

OVERSTRAND MUNICIPALITY: AMENDMENTS TO DRAFT ENVIRONMENTAL MANAGEMENT OVERLAY ZONE REGULATIONS

Explanatory note:

[] Words in bold font in bold square brackets indicate omissions from the Overstrand Municipality Draft Environmental Management Overlay Zone Regulations 30 September 2016

..... Words underlined with a solid line indicate insertions to the Overstrand Municipality Draft Environmental Management Overlay Zone Regulations 30 September 2016

CHAPTER 1: INTERPRETATION, OBJECTS AND APPLICATION OF THE REGULATIONS:

17 Definitions

17.1. ~~[.]~~¹ the Overstrand Municipality By-Law on Municipal Planning, ~~[2013]~~ 2015;

17.1. ~~[.]~~² the National Environmental Management Act, 1998 (Act 107 of 1998);

17.1. ~~[.]~~³ the National Environmental Management: Integrated Coastal Management Act, 2008 (Act 24 of 2008);

17.1. ~~[.]~~⁴ the National Environmental Management Air Quality Act, 2005 (Act 39 of 2004);

17.1. ~~[.]~~⁵ the National Environmental Management: Biodiversity Act, 2004 (Act 10 of 2004);

17.1. ~~[.]~~⁶ the National Environmental Management: Protected Areas Act, 2003 (Act 57 of 2003);

17.1. ~~[.]~~⁷ the National Environmental Management: Waste Act, 2008 (Act 59 of 2008);

17.1. ~~[.]~~⁸ the National Water Act, 1998 (Act 36 of 1998);

17.13 "ISO 14001" means the international standard that specifies the requirements for effective environmental management as per the International Organisation of Standards (ISO);

17.~~[13]~~¹⁴ "land use authorisation" means any authorisation, consent, permit or exemption granted under the Land Use Planning Ordinance 15 of 1985, Land Use Planning Act, 2015; Overstrand Municipality By-Law on Municipal Planning, ~~[2013]~~ 2015 or any other legislation that governs the use of land within the municipal coastal zone;

17. ~~[14]~~¹⁵ "NEMA" means the National Environmental Management Act, 1998 (Act No. 107 of 1998);

17.~~[15]~~¹⁶ "NEM:AQA" means the National Environmental Management Air Quality Act, 2005 (Act 39 of 2004);

17.~~[16]~~ ¹⁷ "NEMBA" means the National Environmental Management: Biodiversity Act, 2004 (Act 10 of 2004);

17.~~[17]~~¹⁸ "NEMPAA" means the National Environmental Management: Protected Areas Act, 2003 (Act 57 of 2003);

17. ~~[18]~~¹⁹ "NEMWA" means the National Environmental Management: Waste Act, 2008 (Act 59 of 2008);

17. ~~[19]~~²⁰ "NWA" means the National Water Act, 1998 (Act 36 of 1998);

17. ~~[20]~~21 "Overstrand Municipal Area" means the geographical area over which the Overstrand Municipality has jurisdiction;

17.~~[21]~~22 "permissible activity" means an activity listed in Schedule B to these regulations that is permissible within a particular EMOZ only with the Council's written consent;

17. ~~[22]~~23 "prohibited activity" means an activity listed in Schedule A to these regulations that is prohibited within a particular EMOZ;

17.~~[23]~~24 "Provincial Department" means the Department of Environmental Affairs and Development Planning or any other department within the Provincial Government of the Western Cape to which responsibility for coastal management may be transferred;

17. ~~[24]~~25 "spatial development framework" means a spatial development framework referred to in section 26 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

17.~~[25]~~26 "littering" means the act of discarding waste in public areas, other than in a public litter container;

17. ~~[26]~~27 "maintenance" means actions performed to keep a structure or system functioning or in service on the same location, capacity and footprint;

17.~~[27]~~28 "maintenance management plan" means a management plan for maintenance purposes defined or adopted by the competent authority;

17. ~~[28]~~29 "pathway" means an area that has been planned and signposted by the Municipality to facilitate pedestrian or bicycle traffic, where vegetation has been cleared to facilitate public access and where a sandy, gravel covered or concrete surface exists;

17.~~[29]~~30 "Special Management Areas" are areas of excellence and good practice, to be managed in accordance with ISO 14001 Environmental Management Systems to achieve sustainable development;

17.~~[30]~~31 "staying overnight" means sleeping or otherwise taking shelter in any building, informal structure, infrastructure or vegetation on Municipal open space properties between the hours of 20:00 and 06:00;

17.~~[31]~~32 "utility services" means the provision by the Municipality of basic services in the discharge of its constitutional responsibilities including water, electricity, waste removal, storm water management, municipal public transport and municipal public works.

CHAPTER 2: SPECIFIC ENVIRONMENTAL MANAGEMENT OVERLAY ZONE REGULATIONS:

20 COASTAL PROTECTION ENVIRONMENTAL MANAGEMENT OVERLAY ZONE ("COASTAL PROTECTION EMOZ"):

20.5[.]3 Management of Indigenous Coastal Vegetation:

20.5. ~~[.]~~3.2 The Municipality may implement measures to manage vegetation within a Coastal Reserve by burning (with the consent of the Chief Fire Protection Officer), thinning, pruning, brush-cutting, chipping and removing vegetation where appropriate,[according to the management plan for each Coastal Reserve]

[20.5.. 6.3 All organs of state that own land within the Rural Coastal Protection EMOZ

must compile and IAS monitoring, control and eradication plan for land under their control. Copies of these plans and an annual report on implementation status must be submitted to the municipality. Should they fail to do so, the municipality may report the matter to the Department of Environmental Affairs, Biodiversity Directorate.]

20.7[.]6.2 Public access to the coastline must be protected through appropriate zoning of land (for example to Public Open Space Zone [III] I) and the designation of such land as Public Places under the municipal zoning scheme and/or the registration of public access servitudes against the title deeds of private land.

22.5[.]2 Limiting and/or prohibiting inappropriate land uses in the buffer zone of National, Provincial and /or Municipal Nature Reserves in the Overstrand:

22.5[.]2.1 A list of activities that are prohibited or that require written Council consent [permissible only with the consent of the Council] are set out in Schedules A and B.

22.5[.]2.2 In deserving cases, where there is no NEMA requirement for an Environmental Impact Assessment ("EIA") process and Environmental Management Plan ("EMP"), the Municipality may **[impose the need for an EIA and/or EMP in terms of the duties of care under section 28 of NEMA and/or the NWA]** request additional information and/or an EMP for approval by the Municipality prior to granting its written consent and/or approving building plans or any development.

24.5[.]1 Designation of categories for undeveloped conservation worthy land and adjacent buffer areas:

24.5[.]1.1.1 Category A: **[eg. Milkwood Forest, Franskraal]** Pristine Ecosystems

24.5[.]1.1.2 Category B: **[eg. Willem-Appel Dam]** Semi-Modified Ecosystems

24.5[.]1.1.3 Category C: Modified Ecosystems **[eg.Paddevlei]** Modified Ecosystems

CHAPTER 3: APPLICATION AND APPROVAL PROCEDURES:

25 The Overstrand Municipality By-Law on Municipal Planning, **[2013]** 2015 will apply in respect of all applications, processes and decisions contemplated in these Regulations.

26 Appeals:

26.1 Any person who is dissatisfied by a decision taken by the Council or by delegated authority in terms of these Regulations may appeal in writing to the municipal appeal authority in accordance with the Overstrand Municipality By-Law on Municipal Planning, **[2013]** 2015.