEPING OF DOGS AND CATS**

To regulate and control the ownership and general behaviour of dogs and cats in the area of the Overstrand Municipality and to provide for matters incidental thereto.

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CHAPTER 1

INTERPRETATION

1. Definitions

- (1) In this By-law, unless the context otherwise indicates –

“authorised official” means any official of the Council who has been authorized by the Council to administer, implement and enforce the provisions of this By-law;

“cat” includes a male and a female cat;

“cat breeder” means a person who is registered as a cat breeder with a registered cat breeders association approved by the Council;

- “cattery”** means premises in or upon which –
- (a) boarding facilities for cats are provided; or
 - (b) cats are bred for commercial purposes;
- “Council”** means –
- (a) the council of the Overstrand Municipality established by Provincial Notice No. 6766 of 2000 dated 1 October 2000, as amended, exercising its legislative and executive authority through its municipal Council; or
 - (b) its successor in title; or
 - (c) a structure or person exercising a delegated power or carrying out an instruction, where any power in this By-law has been delegated or sub-delegated, or an instruction given, as contemplated in section 59 of the Local Government : Municipal Systems Act, 2000;
- “dog”** includes a male and a female dog;
- “dog breeder”** means a person who is registered as a dog breeder with a registered dog breeders association approved by the Council;
- “dwelling house”** means a single building designed for use as a residence for a single family;
- “flat”** means a single dwelling unit in any residential building other than a dwelling house;
- “kennel”** means premises in or upon which –
- (a) boarding facilities for dogs are provided; or
 - (b) dogs are bred for commercial purposes;
- “owner”,** in relation to a dog or cat , means any person who keeps a dog or cat or has a dog or cat in his or her possession or care or under his or her control or on whose private premises a dog or cat is present;
- “pound”** means a place designated by the Council in terms of any law or agreement for the impounding, sale and destruction of dogs or cat, or both; a place designated by the Council in terms of any law
- “pound master”** means the person who has been appointed by the Council to be in charge of a pound;
- “premises”** means any unit of land, whether built on or not and whether public or private;
- “prescribed”** means prescribed by the Council from time to time by resolution; and
- “public place”** means any beach, road, street, thoroughfare, bridge, overhead bridge, subway, foot pavement, footpath, sidewalk, lane, square, open space, garden, park, path, bus or taxi rank, servitude or enclosed space vested in the Council and includes any road, place or thoroughfare which is in the undisturbed use of the public or which the public have the right to use;
- (2) If any provision in this By-law vests or imposes any power, function or duty of the Council in or on any employee of the Council and such power, function or duty has in terms of section 81(2) of the Local Government: Municipal Systems Act, 2000, or any other law, been assigned to a service provider, the reference to such employee must be read as a reference to the service provider or, where applicable, an employee of the service provider authorised by it.

CHAPTER 2

CONTROL OF DOGS

2. Restriction on number of dogs

- (1) Subject to the provisions of subsection (2), no person may keep more than two dogs or allow more than two dogs to be kept on any erf or premises without the prior written consent of the council.
- (2) Notwithstanding the provisions of subsection (1) -
 - (a) any person who, at the date of commencement of this By-law, is keeping a dog in contravention of subsection (1), may, on application for a special permit issued by the Council, continue to keep such dog but may not replace any dog that dies or is lost or disposed of if it would result in such a contravention;
 - (b) the foregoing restriction does not apply to -
 - (i) a dog breeder who has the written consent of the Council to keep such greater number of dogs as the Council may approve;
 - (ii) the holder of a permit issued by the Council;
 - (iii) the owner or manager or person in charge of a pet shop;
 - (iv) the owner or person in charge of premises where guide dogs for the blind are being kept or trained; or
 - (v) the owner or manager of a veterinary clinic or registered animal welfare society.
 - (v) a dog used as a watch-dog or for tracking purposes by any association, institution, organisation, corporation or statutory body which is in receipt of financial assistance from the State or in which the State has a sufficient pecuniary interest.

3. Registration of dogs

- (1) Every person who owns or keeps a dog shall register such dog with and shall pay to the Council an annual tax as determined in terms of a resolution by Council.
- (2) The Council may from time to time deliver a prescribed form for the registration of dogs to any resident of the municipality, which such resident must complete fully and return to the Council without delay.

4. Dogs which may not be kept

No person may keep a dog –

- (a) which is wild, dangerous or fierce to such an extent that the dog is a danger to any person who legally enters upon the premises occupied by the owner of that dog, unless muzzled and held on a leash and under control of some responsible person;
- (b) which barks, whimpers or howls to such an extent that it, or has another habit which, causes an unreasonable disturbance or nuisance to inhabitants of the neighbourhood;
- (c) which suffers from an infectious disease, 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;
- (d) on premises that are not fenced in such a manner that such dog is at all times confined to the premises.

5. Sterilisation of dogs

- (a) No person may keep a dog which is an unsterilized female dog over the age of six months, unless—
 - (ii) the Council's prior written permission thereto has been obtained; or
 - (iii) it is kept by a dog breeder at a kennel or at other premises where it is securely confined within a building or enclosure; and
 - (iv) any other precaution specified in writing by an authorized official is taken to prevent a nuisance being caused to the inhabitants of the neighbourhood; or
 - (v) the provisions of subsection (c) apply in respect of the dog concerned.
- (b) The owner of a female dog that has been sterilised must obtain a document obtained from a registered veterinarian as proof that the dog has been sterilised and must produce such document for inspection to any authorised official on demand.
- (c) If, at the commencement of this By-law, any person is the owner of an unsterilized female dog over the age of six months, such dog may, notwithstanding anything to the contrary in this By-law, continue to be kept for a period of 6 months after such commencement, provided such dog is sterilised before the expiry of that period.

6. Dogs in public places

- (1) Subject to any provision to the contrary in this By-law or any other law, no person may bring a dog into any public place or allow it to be done if that dog –
 - (a) is wild, dangerous or ferocious;
 - (b) is in a habit of charging at or chasing people or vehicles; or
 - (c) is an unsterilized female dog which is on heat.
- (2) No person may allow or cause to be allowed any dog to be in a public place unless it is kept on a leash and under control of a person.
- (3)
 - (a) Subject to the prohibition provided for in sub-paragraph (b) hereunder, the provisions of sub-section 2 will not apply in a public place, with the exception of swimming beach areas as identified in Council's Swimming Beach Policy, before 08h00 or after 18h00 on any day of the week provided that any dog shall remain under the control of the person entering with it into the public place, and that such person take full responsibility of any liability which might arise during the period that the dog remains under his or her control
 - (b) No dog will be allowed in any swimming beach area as identified in Council's Swimming Beach Policy, or within a fifty meter buffer zone of any swimming beach area.
 - (c) No special event shall be excluded from compliance with the provisions of sub-paragraph (b) above
- (4) 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 or paper bag or wrapper and dispose of it in a receptacle provided for the deposit of litter or refuse.

7. Prohibited behaviour in respect of dogs

No person may –

- (1) Without reasonable grounds,
 - (a) incite a dog against a person, animal or bird; or

- (b) allow a dog in his or her custody or under his or her control to attack or put fear into any person, animal or bird.
- (2) provoke a dog or harass or tease any dog.
- (3) terrify or cause stress or fear to any dog with fireworks or by any other means.
- (4) neglect or abuse a dog kept by him.
- (5) as the owner or person in control of any shop or other place where food is prepared, sold or exposed for sale permit any dog to be or remain in or on such shop or place.

CHAPTER 3

CONTROL OF CATS

8. Restriction on number of cats

- (1) Subject to the provisions of subsection (2), no person may keep more than three cats or allow more than three cats to be kept on any erf or premises without the prior written consent of the Council
- (2) Notwithstanding the provisions of subsection (1) –
 - (a) any person who, at the date of commencement of this By-law, is keeping a cat in contravention of this section, may, on application for a special permit issued by Council, continue to keep such cat but may not replace any cat that dies or is lost or disposed of it, if it would result in such a contravention.
 - (b) the foregoing restriction does not apply to -
 - (i) a cat breeder who has the written consent of the Council to keep such greater number of cats as the Council may approve;
 - (ii) the holder of a permit issued by the Council;
 - (iii) the owner or manager or person in charge of a pet shop;
 - (iv) the owner or manager of a veterinary clinic or registered animal welfare society.

9. Cats which may not be kept

No person may keep a cat -

- (a) which makes a noise which impairs the convenience or peace of any reasonable person or which has any habit which causes an unreasonable disturbance or nuisance to inhabitants of the neighbourhood;
- (b) which suffers from an infectious disease, which, in the opinion of a veterinary surgeon, is of such a nature that such cat cannot be beneficially treated or boarded at a veterinary clinic;

10. Sterilisation of cats

- (1) No person may keep a female cat over the age of six months unless such cat is sterilised: Provided that this provision does not apply in respect of cats kept by a cat breeder or at a cattery or during the period of grace specified in subsection (3).
- (2) The owner of a cat that is sterilised must obtain a document from a registered veterinarian as proof that the cat has been sterilised and must produce it for inspection to any authorised official on demand.

- (3) If, at the commencement of this By-law, any person is the owner of an unsterilized female cat over the age of six months, such cat may, notwithstanding anything to the contrary in this By-law, continue to be kept for a period of 6 months after such commencement, provided such cat is sterilised before the expiry of that period.

CHAPTER 4

IMPOUNDING OF DOGS & CATS

11. Taking dogs and cats into custody

- (1) An authorised official may, for the purpose of having a dog or cat impounded, take into custody :
- (a) any dog or cat which –
 - (i) is at large and apparently ownerless;
 - (ii) suffers from a contagious disease as contemplated in section 4(c) or 9(b);
 - (iii) is being kept in contravention of the provisions of section 2, 4, 8 or 9; or
 - (iv) enters any premises or flat in an effort to escape being taken into custody.
 - (b) any dog which -
 - (i) is found in a public place and is not on a leash and in control of a person;
 - (ii) overturns, damages or tears any refuse receptacle or refuse bag;
 - (iii) is brought into a public place in contravention of the provisions of Section 6;
- (2) An authorised official may, subject to the provisions of section 10(3), impound a female cat that has not been sterilised in compliance with section 10 (1), or a cat in respect of which its owner cannot in terms of section 10 (2) provide written proof regarding its sterilisation.
- (3) Any person may on premises or in a flat of which he or she is the owner or occupier take into custody any dog or cat found trespassing thereon or therein for the purpose of having it impounded.
- (4) Notwithstanding the provisions of subsections (1) and (2), no person may take any dog or cat into custody for the purpose of having it impounded if there are reasonable grounds to believe that the dog or cat is a female with un-weaned young, unless such dog or cat and un-weaned young are taken into custody together.
- (5) Any person who has taken a dog or cat into custody in terms of this section –
 - (a) must ensure that the dog or cat is not ill-treated;
 - (b) may, when the pound is closed, keep the dog or cat in his or her custody until the pound re-opens.
- (6) No person may, without a just cause, free any dog or cat which has been taken into custody, or is being kept in custody, or which has been impounded, in terms of this Chapter.

12. Duties of pound master

A pound master must -

- (a) keep the pound open between 08:00 and 16:30 from Monday to Friday and Saturday between 08:00 and 12:00 unless any such day is a public holiday;
- (b) accept, take charge of and impound any dog or cat brought to the pound with a view to impounding it, during the hours when the pound is open and must, subject to the further provisions of this Chapter, detain that dog or cat in the pound: Provided that the pound master may refuse to receive, or may release, any dog or cat if he or she reasonably believes that such dog or cat was not lawfully taken into custody or impounded;

- (c) keep a register in which the following particulars in respect of every impounded dog or cat are recorded :
 - (i) The name of the authorised official or the name, residential address and telephone number of any other person who brought the dog or cat to be impounded;
 - (ii) the name, residential address and telephone number of the person to whom the dog or cat was released.
 - (iii) the time at which and date on which the dog or cat was impounded;
 - (iv) the place where the dog or cat was found immediately before it was taken into custody;
 - (v) the date on which and the time at which the dog or cat was taken into custody before being brought to the pound;
 - (vi) the reason for impounding the dog or cat ;
 - (vii) a description of the dog or cat indicating the estimated age, breed, sex, colour, markings and any injury found on the dog or cat when the pound master accepted it;
 - (viii) whether the dog or cat was released, sold or destroyed and the date and time of such release, sale or destruction;
 - (ix) the amount of money realised in respect of such release or sale;
 - (x) the amount of veterinary expenses, if any, incurred in respect of the dog or cat;
- (d) ensure that the pound and all equipment used in connection with impounded dogs or cats are at all times kept in a clean condition and free from flies and other vermin;
- (e) ensure that every dog or cat in the pound is properly fed and cared for;
- (f) isolate any female dog or cat on heat;
- (g) take all reasonable steps to prevent fighting amongst dogs or cats in the pound;
- (h) isolate any diseased dog or cat from the healthy dogs or cats , have such dog or cat attended to by a veterinarian and take all steps to recover the expenses incurred in this regard from the owner if the identity and address of the owner are known; and
- (i) take all necessary steps to have any dog or cat destroyed as contemplated in section 14 and recover any expenses incurred in this regard from the owner if the identity and address of the owner are known.

13. Claiming of impounded dogs and cats

- (1) Any person may claim an impounded dog or cat if he or she –
 - (a) satisfies the pound master that he or she is the owner of the dog or cat;
 - (b) satisfies the pound master that releasing the dog or cat into his or her custody will not result in any provision of section 2, 4, 8 or 9 being contravened;
 - (c) furnishes the pound master with written proof of sterilisation of the dog or cat concerned, if applicable; and
 - (d) pays to the pound master the prescribed fees and the amount of veterinary expenses, if any, incurred in respect of the dog or cat.
- (2) The pound master must, if the provisions of subsection (1) have been complied with, surrender the dog or cat concerned to the person claiming it.

14. Destruction or sale of impounded dogs and cats

- (1) If an impounded dog or cat is not claimed by a person entitled thereto within 7 days after the dog or cat has been impounded, the pound master may in the manner prescribed in section 5(1) of the Animals Protection Act, 1962 (Act No. 71 of 1962), destroy such dog or cat or cause it to be destroyed, or may sell such dog or cat or cause it to be sold.
- (2) The pound master must have any unsterilized female dog or cat sterilised before it is sold in terms of subsection (1) and must recover the costs incurred from the buyer.

CHAPTER 5
MISCELLANEOUS

15. Offences and penalties

- (1) Any person who –
- (a) contravenes or fails to comply with any provision of this By-law; or
 - (b) fails to comply with any notice issued for the purposes of this By-law; or
 - (d) fails to comply with any lawful instruction given for the purposes of this By-law; or
 - (e) obstructs or hinders any authorised official or employee of the Council in the execution of his or her duties under this By-law,

is guilty of an offence and liable on conviction to a fine not exceeding five hundred rand or in default of payment to imprisonment for a period not exceeding three months and in the case of a continuing offence, to a further fine not exceeding R100, or in default of payment to imprisonment not exceeding one day, for every day during the continuance of such offence after a written notice has been issued by the Council and served on the person concerned requiring the discontinuance of such offence.

16. Presumptions

If in any legal proceedings instituted under this By-law against any person it is alleged that –

- (a) he or she is keeping a dog or cat over the age of six months;
- (b) he or she is keeping an unsterilized female dog or cat over the age of six months; or
- (c) he or she is keeping a female dog or cat over the age of six months without having written proof regarding its sterilisation,

such dog or cat is deemed to be over the age of six months or to be unsterilized, as the case may be, until the contrary is proved.

17. Repeal and amendment of laws and savings

The By-laws listed in Schedule 1 are hereby repealed to the extent indicated in the third column thereof and any other provision in any other by-law which is inconsistent with the provisions of this By-Law.

18. Short title

This By-law is called the Overstrand Municipality: By-law relating to the keeping of Dogs and Cats, 2008.

SCHEDULE 1

REPEAL OF LAWS AND SAVINGS

NUMBER AND YEAR OF NOTICE	TITLE OR SUBJECT OF LAW	EXTENT OF REPEAL
P.N 0631/ 1930	Kleinmond Local Board : General Series of Regulations-relating to the keeping of dogs	S 53, 54
P.N 0081/ 1931	Hermanus Municipality : General Series of Regulations-relating to the keeping of dogs	S 56 to S 64
P.N 0114/1933	Gansbaai Local Board: General Series of Regulations	S 53, 54
P.N 0194/ 1937	Municipality of Stanford : Additional Regulations	S 187, 188, 189, 190
P.N. 275/1960	Kleinmond Municipality: Regulations relating to the keeping of dogs	The Whole
P.N. 574/1964	Stanford Municipality: Regulations relating to the keeping of dogs	The Whole
P.N. 577/1964	Gansbaai Municipality: Regulations relating to the keeping of dogs	The Whole
P.N. 815/1969	Gansbaai Municipality: Amendment to the Regulations relating to the keeping of dogs	The Whole
P.N 0543/ 1975	Hermanus Municipality : By-Law relating to the keeping of dogs	The Whole
P.N. 212/1981	Stanford Municipality: By-Law relating to the keeping of dogs	The Whole
P.N 0707/1982	Hermanus Municipality : Amendment to the By-Law relating to the keeping of dogs	The Whole
P.N. 757/1985	Betty's Bay Municipality: By-law relating to the control and keeping of dogs	The Whole
P.N 0027/1986	Hermanus Municipality : Amendment to the By-Law relating to the keeping of dogs	The Whole
P.N. 394/1987	By-law relating to keeping of dogs in the local areas of Agulhas, Infanta, Pearly Beach, Struisbaai and Waenhuiskrans	All provisions relating to Pearly Beach
P.N 551/ 1987	Gansbaai Municipality : Commonage By-Law	S 8
P.N 0215/1989	Hermanus Municipality : Amendment to the By-Law relating to the keeping of dogs	The Whole
P.N 0532/1991	Hermanus Municipality : General Amendment to By-Laws	Those provisions relating to the keeping of dogs
P.N. 395/1990	Gansbaai Municipality: By-law relating to the keeping of dogs	The Whole
P.N. 486/1990	By-law relating to the keeping of dogs: Correction Notice	The Whole