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## CONTENTS

## INHOUD

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Page

Bladsy

### Local Authority

### Plaaslike Owerheid

Swellendam Municipality: By-Law Relating to the Prevention of Public Nuisances and Control over the Keeping of Animals ..... 2

Swellendam Munisipaliteit: Swellendam Verordening insake Openbare Oorlaste en Oorlaste wat Spruit uit die Aanhou van Diere ..... 22

**SWELLENDAM MUNICIPALITY****BY-LAW RELATING TO THE PREVENTION OF PUBLIC NUISANCES AND CONTROL OVER THE KEEPING OF ANIMALS**

To control public nuisances, licensing of dogs and the keeping of animals and activities; and to provide for matters connected therewith.

**PREAMBLE**

WHEREAS section 156(2) and (5) of the Constitution provides that a municipality may make and administer by-laws for the effective administration of the matters which it has the right to administer, and to exercise any power concerning a matter reasonably necessary for, or incidental to, the effective performance of its functions;

AND WHEREAS Part B of Schedule 5 to the Constitution lists control over public nuisances and the licensing of dogs as a local government matter to the extent set out in section 155(6) (a) and (7);

BE IT ENACTED by the Council of the Swellendam Municipality, as follows:—

**TABLE OF CONTENTS**

1. Definitions

2. Application of this By-Law

**CHAPTER 1: GENERAL PROVISIONS RELATING TO PUBLIC NUISANCES**

3. Public nuisances prohibited

3.1 General provisions relating to public nuisances

3.2 Behaviour and conduct

3.3 Unlawful occupation

3.4 Offences and non-compliance

**CHAPTER 2: GENERAL PROVISIONS RELATING TO KEEPING OF ANIMALS**

4. Permission to keep animals

5. Plans for structures and management

6. Consideration of application and imposition of conditions

7. Visibility of structures on premises

8. Waiving of requirements and withdrawal of authorisations

9. Validity of authorisations

10. Duties of owner or keeper of animal

11. Animals kept in unsatisfactory manner and animal cruelty

12. Seizure, Destruction and sterilisation of animals

13. Hawking of animals

#### CHAPTER 3: PROVISIONS RELATING TO THE KEEPING OF DOGS, CATS AND PETS

14. Number of pets, dogs and cats

15. Breeder of pets, dogs and cats

16. Conditions, restrictions and withdrawal

#### CHAPTER 4: DOG KENNELS, CATTERIES, PETSHOPS AND PET PARLOURS

17 Permission to operate

#### CHAPTER 5: CO-OPERATION BETWEEN MUNICIPALITIES

18. Service delivery agreements

19. Powers of municipality in case of omission by District Municipality

#### CHAPTER 6: GENERAL PROVISIONS

20. Right of entry and inspection

21. Servicing and or publication of notices

22. Serving of documents and process

23. Transitional provisions

24. Appeal

25. Offences and Penalties

26. Exemptions

27. Indemnity

28. Conflict with other legislation

29. Repeal of by-laws

30. Short title and commencement

## 1. Definitions

In this By-Law, unless the context otherwise indicates—

**"agent"**, in relation to the owner of a property, means a person appointed by the owner of the property—

(a) to receive rental or other payments in respect of the property on behalf of the owner; or

(b) to make payments in respect of the property on behalf of the owner;

**"animal"** means any equine, bovine, sheep, pig, goat, poultry, camel, cat, dog, or other domestic animal or bird, or any wild animal or reptile which is in captivity or under the control of a person, or insects such as, but not limited to, bees which is kept or under control of a person, and include any pet;

**"animal protection organisation"** means a registered animal protection organisation such as the Society for the Prevention of Cruelty to Animals (SPCA) or the Karoo Animal Protection Society (KAPS ) or any other similar registered organisation;

**"authorised official"** means an officer authorised in terms of section 8 of the Animals Protection Act, 1962 (Act 71 of 1962) and any official of the municipality who has been authorised by the municipality to enforce the provisions of this By-Law;

**"bird"** means a pigeon, peafowl, pheasant, partridge, canary, budgerigar, parrot, ostrich and any other domesticated bird or wild bird which is in captivity or under control of a person;

**"breed"** means a population of animals which produces progeny possessing a high degree of genetic stability as evidenced by identifiable uniformity in breed standards and performance;

**"breeder"** means the owner of a breeding female animal at the time of natural or artificial conception or at the birth of progeny;

**"cattery"** means any establishment where cats are bred or boarded;

**"district municipality"** means the Overberg District Municipality established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with this By-Law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

**"drunk"** means a person who, by reason of the alcohol which he or she has consumed, has lost control of his or her mental or physical faculties, or both, to such an extent as to render him or her incapable of comporting him- or herself, or of performing any act in which he or she is engaged, with safety to him- or herself or with that regard to the rights of others which the law demands;

**"municipality"** means the Swellendam Municipality established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, councillor, duly authorised agent or any employee acting in connection with this By-Law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

**"municipal manager"** is the person appointed by the municipality in terms of Section 82 of the Municipal Structures Act, Act 117 of 1998, and includes a person—

(a) acting in such position; and

(b) to whom the municipal manager has delegated any power, function or responsibility;

**"objectionable material"** means garden litter, rubbish, waste material, grass, vegetation, rubble, manure, scrap metal, derelict motor vehicles or motor vehicle wrecks or disused parts thereof, refuse from any building operations, or any refuse capable of being dumped on any land or premises, including new or used building materials not necessarily required in connection with bona fide building operations actually in progress on any land, and includes any solid, liquid or gas which is or may become offensive or dangerous or injurious to health or which materially interferes with the ordinary comfort or convenience of the public or which is detrimental to the environment;

**"owner"**:

(a) in relation to an animal, includes the person having the possession, charge, custody or control of such animal;

(b) in relation to property includes an occupier, lessee, servitude holder, trustee, executor, curator or assignee, agent or administrator of such property;

**"pet"** means a tame animal which is kept in a household for companionship and amusement;

**"pet parlour"** means an establishment where pets are groomed;

**"pet shop"** means an establishment where pets are kept for trading purposes;

**"poultry"** means any fowl, goose, ostrich, duck, pigeon, dove, turkey, muscovy, guinea-fowl, peacock or peahen or bird whether domesticated or wild;

**"premises"** means:

(a) any piece of land registered in a deeds registry as an erf, lot, plot, or stand as part of a township, 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; or

(b) land or a portion of land, including a public place, whether or not a building or structure has been constructed or erected on such land or portion thereof; or

(c) a building, structure, tent or caravan and the land on which it is situated and includes any vehicle, carriage, ship or boat;

**"public nuisance"** means any act or omission or condition on any premises or public place, including any building, structure or growth thereon, which is offensive or dangerous, or which materially interferes with the ordinary comfort, convenience, peace or quiet of other people or which adversely affects the safety of people, and

**"nuisance"** has the same meaning;

**"public place"** means any street, pavement, land, square, building, park, recreation ground or open space which:

(a) is vested in the municipality;

(b) the public has the right to use; or

(c) is shown on a general plan of a township filed in a deeds registry or a Surveyor-General's office and has been provided for or reserved for the use of the public or the owners of erven in such township;

**"responsible authority"** means the Swellendam Municipality or any national or provincial department that may in terms of its powers and functions impose conditions or restrictions in respect of the keeping of animals;

**"street"** means any road, street or thoroughfare or any section or part thereof which is commonly used by the public or to which the public has a right of access;

**"structure"** means any container, stable, shed, pigsty, kraal, aviary, paddock, poultry house, enclosure, loft or building used for human shelter, business purposes or the keeping or enclosing of animals.

## **2. Application of By-Law**

2.1 This By-Law binds private individuals and the state.

2.2 The provisions of section 4 do not apply to:

(a) premises or land used for bona fide agricultural purposes; or

(b) any premises or land identified by the municipality where the keeping of animals or the operation of pet salons, pet stores or dog and cat shelters is permissible and as such are indicated in an approved spatial development framework or zoning scheme.

2.3 A person who keeps animals on premises as contemplated in subsection (2) shall not be exempted from the provisions of any other by-laws of the municipality or legislation relating to the origin or cause of public nuisance.

## CHAPTER 1

### 3. PUBLIC NUISANCES

#### 3.1 General provisions relating to public nuisances

3.1.1 No one may cause a public nuisance.

3.1.2 Subject to the provisions of the by-law relating to roads, traffic and parking, a public nuisance is created by, but is not limited to:

(a) the overnight parking of more than one heavy vehicle or boat on premises which is zoned for residential purposes;

(b) the parking of implements or construction machinery or storing of construction equipment on premises which is zoned for residential purposes, in such a way that a nuisance is created;

(c) the repairing, washing, maintenance or servicing of a heavy vehicle, construction machinery, boat or implement on premises which is zoned for residential purposes;

(d) the washing or cleaning of any vehicle from a river or public stream;

(e) the parking of a vehicle, heavy vehicle, boat, construction machinery, trailer or implement on premises in such a manner that it or a part thereof extends over the boundaries of the premises on which it is parked.

(f) the parking of a vehicle, heavy vehicle, boat, construction machinery or trailer on a public place without the written consent of the municipality;

(g) operating a business or engaging in similar activities on residential premises, notwithstanding any approvals granted by the municipality in terms of the by-law on municipal land use planning, to the extent that a nuisance to adjacent residents is created by:

- i. the increase of an activity over and above the limits and conditions determined by the municipality when the application for the activity was originally approved in terms of legislation;
- ii. the storage of goods or materials on the premises or;
- iii. the storage of goods or materials on a public place without the written consent of the municipality;
- iv. the operation of a pump, compressor, fan or similar machinery in such a manner that a vibration or noise is caused on adjacent premises;
- v. the use of spray paints or other volatile substances in such a manner that sprays, smells or gases spread onto adjacent properties;
- vi. the manufacturing or activities related to the manufacturing of goods or materials;
- vii. the frequency of deliveries or the calling of persons at the premises;
- viii. the frequency of loading or unloading of vehicles in the street or on the premises;
- ix. the gathering of workers on or near the premises, or

- x. the frequency of the arrival, departure or parking in the street or on the premises of vehicles attached to the activities on the premises;

(h) allowing buildings or vacant land or any building or structure thereon or portion thereof or the fencing on any premises to become:

- i. dilapidated, neglected, unsightly, offensive or in a state of disrepair to such an extent that the values of adjacent properties are detrimentally affected;
- ii. a home or shelter for squatters or vagrants;
- iii. overgrown with neglected lawns, trees, shrubs or other cultivated or uncultivated vegetation;
- iv. inundated with an unsightly accumulation of papers, cartons, garden refuse, rubble and/or other waste materials;
- v. unsightly or offensive for the neighbours or the general public due to the disorderly storage or parking of vehicles or machinery not regularly used;
- vi. a depository for waste materials; or
- vii. fail to maintain the roof-water disposal system, pipes, sewers, drains, water fittings, waste water fittings, water closet fittings and all other appurtenances forming part of or attached to any building or structure in good and sound repair, or fail to maintain the walls of any building or structure free from dampness.

(i) in relation to business premises, allowing:

- i. waste materials emanating from the activities on the premises to be deposited in a street refuse bin;
- ii. waste materials emanating from the activities on the premises to be deposited on a part of the premises which is accessible from the street or sidewalk, unless it is in a container provided or approved by the municipality;
- iii. the display of goods for sale on a part of the premises outside of a building, which is accessible from the street or sidewalk, but does not form part of the street or the sidewalk;
- iv. a vehicle to be parked on the premises in such a manner that part of the vehicle extends over a boundary of the premises;
- v. the means of advertising or promotion to have the effect that a distraction or danger is caused for passing vehicular or pedestrian traffic, a gathering of persons is allowed to form in the vicinity of the premises, or that pedestrians are prevented from using the sidewalk in front of the premises;
- vi. shop trolleys attached to the business to accumulate in a street or parking area to the extent that vehicular or pedestrian traffic is impeded or endangered;
- vii. a compressor, fan or other machinery, to operate in such a manner that a vibration or noise is caused on adjacent premises;
- viii. an increase in the frequency of deliveries or callers at the premises to such an extent that occupiers of adjacent premises are prevented from gaining normal access to their premises;



- ix. vehicles attached to the business to be parked in front of adjacent premises in such a manner that the occupiers are prevented to proceed with the normal operation of their activities; and
- x. the use of any stoep, veranda or alley or adjoining vacant land for the purpose of storing, stacking, dumping, disposing, displaying or keeping articles or merchandise; or
- xi. permit any shop or business premises or vacant land adjoining such shop or business premises or any portion thereof which is open or visible to the public for the public for the purpose of storing, stacking, dumping, disposing, or keeping any waste material, refuse, cartons, crates, containers or other articles of a like nature.

(j) In relation to general behaviour on streets, parking bays, parking areas and in public places by:—

- i. at any time during the day or night disturb the public peace by making unseemly noises or by shouting, insistent hooting, wrangling or quarrelling, or by collecting a crowd or by organising any demonstration or by fighting or challenging to fight, or by striking with or brandishing or using in a threatening manner any stick or other weapon or by any other riotous, violent or unseemly behaviour at any time of the day or night, or by loitering in any street or public place or by gathering in crowds on pavements, or by drag racing.
- ii. advertise wares or services in any street or public place by means of any megaphone, loudspeaker, or similar device or by insistent shouting, striking of gongs, blowing of horns or ringing of bells.
- iii. in any street or public place use any abusive or threatening language or commit any act which may or is calculated to cause a breach of the public peace;
- iv. cleanse or wash any vehicle or part in any street or public place;
- v. discharge any fire-arm, air gun or air pistol;
- vi. bringing a vehicle to a stop or driving a vehicle in such a manner that pedestrian or vehicular traffic is impeded;
- vii. riding bicycles or similar devices in groups in such a manner that pedestrian or vehicular traffic is impeded;
- viii. pushing or parking trolleys or similar devices in such a manner that pedestrian and vehicular traffic is impeded;
- ix. walking or standing in groups in such a manner that other pedestrian or vehicular traffic is impeded;
- x. offering services or goods and articles for sale in intersections in such a manner that pedestrian or vehicular traffic is hindered and or the attention of drivers of vehicles is distracted;
- xi. offering services or goods or articles for sale from the side of the road in such a manner that vehicular or pedestrian traffic is impeded or the attention of drivers of vehicles is distracted;

- xii. operating a vehicle drawn by animals at such times when, and on such streets where, a heavy traffic flow is experienced;
  - xiii. being drunk or under the influence of drugs or using any intoxicating substance or by consuming any liquor or intoxicating substance in the public or on any public place, except where it is allowed in terms of a public notice displayed as such;
  - xiv. the display of anything which is visually offensive;
  - xv. operating any device which interferes with radio and television reception;
  - xvi. loitering in any street or public place;
  - xvii. soliciting or importuning any person for the purposes of prostitution or any other immoral act;
  - xviii. continuing to beg from a person or closely follow a person after such person has given a negative response to such begging;
- (k) depositing, leave, spill, drop or place any fruit or vegetable peels, broken bottles, glass, refuse or thing which is offensive or likely to cause annoyance, danger or injury to persons in or upon any premises, street or public place.
- (l) bathe or wash him- or herself or any animal, article or clothing in a public stream, pool, water trough, hydrant, fountain or at any place which has not been set aside by the municipality for such purpose;

### **3.2 Behaviour and conduct**

Notwithstanding the provisions of any other by-law no person shall:—

- a) dump, accumulate or place or cause or permit objectionable material to be dumped, accumulated or placed in or on any premises, or a public road, drain, water, furrow, sewer, thoroughfare, or public place except at such place or places as the municipality may from time to time set aside or approve for such purposes, provided however that the municipality may permit public garages, workshops and other trades, subject to such conditions as may be imposed in each case, to keep, store, repair, dismantle or re-assemble any motor vehicle or other vehicle or apparatus on premises approved by the municipality;
- b) carry on any trade, business or profession on any premises in the municipal area which may in the opinion of the municipality be a source or become a source of discomfort or annoyance to the neighbourhood;
- c) allow any premises to be overgrown with bush, weeds or grass or other vegetation except cultivated trees, shrubs and grass to such extent that, in the opinion of the municipality it may be used as a shelter by vagrants, wild animals or vermin or may threaten the public health or the safety of any member of the community or may promote the spreading of fires or cause the premises to be unsightly or objectionable or detrimental to the value of adjacent property;

- d) allow any premises to be dirty, neglected or infested with rodents, snakes, mosquitoes, flies, ticks, bugs or other insects harmful to health, or allow any offensive odours or gasses to emanate from such premises;
- e) keep on his premises any animal or bird which creates a disturbance or a nuisance to the neighbours by making frequent and excessive noise;
- f) be foul, misuse or damage any public convenience or any convenience provided in any public building or place of public entertainment;
- g) carry or convey, or cause or permit to be carried or conveyed through or in any street or public place, any objectionable material or thing, liquid or solid, which is or may become offensive or dangerous or injurious to health, unless such objectionable material or thing is covered with a suitable material to prevent the creation of any nuisance;
- h) bury to dispose of any corpse in any unauthorised place;
- i) permit the carcass of any animal, being his property or of which he is in charge, and which has died on his premises or elsewhere in the municipal area, to remain unburied;
- j) cause or permit any foul or polluted water or any foul liquid or objectionable material to run or flow from any premises owned or occupied by him, whether occupied for trade, business, manufacturing, dwelling or any other purpose, into any street or on any land.

### **3.3 Unlawful occupation**

- 3.3.1 No person shall, without the permission of the municipality, occupy or permit to be occupied for human habitation a caravan, tent or other similar shelter of any description except on an authorised camping or caravan site controlled by the municipality or any other camping or caravan site which conforms with the provisions of the by-laws relating to such caravan parks or camping sites.
- 3.3.2 The municipality may serve notice on any person who is occupying a caravan, tent or shelter in contravention of subsection (1) to vacate such caravan, tent or shelter within 3 days after the service of such notice, failing which, such person shall be guilty of an offence.

### **3.4 Offences and non-compliance**

Any person who contravenes or fails to comply with any of the provisions of this section of this By-law or fails to comply with any notice issued thereunder shall be guilty of an offense.

## **CHAPTER 2**

### **GENERAL PROVISIONS RELATING TO KEEPING OF ANIMALS**

#### **4. Permission to keep animals**

- 4.1 No person may keep or allow to be kept on any premises any animals, excluding pets, without the written permission of the municipality.

- 4.2 No person shall keep an animal if the premises where such an animal is kept, is not properly and adequately fenced to keep such an animal inside.
- 4.3 Any person who applies for a permit to keep a wild animal must, when submitting an application contemplated in subsection 4.1, furnish the municipality with a captivity permit issued by the Department of Economic Affairs, Environment and Tourism.
- 4.4 Bees may only be kept on premises zoned for agricultural purposes.
- 4.5 The municipality may determine the number, kind and gender of animals that may be kept as well the areas where the keeping of such animals is prohibited.
- 4.6 In order to consider an application in terms of subsection 4.1, the municipality may obtain the input or comments of the owners or occupants of surrounding premises and in the case of an advertisement in the local newspapers, recover the cost of such an advertisement from the applicant.
- 4.7 No person may keep more animals than or of a different kind to that determined by the Municipality in terms of subsection 4.1.
- 4.8 The keeping of ducks, peafowls, roosters, turkeys and geese in a residential area is forbidden.
- 4.9 No poultry that creates a nuisance by crowing or crackling shall be kept.
- 4.10 A person who contravenes or who fails to comply with any provisions of section 4 commits an offence.

## **5. Plans for structures and management**

The municipality may require from applicants who apply to keep animals that they must submit a written application and a detailed site plan according to specifications set by the municipality and the place an advertisement in the newspapers to seek public comments on the application.

## **6. Consideration of application and imposition of conditions**

- 6.1 The municipality may, after consideration of the following refuse to grant consent or grant consent:
- a) the input or comments obtained in terms of section 4.5;
  - b) the location, geographical features or size of the premises in respect of which the application is submitted;
  - c) the documents and site plans submitted in terms of section 5; or
  - d) any other information relating to the application including, but not limited to, grazing, fencing and availability of water;

6.2 Where consent is refused, the municipality must furnish the applicant with the reasons for such refusal and at the same time advise him or her of the right of appeal in terms of section 24.

6.3 Where consent is granted, the municipality may impose conditions.

## **7. Visibility of structures on premises**

7.1 All structures in which animals are kept must be suitably screened from any street.

7.2 A person who fails to comply with subsection 7.1 commits an offence.

## **8. Waiving of requirements and withdrawal of authorisations**

The municipality may, after considering conditions particular to the property and provided that no objection is received from the owners or occupants of surrounding premises, waive any or all of the requirements of chapter 2 of this By-Law and impose other conditions and may withdraw any consent granted in terms of this By-Law if any of the conditions imposed are not adhered to.

## **9. Validity of authorisations**

All authorisations to keep animals granted in terms of any by-law or regulation repealed are deemed to have been granted in terms of this By-Law.

## **10. Duties of owner or keeper of animal**

10.1 The owner or keeper of an animal:

- a) may not cause or allow an animal to interfere with the comfort, convenience, peace or quiet of other people;
- b) Must display a notice displayed in a conspicuous place to the effect that an animal is kept;
- c) must provide such animal with shelter, water and proper food ;
- d) must adhere to any other legislative requirements in respect of the keeping of animals such as the prevention, control and the eradication of infectious diseases, the prevention of the spreading of such disease and related matters and must kept written certification by Veterinarians as evidence of vaccinations, immunizations, sterilizations and similar conditions;
- e) must maintain the premises on which an animal is kept in good repair and in a neat condition in order to prevent the occurrence of a public nuisance; and
- f) must exercise control over his or her animals in order to prevent damage to property or gardens;
- g) may not leave or allow any animal to be on any section of a public road or leave such animal in a place from where it may stray onto such section of a public road, unless it is under proper supervision and control;
- h) may not allow any animal to enter upon a public place or private land, which is not the land on which is detained, unless it is under proper control and supervision and, in the case of a dog, on a leash;

- i) may not allow any animal, which is ferocious, vicious or dangerous, to be in any public place, unless it is muzzled and held on a leash and under control of some responsible person;
  - j) may not allow a dog to attack, worry or frighten any person or animal unless in self-defence;
  - k) may not allow any animal to constitute a source of danger or injury to a person outside the premises on which such an animal is kept;
  - l) may not allow any animal to be a source of danger to employees of the municipality entering such premises for the purpose of carrying out their duties;
  - m) may not allow a dog to interfere materially with the comfort, convenience, peace or quiet of neighbours or of persons outside any premises where it is kept by persistently barking, -yelping, -howling, -whining, charging any vehicles, animals, poultry, pigeons, or behaving in any other unacceptable manner;
  - n) or the person in charge of a dog in a street or public place must remove the droppings of such a dog.
- 10.2 In the event of a contravention of any of the provisions of subsection 10.1, the municipality may remove any animal and serve a notice on the owner, occupier or alleged offender to comply with the provisions of subsection 10.1 within the time stipulated in the notice.
- 10.3 In the event of a contravention of any of the provisions of this By-Law or any legislation applicable to the protection of animals, the municipality may notify any officer of any society for the prevention of cruelty to animals who may act in terms of the Animals Protection Act, 71 of 1962.
- 10.4 If the owner, occupier or alleged offender notifies the municipality within the time stipulated in the notice that compliance with the notice served in terms of subsection 10.2 has been effected, the municipality may return such animal and the owner will be liable for the costs incurred by the municipality.
- 10.5 In the event of non-compliance with a notice served in terms of subsection 10.2 and without prejudice to the municipality's right to prosecute, any animal removed in terms of subsection 10.2 will be regarded as having been impounded and the provisions of the municipality's impoundment of animals by-law will apply.
- 10.6 A person who contravenes or fails to comply with any of the provisions of subsection 10.1 commits an offence.
- 11. Animals kept in unsatisfactory manner and animal cruelty**
- 11.1 Whenever animals kept on any premises are a public nuisance, the municipality may by written notice require the owner or occupier of such premises to remove the cause of the nuisance.
- 11.2 The municipality may prescribe the steps that need to be taken or the work that must be done to remove the cause of and to abate any nuisance.

- 11.3 Any activities undertaken by the owner in terms of a notice contemplated in subsection 11.1 will be for such owner's own account.
- 11.4 If an owner fails to comply with a notice issued in terms of subsection 11.1 the municipality may take the steps required and recover the cost thereof from such owner.
- 11.5 A person who fails to comply with a notice contemplated in subsection 11.1 commits an offence.
- 11.6 Any person who:
- 11.6.1 possesses, keeps, imports, buys, sells, trains, breeds, or has under his control an animal for the purposes of fighting any other animal;
- 11.6.2 baits, provokes or incites any animal to attack another animal or to proceed with fighting another animal;
- 11.6.3 for financial gain or as a form of amusement promotes animal fights;
- 11.6.4 allows any of the acts referred to in subsections 11.1 to 11.3 take place on any premises or place in his or her possession or under his or her charge or control;
- 11.6.5 owns, uses or controls any premises or place for the purposes or partly for the purpose of presenting animal fights on such premises or place or who acts or assist in the management of such premises or place, or who receives any consideration for the admission of any person to such premises or place; or
- 11.6.6 is present as a spectator at any premises or place where any of the acts referred to in subsection is taking place or where preparation are being made for such acts,
- 11.6.7 is guilty of an offence and liable on conviction to a fine of R20, 000-00 (twenty thousand rand) or to imprisonment for a period not exceeding two years;
- 11.6.8 In any prosecution it is presumed, unless the contrary is proved, that an animal that is found at any premises or place is the property or under control of the owner of those premises or that place, or is the property or under the control of the person who uses or is in control of the premises or place.

## **12. Seizure, impounding, detention, destruction and sterilisation of animals**

- 12.1 The municipality may order the seizure, impoundment, detention, euthanasia or destruction of an animal which is:
- a) dangerous or ferocious; or
  - b) injured or diseased to such an extent that it would be humane to do so;
  - c) found in any public road or public place in contravention with the provisions of this By-Law.

- 12.2 Such seizure, impounding, detention or destruction in terms of this By-law must be read with the stipulations of the municipal by-law on the impounding of animals and can mean seizure, impounding, detention or destruction by the municipality or an animal protection organisation, or a veterinary surgeon as provided for in this By-Law.
- 12.3 An animal to be destroyed in terms of subsection 12.1 must be euthanised by a registered veterinary surgeon or where such veterinary surgeon is not available, by an authorised trained official that must bring about such destruction in a humane manner.
- 12.4 An animal impounded in terms of subsection 12.1 may be released to the owner of such an animal upon payment of a fee determined by the municipality or the relevant animal protection organisation or the veterinary surgeon, as applicable, in addition to any costs, fines or taxes which may be outstanding in respect of such an animal.
- 12.5 For the following purposes, all dog bitches and cat females must be spayed unless the bitch or female, as well as her progeny, is shown to be registered:
- (a) for the welfare of the dog or cat;
  - (b) to prevent nuisance;
  - (c) to prevent stray animals.
- 12.6. The owner of a sterilised dog or cat must obtain from a registered veterinarian proof that such dog or cat has been sterilised and must produce such document for inspection on demand of any authorised official.
- 12.7 Registration in terms of subparagraph 12.5 above means to be registered with, but not restricted to, an applicable registration body, inter alia 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.
- 12.8. A person who contravenes any provisions of section 12.1; 12.5 or 12.6 or fails to comply with any notice or order therewith commits an offence.

### **13. Hawking of animals**

- 13.1 No person may hawk an animal in a street or public place or from a movable structure or vehicle.
- 13.2 A person who contravenes subsection 13.1 commits an offence.



## CHAPTER 3

### PROVISIONS RELATING TO KEEPING OF DOGS, CATS AND PETS

#### 14. Number of pets, dogs and cats:

14.1 No person may, subject to the provisions of subsection 14.3, keep more than two dogs or more than two cats, or allow more than two dogs or more than two cats, over the age of six months, to be kept on any premises.

14.2 Subsection 14.1 does not apply to any person who:

- a) has written permission from the municipality, in terms of subsection 14.3, to keep a bigger number of dogs or cats;
- b) operates kennels or a cattery;
- c) is the owner or manager or is in charge of, a pet shop and who has written proof that all the dogs or cats under control of such owner or manager have been vaccinated against rabies, canine distemper, hepatitis, kennel cough, parvovirus and any other infectious dog and cat diseases.
- d) Is the owner or is in charge of premises where guide dogs are being kept or trained; and such dogs are being kept or trained under the auspices of the Guide Dog Association of SA
- e) Is the owner or manager of a veterinary clinic; or
- f) operates a pound.

14.3 Permission to keep more dogs or cats than the prescribed number.

- a) A person who wants to keep a bigger number of dogs or cats on premises than the number permitted in terms of subsection 14.1 must apply to the municipality for consent;
- a) An application in terms of subsection 14.3 (a) must be in writing and must be accompanied by a prescribed fee and must contain an exposition of the breed, gender and number of dogs and or cats applied for.
- b) The municipality may require the applicant to provide any information which it considers relevant to enable it to make an informed decision.

14.4 A person who contravenes or fails to comply with any of the provisions of section 14.1 commits an offence.

#### 15. Breeders of pets, dogs and cats

15.1 A person who breeds pets, dogs or cats must obtain the written approval of the municipality.

15.2 The provisions of section 5 are, with the necessary adjustments, applicable to an application in terms of subsection 15.1.

15.3 A breeder of dogs and cats who wishes to keep more than two dogs or cats must obtain permission from the municipality according to the stipulations of section 14 (3).

- 15.5 A person who contravenes or fails to comply with any of the provisions of section 15 commits an offence.

#### **16. Conditions, restrictions and withdrawal**

- 16.1 The municipality's consent in terms of any provisions of this By-Law may be subject to any conditions that the municipality, in consultation with another responsible authority, may deem fit to impose.
- 16.2 Where a person contravenes or fails to adhere to a condition or restriction set in terms of subsection 16.1 the municipality may, after hearing that person, withdraw its consent and may order the removal of animals from the premises for care and safekeeping by an animal welfare organisation or pound.
- 16.3 Any costs incurred by the municipality for the removal and safekeeping of animals in terms of subsection 16.2, will be recovered from the owner or keeper of such animals.

### **CHAPTER 4**

#### **DOG KENNELS, CATTERIES, PESHOPS AND PET PARLOURS**

##### **17. Permission to operate**

- 17.1 No kennel, cattery, pet shop or pet parlour may be operated without the permission of and subject to conditions imposed by the municipality.
- 17.2 A person operating a kennel, cattery, pet shop or pet parlour may not conduct the business in such a manner so as to cause any nuisance or annoyance to other people, or in any way to contravene the Animal Protection Act, 1962, (Act 71 of 1962).
- 17.3 A person who contravenes or fails to comply with any of the provisions of section 17 commits an offence.

### **CHAPTER 5**

#### **CO-OPERATION BETWEEN MUNICIPALITIES**

##### **18. Service delivery agreements**

In order to achieve optimal service delivery in terms of this By-Law, the municipality may enter into agreements with the district municipality with which legislative and executive powers are shared.

##### **19. Powers of municipality in case of omission by District Municipality**

If the service delivery referred to in section 18 is impeded by the refusal or omission by the district municipality to execute any of the arrangements envisaged in an agreement in terms of section 18 the municipality may, subject to the principles of cooperative governance as set out in section 41 of the Constitution of the Republic of South Africa, 1996, proceed to give effect to such arrangement and any

expenses incurred by the municipality in giving effect to such an arrangement, may be recovered from the district municipality.

## **CHAPTER 6**

### **GENERAL PROVISIONS**

#### **20. Right of entry and inspection**

- 20.1 Any duly authorised employee of the municipality is authorised to inspect any premises within the municipal area in order to determine whether there is compliance with the provisions of this By-Law; provided that a private dwelling may not be entered for routine inspection purposes without the permission of the owner or occupier.
- 20.2 When entering premises in terms of subsection 20.1, such employee must on request by any person, identify him- or herself by producing written proof of authorisation.
- 20.3 The authorised employee may be accompanied by a person reasonably required to assist in conducting the inspection.
- 20.4 Any person who fails to give or refuses access to any authorised official, or obstructs or hinders him or her in the execution of his or her duties under this By-Law, or who fails or refuses to give information that he or she may lawfully be required to give to such official, or who gives false or misleading information knowing it to be false or misleading, commits an offence.

#### **21. Serving and or publication of notices**

- 21.1 The municipality may cause a notice of its intention to consider an application under any section of this By-Law to be published in the local newspapers or to be served on any person whose rights or legitimate expectations are materially and adversely affected by the application.
- 21.2 The cost of any notices in terms of subsection 22.1 can be recovered from the applicant.

#### **22 Serving of documents and process**

- 22.1 Whenever a notice, order, demand or other document is authorised or required to be served on a person in terms of this By-Law, it shall be deemed to have been effectively and sufficiently served on such person:
- a) when it has been delivered to him personally;
  - b) when it has been left at his place of residence or business in the Republic with a person apparently over the age of sixteen years;
  - c) when it has been emailed to his last known email address;
  - d) when it has been posted by registered or certified mail to his last known residential or businesses address in the Republic and an acknowledgment of the posting thereof is produced;

- e) if his address in the Republic is unknown, when it has been served on his agent or representative in the Republic in the manner provided by subsection 22.1 (a), (b) or (c); or;
- f) if his address and agent in the Republic are unknown, when it has been posted in a conspicuous place on the immovable property (if any) to which it relates.

22.2 When any notice, order, demand or other document is authorised or required to be served on a person, it is not necessary to name him or her but it will be sufficient if he or she is described as the owner, occupier or holder of a right, whatever the cause may be.

### **23. Transitional provisions**

23.1 A person who, at the commencement of this By-Law, keeps more animals than the number contemplated in any section of this By-law may not replace animals that die or are disposed of and must gradually reduce the number of animals that may be kept.

23.2 Subject to the provisions of subsection 23.1, the provisions of the By-Law in respect of the keeping of animals do not apply to existing premises where animals are kept: Provided that the authorized officer, if he is satisfied that the application of one or more of the aforesaid requirements is necessary in order to resolve a proven complaint in respect of a nuisance, he may in writing, request the owner or person in charge of such premises upon which the nuisance occurs to meet the requirements that he may specify and within a reasonable period specified in the notice.

23.3 Subject to the provisions of subsection 23.1 and 23.2, any person who keep animals, shall within twelve (12) months from the date of publication of this By-Law, comply with the provisions implied therein.

### **24. Appeal**

A person whose rights are affected by a delegated decision of the Municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) to the municipal manager within 21 days of the date of the notification of the decision.

### **25. Offences and penalties**

25.1 A person who contravenes any provision or fails to comply with any provision of this By-Law, or fails to comply with a notice issued in terms of this By-law, commits an offence and shall on conviction be liable 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 such additional imprisonment without the option of a fine or to both

such additional fine and imprisonment for each day on which such offence is continued;  
and

- c. a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as result of such contravention or failure.

25.2 A person commits an offence if he or she—

- a) threatens, resists, hinders, obstructs or otherwise interferes with, or who uses foul or abusive language towards or at an employee or contractor of the municipality in the exercise of any powers or performance of any duty or function in terms of this By-Law; or  
b) impersonates an employee or contractor of the municipality.

## 26. Exemptions

Notwithstanding the provisions of this By-Law, the municipality may exempt any person and class of persons from any or all of these requirements and may impose any other requirements it deems appropriate.

## 27. Indemnity

The Municipality and any officer, employee, or agent of the Municipality will not be liable for the death of, injury to or theft of any animal arising as a result of or during its seizure, impounding.

## 28. Conflict with other legislation

28.2 In the event of any conflict between any provision of this By-law and National and Provincial legislation, standards, policies or guidelines, the National and Provincial legislation, standards, policies or guidelines shall prevail subject to section 151(3) and 156(4) of the Constitution.

28.2 In the event of an inconsistency between the different texts the English text shall prevail.

## 29. Repeal of by-laws

The following by-laws and any other provision in any other by-law that is inconsistent with the provisions of this By-Law are hereby revoked:

BY LAWS REVOKED	PROVINCIAL NOTICE NUMBER
By-Law relating to the keeping of Dogs Swellendam Municipal Area	PN 6319 of 20 December 2005
By –Law relating to the prevention of public nuisances	Provincial Gazette number 7338 of 5 December 2014

## 30. Short title and commencement

This By-Law is called the Swellendam By-law relating to the Prevention of Public Nuisances and Nuisances Arising from the Keeping of Animals and will come into operation on the date of publication thereof in the Provincial Gazette.

**SWELLENDAM MUNISIPALITEIT****SWELLENDAM VERORDENING INSAKE OPENBARE OORLASTE EN OORLASTE WAT SPRUIT UIT  
DIE AANHOU VAN DIERE**

Om openbare oorlaste en oorlaste wat spruit uit die aanhou van diere en aangeleenthede wat daarmee verband hou, te reguleer.

**AANHEF**

NADEMAAL artikel 156(2) en (5) van die Grondwet bepaal dat 'n munisipaliteit verordeninge kan maak en administreer vir die effektiewe administrasie van die aangeleenthede wat die reg het om te administreer, en om enige bevoegdheid uit te oefen aangaande 'n saak wat redelikerwys nodig is vir, of toevallig tot die effektiewe verrigting van sy funksies;

EN AANGESIEN Deel B van Bylae 5 by die Grondwet die beheer oor publieke oorlaste en die lisensiëring van honde lys as 'n plaaslike regeringsaangeleentheid in die mate soos uiteengesit in artikel 155(6) (a) en (7);

EN NADEMAAL die Swellendam Munisipaliteit poog om openbare oorlaste en oorlaste wat spruit uit die aanhou van diere en aangeleenthede wat daarmee verband hou, te reguleer;

VERORDEN die Swellendam Munisipale Raad soos volg:—

**INHOUDSOPGAWE**

1. Woordomskrywing
2. Toepassing van die Verordening

**HOOFSTUK 1: ALGEMENE BEPALINGS INSAKE OPENBARE OORLASTE**

3. Verbode openbare oorlaste
  - 3.1 Algemene bepalings rakende openbare oorlaste
  - 3.2 Gedrag en optrede
  - 3.3 Onwettige bewoning
  - 3.4 Misdrywe en nie-nakoming

**HOOFSTUK 2: ALGEMENE BEPALINGS INSAKE DIE AANHOU VAN DIERE**

4. Toestemming om diere aan te hou.
5. Planne vir strukture en bestuur.
6. Oorweging van aansoek en oplê van voorwaardes.
7. Sigbaarheid van strukture op persele.
8. Kwytskelding van vereistes en intrekking van permitte.

9. Geldigheid van permitte.
10. Pligte van eienaar of bewaarder van diere.
11. Diere wat op onbevredigende wyse aangehou word en wreedheid teenoor diere.
12. Beslaglegging, skut, aanhouding, afmaak en sterilisasie van diere.
13. Handeldryf met diere.

### HOOFSTUK 3: BEPALINGS INSAKE AANHOU VAN HONDE, KATTE EN TROETELDIERE

14. Getal troeteldiere, honde en katte
15. Telers van troeteldiere, honde en katte
16. Voorwaardes, beperkings en onttrekking

### HOOFSTUK 4: HONDEHERBERGE, KATTERYE, TROETELDIERSALONNE EN TROETELDIERWINKELS

17. Toestemming vir bedryf.

### HOOFSTUK 5: SAMEWERKING TUSSEN MUNISIPALITEITE

18. Diensleweringsooreenkomste.
19. Bevoegdhede van die Munisipaliteit in die geval van 'n versuim deur die Distrikmunisipaliteit.

### HOOFSTUK 6: ALGEMENE BEPALING

20. Reg van toegang en inspeksie
21. Plasing of diening van kennisgewings
22. Betekening van dokumente en proses
23. Oorgangsbepalings
24. Appèl
25. Oortredings en strawwe
26. Vrstellings
27. Vrywaring
28. Teenstrydigheid met ander wetgewing
29. Herroeping van verordeninge
30. Kort titel en inwerkingtreding

## 1. Woordomskrywing

In hierdie Verordening en tensy dit uit die samehang anders blyk, beteken:

**"agent"** met betrekking tot die eienaar van eiendom, beteken 'n persoon wat deur die eienaar aangestel is om:

(a) huur of ander betalings ten opsigte van die eiendom namens die eienaar te ontvang; of

(b) om betalings namens die eienaar ten opsigte van die eiendom te maak;

**"aanstootlike materiaal"** tuinvullis, afval, afvalmateriaal, gras, plantegroei, rommel, afvalyster, uitgediende masjinerie, verlate motorvoertuie, motorwrakke asook uitgediende onderdele daarvan, rommel van enige bouwerkzaamhede, of enige vullis wat op enige grond of perseel gestort word, met inbegrip van nuwe of gebruikte boumateriaal wat nie nodig is in verband met bona fide-boubedrywighede wat op enige gronde aan die gang is nie, en omvat dit enige vaste stof, vloeistof of gas wat aanstootlik of gevaarlik of nadelig vir die gesondheid is of kan word, of wat wesenlik inbreuk maak of kan maak op die gewone gerief van 'n persoon of wat nadelig is vir die omgewing;

**"dier"** 'n lid van die perdefamilie, bees, skaap, bok, vark, pluimvee, kameel, hond, kat of ander huisdier of voël of 'n wilde dier of reptiel wat in gevangenskap verkeer of onder die beheer van iemand is, of insekte soos, maar nie beperk tot, bye wat deur 'n persoon aangehou of beheer word, ingesluit enige troeteldier;

**"dierebeskermingsvereniging"** 'n Geregistreerde dierebeskermingsvereniging soos die Dierebeskermingsvereniging (DBV) of die Karoodierebeskermingsvereniging (KDBV) die of enige ander soortgelyke geregistreerde vereniging;

**"distriksmunisipaliteit"** die Overberg Distriksmunisipaliteit gestig in terme van Artikel 12 van die Munisipale Strukturewet, 117 van 1998, en sluit in enige politieke struktuur, politieke ampsbekleder, raadslid, behoorlik gevolmagtigde agent daarvan of enige werknemer daarvan handelende ingevolge hierdie Verordening uit hoofde van 'n bevoegdheid van die munisipaliteit wat gedelegeer of gesubdelegeer is aan gemelde politieke struktuur, politieke ampsbekleder, raadslid, agent of werknemer;

**"dronk"** 'n persoon wat weens die alkohol wat hy of sy ingeneem het beheer oor sy of haar geestes- of fisiese vermoëns, of beide, tot so 'n mate verloor het dat hy of sy nie in staat is om hom- of haarself te gedra nie, of nie in staat is om enige handeling waarmee hy of sy besig is op so 'n wyse te verrig dat dit nie 'n gevaar vir hom- of haarself inhou nie of met daardie agting vir die regte van ander soos deur die reg vereis word nie;

**"eienaar"**:

(a) met betrekking tot 'n dier, ook iemand wat in besit is van of belas is met die sorg, bewaring of beheer van sodanige dier;



(b) met betrekking tot eiendom, sluit in 'n okkupeerder, huurder, serwituuthouer, trustee, eksekuteur, kurator of aangewysde, agent of administrateur van sodanige eiendom;

**"gemagtigde beampte"** beteken 'n beampte, gemagtig ingevolge artikel 8 van die Dierebeskermingswet, 1962 (Wet 71 van 1962) en enige beampte van die munisipaliteit wat gemagtig is om die bepalings van hierdie Verordening af te dwing;

**"hondeherberg"**, enige inrigting waarvan die besigheid die teel, aanhou of afrigting van honde is insluitend skutte hetsy dit deur die Staat of andersins bedryf word;

**"kattery"**, enige inrigting waar katte geteel word of aangehou word;

**"munisipaliteit"** die Swellendam Munisipaliteit gestig in terme van Artikel 12 van die Munisipale Strukturewet, 117 van 1998, Provinsiale Kennisgewing 488 gedateer 22 September 2000 en sluit in enige politieke struktuur, politieke ampsbekleder, raadslid, behoorlik gevolmagtigde agent daarvan of enige werknemer daarvan handelende ingevolge hierdie Verordening uit hoofde van 'n bevoegdheid van die munisipaliteit wat gedelegeer of gesubdelegeer is aan gemelde politieke struktuur, politieke ampsbekleder, raadslid, agent of werknemer;

**"munisipale bestuurder"** die persoon wie as die munisipale bestuurder van die munisipaliteit aangestel ingevolge die bepalings van artikel 82 van die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet 117 van 1998) en sluit enige persoon in:

(a) wat in sodanige pos waarneem; en

(b) aan wie die munisipale bestuurder enige magte, funksie of pligte delegeer het in soverre dit die uitvoering van daardie magte, funksie of pligte aangaan;

**"openbare oorlas"** enige handeling, versuim of toestand op enige perseel of openbare plek met inbegrip van enige gebou, struktuur of gewas daarop wat aanstootlik of gevaarlik is, of wat weselik inmeng met die gewone gerief, vrede, of stilte van ander of wat die veiligheid van mense nadelig beïnvloed; en

**"oorlas"** het dieselfde betekenis;

openbare oorlas "beteken enige daad of versuim of toestand op enige perseel of openbare plek, met inbegrip van enige gebou, struktuur of groei daarop wat aanstootlik of gevaarlik is, of wat weselik inmeng met die gewone gerief, gerief, vrede of stilte van ander mense of wat die veiligheid van mense nadelig, en

**"openbare plek"** straat, sypaadjie, grond, plein, gebou, park, ontspanningsoord of oop terrein wat:

(a) by die munisipaliteit berus;

(b) die publiek die reg het om te gebruik, of

(c) getoon word op 'n algemene plan van 'n dorpsgebied in 'n aktekantoor van 'n landmeter-generaal en wat verskaf is vir of gereserveer is vir die gebruik van die publiek of die eienaars van erwe in sodanige dorpsgebied;

**"perseel"**

(a) 'n stuk grond wat in 'n aktekantoor geregistreer is as 'n erf, perseel as deel van 'n dorp, en sluit 'n perseel in wat deel uitmaak van 'n stuk grond wat as 'n dorp uitgelê is, maar nog nie geregistreer is nie of 'n gedeelte van sodanige erf en sluit residensiële persele in wat buite dorpsgebiede deur staatsdepartemente, semi-staatsinstellings of nywerhede voorsien word; of

(b) grond of 'n gedeelte grond, insluitende 'n openbare plek, hetsy of 'n gebou of struktuur op sodanige grond of gedeelte grond gebou of opgerig is; of

(c) 'n gebou, struktuur, tent of woonwa saam met die grond waarop dit staan en sluit in enige voertuig, rytuig, skip of boot.

**"pluimvee"**, enige hoender, gans, volstruis, eend, duif, kalkoen, makou, tarentaal, pou of voël hetsy dit makgemaak of wild is;

**"ras"** beteken 'n populasie van diere wat aanteel met 'n hoë graad van genetiese stabiliteit soos gedokumenteer deur identifiseerbare eenheid in rassestandaarde en prestasie;

**"teler"** beteken die eenaar van 'n vroulike teeldier ten tyde van natuurlike of kunsmatige bevrugting of by geboorte van die werpsel;

**"straat"** enige pad, straat of deurgang of enige ander plek (hetsy 'n deurgang aldan nie) wat algemeen gebruik word deur die publiek of enige gedeelte daarvan of waartoe die publiek of 'n deel daarvan die reg van toegang het;

**"struktuur"**, beteken enige houer, stal, skuur, varkhok, kraal, voëlhok, kamp, pluimveehok, duiwehok of gebou of struktuur bedoel vir menslike skuiling, sakedoeleindes of die aanhou diere;

**"troeteldier"** enige mak dier wat normaalweg in 'n huishouding aangehou word vir kamaraadskap of vermaak;

**"troeteldiersalon"** beteken 'n onderneming waar troeteldiere versorg word;

**"troeteldierwinkel"** 'n onderneming waar troeteldiere aangehou word vir handelsdoeleindes;

**"verantwoordelike owerheid"** die Swellendam Munisipaliteit of enige nasionale of Provinsiale departement wat uit hoofde van sy funksies en bevoegdhede beperking of voorwaardes ten opsigte van die aanhou van diere mag oplê;

**"voël"** enige duif, pou, fisant, patrys, kanarie, budjie, papegaai, volstruis en enige ander mak of wilde voël wat in gevangenskap is of onder beheer van iemand is.

## **2. Toepassing**

(1) Die Verordening bind privaat persone en die staat.

(2) Die bepalings van artikel 4 is nie van toepassing op:

(a) 'n perseel of grond wat vir bona fide landboudoeleindes aangewend word nie; of

(b) 'n perseel of grond wat deur die munisipaliteit geïdentifiseer is waar die aanhou van diere of die bedryf van troeteldiersalonne, troeteldierwinkels of honde- en katteherberge toelaatbaar is en as sodanig aangedui word in 'n goedgekeurde ruimtelike ontwikkelingsraamwerk of soneringskema.

(3) 'n Persoon wie diere aanhou op persele soos bedoel in subartikel (2) word nie vrygestel van die bepalings van enige ander verordeninge van die munisipaliteit of wetgewing met betrekking tot die ontstaan of veroorsaking van 'n openbare oorlas nie.

## **HOOFSTUK 1**

### **3. OPENBARE OORLASTE**

#### **3.1. Algemene bepalings ten opsigte van openbare oorlaste**

3.1.1 Niemand mag 'n openbare oorlas veroorsaak nie.

3.1.2 Onderworpe aan die bepalings van die verordening insake paaie, verkeer en parkering word 'n openbare oorlas word veroorsaak deur, maar is nie beperk nie tot:

(a) die oornagparkering van meer as een swaar voertuig of boot op 'n perseel wat vir residensiële doeleindes gesoneer is;

(b) die parkering van implemente of konstruksiemasjinerie of die stoor van konstruksie toerusting op 'n perseel wat vir residensiële doeleindes gesoneer is, op so 'n wyse dat dit 'n oorlas veroorsaak;

(c) die herstel, was, onderhoud of diens van 'n swaar voertuig, boot of implement op 'n perseel wat vir residensiële doeleindes gesoneer is;

(d) die was of skoonmaak van enige voertuig vanuit 'n rivier of openbare stroom;

(e) die parkering van 'n voertuig, swaarvoertuig, boot, sleepwa of implement op 'n perseel op sodanige wyse dat dit, of dele daarvan, die grense van die perseel waarop dit geparkeer is, oorskry;

(f) die parkering van 'n voertuig, swaarvoertuig, boot, konstruksiemasjinerie of sleepwa op 'n openbare plek sonder die skriftelike toestemming van die munisipaliteit

(g) die bedryf van 'n besigheid of die betrokkenheid by soortgelyke aktiwiteite op 'n residensiële perseel, nieteenstaande enige goedkeuring deur die munisipaliteit verleen in terme van die verordening op grondgebruikbeheer, op so 'n wyse dat 'n oorlas vir aangrensende eienaars veroorsaak word deur:

- i. die toename in die aktiwiteit tot so 'n mate dat die beperkinge en voorwaardes soos neergelê deur die munisipaliteit by die oorspronklike goedkeuring daarvan oorskry word;
- ii. die berging van goedere of materiale op die perseel;
- iii. die berging van goedere of materiaal op 'n openbare plek sonder die skriftelike toestemming van die munisipaliteit;
- iv. die bedryf van 'n pomp, kompressor, waaier of soortgelyke masjinerie op so 'n wyse dat vibrasie of geraas op aangrensende persele veroorsaak word;
- v. die gebruik van spuitverf of ander vlugtige stowwe op so 'n wyse dat sproei, reuke of gasse na ander persele versprei;
- vi. die vervaardiging, of aktiwiteite verwant aan vervaardiging van goedere of materiale;
- vii. die gereeldheid van aflewings of die aandoen van persone op die perseel;
- viii. die gereeldheid van oplaai- en aflaai vanaf voertuie in die straat of op die perseel;
- ix. die samedromming van werknemers op of naby die perseel;
- x. die gereeldheid van aankoms, vertrek of parkering van voertuie in die straat of op die perseel wat verband hou met die aktiwiteite op die perseel;

(h) deur toe te laat dat geboue of vakante grond of enige geboue of strukture daarop, of enige gedeeltes daarvan of enige omheinings op enige persele:

- i. verwaarloos word, onooglik raak of aanstootlik voorkom of vervalle raak tot so 'n mate dat die waardes van aangrensende eiendomme nadelig geraak word;
- ii. 'n tuiste vir plakkers of leeglêers word;
- iii. oorgroei raak met verwaarloosde gras, bome, struik of ander bewerkte of onbewerkte plantegroei;
- iv. onooglik word deur 'n versameling van papiere, kartonne, tuinafval, rommel en ander afvalmateriale; of
- v. onooglik of aanstootlik vir die bure of die algemene publiek weens die wanordelike stoor of parkeering van voertuie of masjinerie wat nie gereeld gebruik word nie;
- vi. 'n stortingsterrein word vir afvalmateriaal;
- vii. versuim om die dakwaterverwyderingstelsel, pype, rirole, rioolleidings, watertoebehore, afvalwatertoebehore, toilettoebehore en alle ander toebehore wat deel van of aan enige gebou of struktuur verbode in 'n goeie toestand te hou of te herstel, of versuim om dit te onderhou of versuim om die mure van enige gebou of struktuur vry van klammigheid te hou;

(i) met betrekking tot besigheidspersele, toe te laat dat:

- i. afval wat op die perseel gegengereer word in 'n straatvullishouer gestort word;

- ii. afval wat op die perseel gegeneer word, gestort word op 'n gedeelte daarvan wat toeganklik is vanaf 'n straat of sypaadjie, tensy dit gestort word in 'n vullishouer wat deur die munisipaliteit goedgekeur is;
- iii. goedere vertoon of verkoop word op 'n gedeelte van die perseel, wat nie deel vorm van 'n straat of sypaadjie nie, maar wat toeganklik is vanaf 'n straat of sypaadjie;
- iv. 'n voertuig geparkeer word op so 'n wyse dat dit of 'n gedeelte daarvan op 'n straat of sypaadjie uitsteek;
- v. 'n metode van reklame of promosie die effek het dat dit 'n verwarring of gevaar veroorsaak vir verbygaande verkeer of voetgangers, 'n samedromming van mense in die omgewing van die perseel veroorsaak, of dat voetgangers verhinder word om die sypaadjie voor die perseel te gebruik;
- vi. winkelrollies verbonde aan die besigheid in 'n straat of parkeerarea versamel tot so 'n mate dat voertuig- of voetgangerverkeer daardeur benadeel of in gevaar gestel word;
- vii. 'n kompressor, waaier of ander masjinerie bedryf word op 'n wyse wat vibrasie of geraas veroorsaak word op aangrensende persele;
- viii. 'n toename in die frekwensie van aflewings of aandoeners by die perseel tot so 'n mate dat die okkupeerders van aangrensende persele se normale toegang tot hulle eie persele belemmer word;
- ix. voertuie verbonde aan 'n besigheid voor aangrensende persele geparkeer word op so 'n wyse dat okkupeerders verhoed word om met hulle normale aktiwiteite aan te gaan;
- x. enige stoep, veranda, steeg of aangrensende onbeboude grond gebruik word vir die berging, opstapeling, storting, wegdoen, vertoon of hou van goedere of voorraad;
- xi. enige winkel of besigheidperseel of onbeboude grond aangrensend aan sodanige winkel of besigheidperseel of enige gedeelte daarvan, wat vir die publiek oop of sigbaar is, aangewend word vir 'n stoor of om afvalmateriaal, kartonne, kratte, houers of ander soortgelyke artikels daar op te gaar, te berg of te stoor.

(j) met betrekking tot algemene gedrag in of op strate, parkeerplekke en openbare plekke:

- i. te eniger tyd gedurende die dag of nag die openbare orde te versteur deur die gebruik van enige beledigende of dreigende taal of deur geluide te maak of deur te skreeu, aanhoudend te toet, te twis of rusie te maak, of deur onwettig 'n skare byeen te bring, of deur onwettig 'n betoging te reël, of deur 'n bakleiery of 'n uitdaging tot 'n bakleiery, of deur met 'n stok of ander wapen te slaan of dit te swaai of op 'n dreigende wyse te gebruik, of deur enige ander oproerige, geweldadige of onbetaamlike gedrag, of deur onwettig te vergader of saam te drom, of deur sleepwedrenne te hou, of enige daad te pleeg wat beskou of gesien kan word as 'n daad om die openbare orde te skend;

- ii. ware of dienste te adverteer deur middel van 'n megafoon, luidspreker of dergelike toestel of deur aanhoudend te skreeu, of op 'n ghong te slaan, toeters te druk of klokke te lui;
- iii. in enige straat of openbare plek enige beledigende of dreigende taal gebruik of enige handeling pleeg wat die openbare vrede skend of geag te word om dit te skend;
- iv. enige voertuig of deel daarvan in enige straat of openbare plek skoonmaak of was nie;
- v. die afvuur van enige vuurwapen, lugpistool of luggeweer;
- vi. 'n voertuig tot stilstand te bring of te bestuur op 'n wyse wat voetganger- of voertuigverkeer belemmer;
- vii. fietse of soortgelyke toestelle in groepe te ry op 'n wyse wat voetganger- of voertuigverkeer belemmer;
- viii. trollies of soortgelyke toestelle te stoot of te parkeer op 'n wyse wat voetganger of voertuigverkeer belemmer;
- ix. in groepe te loop of te staan op 'n wyse wat voetganger- of voertuigverkeer belemmer;
- x. dienste of goedere vir verkoop aanbied in kruisings of langs 'n pad op 'n wyse waarop voetganger- of voertuigverkeer belemmer word of die aandag van voertuigbestuurders afgetrek word;
- xi. om dienste of goedere of artikels vir verkoop aanbied aan die kant van die pad op so 'n wyse dat voertuig- of voetgangersverkeer belemmer word of die aandag van bestuurders van voertuie afgelei word;
- xii. 'n rytuig wat deur diere getrek word, op sodanige tye in strate, waar 'n swaar verkeersvloei ervaar word;
- xiii. Om dronk of onder die invloed van dwelms te wees of om enige bedwelmende middel, alkohol of dwelms in of op 'n openbare plek behalwe waar dit toegelaat word ingevolge 'n openbare kennisgewing wat as sodanig vertoon word, te gebruik;
- xiv. die vertoning van enigiets wat visueel aanstootlik is;
- xv. die bedryf van enige toestel wat radio- en televisieontvangs versteur;
- xvi. te drentel in enige straat of openbare plek;
- xvii. die uitlokking of oorreding van enige persoon vir die doeleindes van prostitusie of 'n ander immorele daad;
- xviii. om aan te hou om te bedel van 'n persoon of om 'n persoon te agtervolg nadat sodanige persoon negatief gereageer het op die bedelary

(k) enige vrugte- of groenteskille, gebreekte bottels, glas, vullis, bourommel, tuinvullis of afval wat aanstootlik is of waarskynlik ergernis, gevaar of besering sal veroorsaak aan 'n persoon in of op enige perseel, straat of openbare plek stort, ophoop, uitgooi, neergooi of plaas, of toelaat dat dit gestort, uitgegooi neergegooi of geplaas word;

(l) 'n persoon wat homself of haarself of enige dier of item of klerasie was of bad in 'n openbare stroom, poel, watertrog, standkraan, fontein of op enige plek wat nie deur die munisipaliteit vir sodanige doel aangewys is nie.

### 3.2 Gedrag en optrede

Ondanks die bepalings van enige ander verordening mag niemand—

- a) aanstootlike materiaal stort, opgaar of plaas of toelaat dat dit gestort, opgehoop of geberg word in of op enige perseel, of openbare pad of dreineer-, watersloot, of riool, of deurgang, of openbare plek behalwe op die plek of plekke soos deur die munisipaliteit van tyd tot tyd opsy gesit of goedgekeur vir sodanige doeleindes nie, met dien verstande dat die munisipaliteit openbare garages, werkswinkels en ander bedrywe kan toelaat om, onderhewig aan sodanige voorwaardes as wat opgelê kan word, in elke individuele geval, motoronderdele of 'n apparaat te stoor, te berg uitmekaar te haal of aanmekaar te sit op persele goedgekeur deur die munisipaliteit.
- b) enige handel, besigheid of beroep uitoefen op enige perseel in die munisipale gebied wat na die mening van die munisipaliteit 'n bron van ongerief of ergernis vir die buurt is of kan word nie;
- c) toelaat dat enige perseel toegroei met bosse, onkruid of gras of ander plantegroei, behalwe gekweekte bome, struik en gras tot so mate dat dit na die mening van die munisipaliteit as skuilplek gebruik kan word deur rondlopers, wilde diere of ongediertes of dat dit die openbare gesondheid of die veiligheid van enige lid van die gemeenskap bedreig of dat dit kan lei tot die verspreiding van brande of dat dit veroorsaak dat die perseel onooglik of aanstootlik of nadelig is vir die waarde van aangrensende eiendom nie;
- d) toelaat dat enige perseel vuil, verwaarloos of besmet is met knaagdiere, slange, muskiete, vlieë, bosluise, of ander insekte wat skadelik kan wees vir die gesondheid nie, of enige aanstootlike reuke of gasse afkomstig van sodanige perseel toelaat nie;
- e) op sy perseel 'n dier of voël hou wat 'n steurnis of 'n oorlas vir die bure is deur gereelde en oormatige geraas nie;
- f) enige openbare gerief of enige gerief voorsien in 'n openbare gebou of plek van openbare vermaak bemors, misbruik of beskadig nie;
- g) enige aanstootlike materiaal of item, vloeistof of vaste stof, wat aanstootlik is of mag wees of gevaarlik of nadelig vir die gesondheid is of kan word, dra of vervoer of veroorsaak of toelaat dat dit gedra of vervoer word oor, of in enige straat of openbare plek, tensy sodanige aanstootlike materiaal of item bedek is met 'n geskikte materiaal om die skep van 'n ergernis te voorkom nie;
- h) enige lyk begrawe of wegdoen op enige ongemagtigde plek nie;
- i) toelaat dat die karkas van 'n dier, wat sy eiendom of waarvan wat hy in beheer is, en wat gesterf het op sy perseel of elders in die munisipale gebied, onbegrawe laat bly nie;

- j) veroorsaak of toelaat dat enige vuil of besoedelde water of enige vuil vloeistof of ongewenste materiaal vanaf enige perseel waarvan hy die eienaar is of wat hy okkupeer of deur hom bewoon word of wat hy gebruik vir handel, besigheid, vervaardiging, bewoning of enige ander doel, wegvloei in 'n straat of op of oor enige grond nie.

### **3.3 Onwettige bewoning**

- 3.3.1 Niemand mag, sonder die toestemming van die munisipaliteit, 'n karavaan, tent of ander soortgelyke skuiling van enige beskrywing beset, bewoon of toelaat dat dit gebruik word vir menslike bewoning nie behalwe op 'n gemagtigde kampeer- of woonwaterrein beheer deur die munisipaliteit of enige ander kampeer- of woonwaperseel wat voldoen aan die bepalings van die verordeninge met betrekking tot sodanige woonwaparke of kampeerplekke.
- 3.3.2 Die munisipaliteit mag 'n kennisgewing beteken aan enige persoon wat 'n karavaan, tent of skuiling in stryd met subartikel 3.3.1 beset om sodanige woonwa, tent of skuiling te ontruim binne 3 dae na die betekening van sodanige kennisgewing, by gebreke waarvan sodanige persoon skuldig is aan 'n misdryf.

### **3.4 Oortreding en versuim om te voldoen**

Enige persoon wat enige van die bepalings van hierdie afdeling van hierdie Verordening oortree of versuim om daaraan te voldoen, of versuim om aan 'n kennisgewing wat regtens daaronder uitgereik is te voldoen, is skuldig aan 'n misdryf.

## **HOOFSTUK 2**

### **ALGEMENE BEPALINGS INSAKE DIE AANHOU VAN DIERE**

#### **4. Toestemming om diere aan te hou**

- 4.1 Niemand mag sonder die skriftelike toestemming van die munisipaliteit enige diere, met uitsondering van troeteldiere, op enige perseel of eiendom aanhou of toelaat dat dit daarop aangehou word nie.
- 4.2 Niemand mag 'n dier hou as die perseel waar so 'n dier aangehou word, nie behoorlik en voldoende omhein word om so 'n dier binne te hou nie.
- 4.3 Enige persoon wat aansoek doen om 'n permit om 'n wilde dier aan te hou moet, wanneer so 'n aansoek ingevolge subartikel 4.1 ingedien word, die munisipaliteit voorsien van 'n aanhoudings-permit wat deur die Departement van Ekonomiese Sake, Omgewing en Toerisme uitgereik is.
- 4.4 Bye mag slegs aangehou word op persele wat vir landboudoeleindes gesoneer is.
- 4.5 Die munisipaliteit mag die tipe, getal en geslag van diere wat aangehou mag word, bepaal asook die gebiede waarbinne die aanhou van sodanige diere verbied word.



- 4.6 Ten einde 'n aansoek ingevolge subartikel 4.1 te oorweeg moet die munisipaliteit ook die insette en kommentaar van die eienaars of bewoners van omliggende residensiële persele bekom en in indein 'n advertensie in die plaaslike koerante geplaas is, die koste van so 'n advertensie van die aansoeker verhaal.
- 4.7 Niemand mag 'n groter getal diere of diere van 'n ander soort aanhou, as die wat die munisipaliteit bepaal het ingevolge subartikel 4.1 nie.
- 4.8 Die aanhou van eende, poue, hane, kalkoene en ganse word verbied in 'n residensiële area.
- 4.9 Geen pluimvee mag aangehou word wat 'n oorlas veroorsaak deur te kraai of te kekkel nie.
- 4.10 Enige persoon wat enige bepaling van artikel 4 oortree of versuim om aan enige bepaling of vasstelling in terme daarvan te voldoen, pleeg 'n misdryf.

### **5. Planne vir strukture en bestuur**

Die munisipaliteit mag van persone wat aansoek doen om diere aan te hou, vereis om 'n aansoekvorm en gedetailleerde planne in te dien, wat aan die munisipaliteit se spesifikasies moet voldoen, sowel as om 'n advertensie in die plaaslike koerante te plaas, om openbare komnentaar uit te nooi.

### **6. Oorweging van aansoek en oplê van voorwaardes**

- 6.1 Die munisipaliteit kan, na oorweging van die volgende, 'n aansoek weier of goedkeur:
- (a) insette of kommentaar verkry ingevolge artikel 4.5;
  - (b) die ligging, geografiese kenmerke of grootte van die perseel ten opsigte waarvan die aansoek gerig word;
  - (c) die dokumente en uiteensettings ingevolge artikel 5 ingedien; of
  - (d) enige ander inligting wat op die aansoek betrekking het, insluitend maar nie beperk nie tot weiding, omheining en beskikbaarheid van water.
- 6.2 Indien 'n aansoek geweier word, moet die munisipaliteit die redes vir sodanige weiering aan die applikant verstrek en hom/haar terselfdertyd in kennis stel van die reg van appèl ingevolge artikel 24.
- 6.3 By die goedkeuring van 'n aansoek mag die munisipaliteit voorwaardes oplê.

### **7. Sigbaarheid van strukture op persele**

- 7.1 Alle strukture waarin diere aangehou word moet toepaslik afgeskerm word van enige straat.
- 7.2 Enige persoon wat die bepalings van subartikel 7.1 oortree pleeg 'n misdryf.

## 8. Kwytskelding van vereistes en intrekking van magtigings

Nieteenstaande bogemelde bepalings mag die munisipaliteit, na oorweging van voorwaardes ten opsigte van die eiendom en op voorwaarde dat geen beswaar van die eienaars of bewoners van omliggende persele ontvang is nie, enige of alle vereistes van Hoofstuk 2 van die Verordening intrek en ander voorwaardes instel, indien toepaslik, en kan hy enige magtiging ingevolge hierdie Verordening uitgereik, intrek indien daar nie voldoen word aan enige voorwaardes daarin neergelê nie.

## 9. Geldigheid van magtigings

Alle magtigings om diere aan te hou wat uitgereik is ingevolge enige verordening of regulasie wat herroep word, sal geag word as sou dit ingevolge hierdie Verordening uitgereik wees.

## 10. Pligte van die bewaarder van diere

10.1 Die eienaar van 'n dier of die persoon in beheer daarvan:

- (a) mag nie veroorsaak of toelaat dat 'n dier die gewone gerief, gemak, rus en vrede van ander mense versteur nie;
- (b) Moet 'n kennisgewing vertoon wat op 'n opvallende plek vertoon word, om aan te dui dat 'n dier gehou word;
- (c) moet sodanige dier van slaapplek, skuiling, water en behoorlike kos voorsien;
- (d) moet voldoen aan enige ander wetlike vereistes ten opsigte van die aanhou van diere soos die voorkoming, beheer en uitroeiing van aansteeklike siektes, die voorkoming van die verspreiding van sodanige siekte en verwante aangeleenthede en moet skriftelike sertifikasie deur Veeartse as bewys van inentings, immuniserings, sterilisasies en dergelike toestande op rekord hou;
- (e) moet ten alle tye die perseel waarop 'n dier aangehou word en alle gepaardgaande toebehore in goeie en netjiese toestand hou om te voorkom dat 'n openbare oorlas ontstaan;
- (f) moet beheer oor sy of haar diere uitoefen ten einde skade aan eiendom of tuine te verhoed; en
- (g) mag nie enige dier op enige gedeelte van 'n openbare pad laat of toelaat dat dit op 'n openbare pad is nie en mag 'n dier ook nie op enige plek laat van waar dit op enige deel van 'n openbare pad mag afdwaal nie, tensy dit onder behoorlike toesig en beheer is nie;
- (h) mag nie enige dier toelaat om openbare of privaatgrond te betree, wat nie die grond is waarop dit aangehou word nie, tensy dit onder behoorlike beheer is, en in die geval van 'n hond, aan 'n leiband is nie;
- (i) mag nie 'n dier, wat wreed, kwaad of gevaarlik is, toelaat om op enige openbare plek te wees, tensy dit aan 'n leiband en onder beheer van 'n verantwoordelike persoon gemuilband gehou word nie;

- (j) mag nie 'n hond toelaat om enige persoon of dier aan te val, te pla of skrik te maak nie, tensy dit uit selfverdediging is nie;
- (k) mag nie 'n dier toelaat om 'n bron van gevaar te wees of 'n besering te veroorsaak vir 'n persoon buite die perseel waarop sodanige dier aangehou word nie;
- (l) mag nie 'n dier toelaat om 'n bron van gevaar te wees vir werknemers van die munisipaliteit wat sodanige perseel betree vir die uitvoering van hul pligte nie;
- (m) mag nie 'n hond toelaat om wesenlik in te meng met die gerief, vrede of stilte van bure of persone buite die perseel waar dit aangehou word, deur aanhoudend te blaf, -kerm, -huil, -tjank of enige voertuie, diere, pluimvee of duiwe te jaag of deur hom op enige ander onaanvaarbare wyse te gedra nie;
- (n) in geval van 'n hond in 'n straat of op openbare grond, moet die ontlasting van sodanige hond verwyder;
- 10.2 Waar enige van die bepalings van subartikel 10.1 oortree word, mag die munisipaliteit enige dier verwyder en 'n kennisgewing beteken aan die eienaar, okkupeerder of beweerde oortreder om te voldoen aan die bepalings van subartikel 10.1 binne die gestipuleerde tydperk;
- 10.3 Waar enige van die bepalings van hierdie Verordening of wetgewing met betrekking tot die beskerming van diere oortree word, mag die munisipaliteit enige beampte van enige dierebeskermingsvereniging in kennis stel vir optrede in terme van die Dierebeskermingswet, 71 van 1962;
- 10.4 Wanneer die eienaar, okkupeerder of beweerde oortreder die munisipaliteit in kennis stel dat daar voldoen is aan 'n kennisgewing uitgereik in terme van subartikel 10.2, kan die munisipaliteit sodanige dier terugbesorg en die koste aangegaan deur die munisipaliteit van sodanige eienaar, okkupeerder of beweerde oortreder verhaal;
- 10.5 In die geval van nie-nakoming van die kennisgewing beteken in terme van subartikel 10.2, en sonder benadeling van die munisipaliteit se reg om vervolging in te stel, sal enige dier wat ingevolge subartikel 10.2 verwyder is as geskut geag word en sal die munisipaliteit se Skutverordening van toepassing wees;
- 10.6 Enige persoon wat die bepalings van subartikel 10.1 oortree, of versuim om daaraan te voldoen, pleeg 'n misdryf.

## **11. Diere wat op 'n onbevredigende wyse aangehou word en diere wreedheid**

- 11.1 Wanneer ook al diere wat op enige perseel aangehou word 'n openbare oorlas is, kan die munisipaliteit by wyse van 'n skriftelike kennisgewing die eienaar of okkupeerder van sodanige perseel gelas om die oorsaak van sodanige oorlas te verwyder.

- 11.2 Die munisipaliteit mag die stappe voorskryf wat geneem moet word of die werk wat gedoen moet word om die oorsaak van die oorlas te verwyder of an enige oorlas te verminder.
- 11.3 Enige aktiwiteite wat deur die eienaar in terme van subartikel 11.1 onderneem word is vir die eienaar se rekening.
- 11.4 Indien 'n eienaar versuim om die stappe in terme van subartikel 11.1 te neem, kan die munisipaliteit die nodige stappe neem en die koste van die eienaar verhaal.
- 11.5 Enige persoon wat versuim om te voldoen aan 'n kennisgewing in terme van subartikel 11.1 is skuldig aan 'n misdryf.
- 11.6 Enige persoon wat:
- 11.6.1 enige dier in sy besit het of aankoop, invoer, verkoop, oplei, teel, of onder sy beheer hou, met die doel om teen enige ander dier te veg;
- 11.6.2 enige dier lok of aanhits om enige ander dier aan te val of om voort te gaan met teen enige ander dier te veg;
- 11.6.3 vir die verkryging van geld of vir vermaak dieregevegte aanmoedig of bevorder;
- 11.6.4 enige van die dade bedoel in subartikels 11.1 tot 11.3 toelaat op enige perseel of plek onder sy beheer of waarvan hy besit het;
- 11.6.5 enige perseel of plek gedeeltelik of ten volle besit, gebruik of beheer vir die doeleindes van dieregevegte, of toelaat dat dieregevegte op sodanige perseel of plek aangebied word, of wat in die bestuur van sodanige perseel of plek optree of bystand verleen, of wat enige vergoeding ontvang vir die toelating van enige persoon tot sodanige perseel of plek; of
- 11.6.6 teenwoordig is as toeskouer by enige perseel of plek waar enige van die dade waarna in subartikel 11.1 tot 11.6 verwys word, plaasvind of waar voorbereiding vir sulke dade gemaak word;
- 11.6.7 is skuldig is aan 'n misdryf en by skuldigbevinding strafbaar met 'n boete van R20,000-00 (twintigduisend rand) of met gevangenisstraf vir 'n tydperk van hoogstens twee jaar.
- 11.6.8 In enige vervolging word aanvaar dat, tensy die teendeel bewys word, 'n dier wat op enige perseel of plek gevind word, die eiendom is van of onder beheer is van die eienaar van daardie perseel of daardie plek of die persoon wat die perseel of plek gebruik of in beheer daarvan is.

## **12. Beslaglegging, skut, aanhouding afmaak en sterilisasie van diere**

12.1 Die munisipaliteit mag die beslaglegging, skut, aanhouding, afmaak of vernietiging van 'n dier gelas wanneer dit:

- (a) gevaarlik of boosaardig is;

- (b) sodanig beseer of siek is dat dit menslik sou wees om dit te doen;
- (c) op enige openbare pad of openbare plek in stryd met die bepalings van hierdie Verordening gevind word.
- 12.2 Sodanige beslaglegging, skut, aanhouding of vernietiging, ingevolge hierdie Verordening, moet saamgelees word met die bepalings van die munisipale verordening insake die skut van diere en kan beslaglegging, skut, aanhouding of vernietiging deur die munisipaliteit of 'n diere-beskeringsorganisasie beteken, of 'n veearts soos voorsien in hierdie Verordening.
- 12.3 Wanneer 'n dier ingevolge subartikel 12.1 afgemaak word moet dit gedoen word deur 'n geregistreerde veearts of waar so 'n veearts nie beskikbaar is nie, deur 'n gemagtigde opgeleide beampte wat sodanige afmaking op 'n humanitêre wyse moet doen.
- 12.4 'n Dier wat ingevolge subartikel 12.1 geskut is, kan aan die eienaar van so 'n dier vrygestel word teen betaling van 'n fooi wat deur die munisipaliteit of die betrokke dierebeskeringsorganisasie of die veearts bepaal word, na gelang van die geval, bo en behalwe enige koste, boetes of belastinge, wat uitstaande mag wees ten opsigte van so 'n dier.
- 12.5 Alle hondetewe en katwyfies moet gesteriliseer word vir die volgende doeleindes, tensy die teef of wyfie en haar nageslag geregistreer is:
- (a) vir die welsyn van die hond of kat;
- (b) om 'n oorlas te voorkom;
- (c) om te voorkom dat diere rondloop en om rondloperdiere te beperk.
- 12.6 Die eienaar van 'n gesteriliseerde hond of kat moet bewys van sodanige sterilisasie van 'n geregistreerde veearts verkry en dit vir inspeksie op versoek van 'n gemagtigde beampte toon;
- 12.7 Registrasie ingevolge artikel 12.5 beteken om by, maar nie beperk nie tot, 'n toepaslike registrasieliggam geregistreer te wees, onder andere, die Suid-Afrikaanse Kennelunie, die Nasionale Federasie van Jack Russell Terriers van Suid-Afrika, die Nasionale Federasie van Bokserklubs van Suid-Afrika, of die Duitse Herderhond Federasie van Suid-Afrika.
- 12.8 Enige persoon wat versuim om aan enige bepalings van artikel 12.1; 12.5 en 12.6 te voldoen of aan enige lasgewing, bevel of kennisgewing in terme daarvan, pleeg 'n misdryf.

### **13. Smous met diere**

- 13.1 Geen persoon mag met 'n dier smous in 'n straat of openbare plek of vanaf 'n mobiele struktuur of 'n voertuig nie.
- 13.2 'n Persoon wat subartikel 13.1 oortree is skuldig aan 'n misdryf.

**HOOFSTUK 3:****BEPALINGS MET BETREKKING TOT DIE AANHOU VAN TROETELDIERE, HONDE EN KATTE****14. Getal honde en katte**

- 14.1 Niemand mag, behoudens die bepalings van subartikel 14.3 meer as twee honde of meer as twee katte aanhou, of toelaat dat meer as twee honde of meer as twee katte, oor die ouderdom van ses maande, aangehou word of enige perseel nie;
- 14.2 Subartikel 14.1 is nie van toepassing op enige persoon wat:
- a) skriftelike toestemming van die munisipaliteit het, ingevolge subartikel 14.3, om 'n groter aantal honde of katte aan te hou nie;
  - b) hondeherberge of 'n kattery bedryf nie;
  - c) die eienaar of bestuurder is of in beheer is van 'n troeteldierwinkel en wie skriftelike bewys het dat al die honde of katte onder beheer van so 'n eienaar of bestuurder ingeënt is teen hondsdolheid, hondesiektes, hokhoes, katgriep, hepatitis of ander aansteeklike honde- of kattsiektes.
  - d) die eienaar is of in beheer is van 'n perseel waar gidshonde aangehou of opgelei word; en sodanige honde word onder die vaandel van die Gidshondevereniging van SA gehou of opgelei;
  - e) die eienaar of bestuurder is van 'n veeartsenykliniek; of
  - f) wat 'n skut bedryf.
- 14.3 Toestemming om meer honde of katte aan te hou as die voorgeskrewe aantal.
- a) Persoon wat 'n groter aantal honde of katte op perseel wil hou as die getal wat ingevolge subartikel 14.1 toegelaat word, moet by die munisipaliteit aansoek doen vir goedkeuring;
  - b) 'n Aansoek ingevolge subartikel 14.3 (a) moet skriftelik wees en moet vergesel wees van 'n voorgeskrewe fooi en moet 'n uiteensetting bevat van die ras, geslag en aantal honde en of katte waarvoor aansoek gedoen word.
  - c) Die munisipaliteit mag van die aansoeker vereis om enige inligting te verskaf wat hy van belang ag om hom in staat te stel om 'n ingeligte besluit te neem.
- 14.4 'n Persoon wat die bepaling van subartikel 14.1 oortree of versuim om te voldoen, pleeg 'n misdryf.

**15. Telers van troeteldiere, honde en katte**

- 15.1 'n Persoon wat met troeteldiere, honde of katte wil teel moet die skriftelike goedkeuring van die munisipaliteit verkry.

- 15.2 Die bepalings van artikel 5 is, met die nodige aanpassings, van toepassing op 'n aansoek in terme van subartikel 15.1.
- 15.3 'n Teler van honde en katte, wat meer as twee honde of katte wil aanhou, moet die skriftelike toestemming van die munisipaliteit verkry in terme van artikel 14.3.
- 15.3 'n Persoon wat enige van die bepalings van artikel 15 oortree of versuim om te voldoen, begaan 'n misdryf.

#### **16. Voorwaardes, beperkings en onttrekking**

- 16.1 Die munisipaliteit se toestemming ingevolge enige bepaling in hierdie Verordening is onderworpe aan enige voorwaardes wat die munisipaliteit in oorleg met 'n ander verantwoordelike owerheid goedvind om op te lê.
- 16.2 Waar 'n persoon 'n voorwaarde of beperking ingevolge subartikel 16.1 oortree of versuim om te voldoen, kan die munisipaliteit, nadat hy daardie persoon aangehoor het, sy toestemming terugtrek en die verwydering van diere uit die perseel vir versorging en bewaring deur 'n dierewelsynsorganisasie of skut beveel.
- 16.3 Enige koste wat deur die munisipaliteit aangegaan word vir die verwydering en veilige bewaring van diere ingevolge subartikel 16.2, sal verhaal word van die eienaar of bewaarder van sodanige diere.

### **HOOFSTUK 4**

#### **HONDEHERBERGE, KATTERYE, TROETELDIERSALONNE EN TROETELDIERWINKELS**

##### **17. Toestemming om te bedryf**

- 17.1 Geen hondeherberg, kattery, troetedierson of troeteldierwinkel mag bedryf word sonder die toestemming van die munisipaliteit nie, welke goedkeuring aan voorwaardes onderworpe mag wees.
- 17.2 'n Persoon wat 'n hondeherberg, kattery, troetedierson of troeteldierwinkel bedryf mag nie toelaat dat die besigheid op so 'n wyse bedryf word dat dit 'n openbare oorlas of ongerief vir ander mense is of in stryd met enige bepaling van die Wet op Dierebeskerming, 1962 (Wet 71 van 1962) is nie, of versuim om daaraan te voldoen nie.
- 17.3 'n Persoon wat enige bepaling van artikel 17 oortree is skuldig aan 'n misdryf.

## HOOFSTUK 5

### SAMEWERKING TUSSEN MUNISIPALITEITE

#### 18. Diensleweringsooreenkomste

Ten einde optimale dienslewering ingevolge hierdie Verordening te verseker, kan die munisipaliteit ooreenkomste aangaan met die distriksmunisipaliteit met wie wetgewende en uitvoerende gesag gedeel word.

#### 19. Bevoegdhede van die Munisipaliteit in die geval van 'n versuim deur die Distriksmunisipaliteit

Indien die dienslewering, waarna in artikel 18 verwys word, belemmer word deur die weiering of versuim van die distriksmunisipaliteit om enige van die reëlings wat in 'n ooreenkoms voorsien is uit voer, mag die munisipaliteit, onderworpe aan die bepalings van die Grondwet rakende samewerkende regering soos bepaal in artikel 41 van die Grondwet van die Republiek van Suid-Afrika, 1996, voortgaan en effek gee aan dusdanige reëling en enige uitgawes wat in verband daarmee aangegaan word van die distriksmunisipaliteit verhaal.

## HOOFSTUK 6

### ALGEMENE BEPALINGS

#### 20. Reg van toegang en inspeksie

- 20.1 Enige behoorlik gemagtigde werknemer van die munisipaliteit is gemagtig om enige perseel binne die munisipale gebied te inspekteer ten einde te bepaal of daar aan die bepalings van die Verordening voldoen word; onderhewig daaraan dat 'n privaat woning nie betree mag word vir roetine-inspeksiedoeleindes sonder die toestemming van die eienaar of okkupeerder nie;
- 20.2 Wanneer 'n perseel ingevolge subartikel 20.1 binnegegaan word, moet die sodanige werknemer op versoek van enige persoon, hom/haarself identifiseer deur 'n geskrewe bewys van magtiging te toon.
- 20.3 Die gemagtigde werknemer mag vergesel word van 'n persoon van wie dit redelikerwys verwag word om te help in die uitvoer van die inspeksie.
- 20.4 Enige iemand wat versuim of weier om toegang te verleen aan 'n behoorlik gemagtigde werknemer van die munisipaliteit indien hy toegang tot grond of 'n perseel versoek, of wat hom dwarsboom of hinder in die uitvoering van sy pligte kragtens hierdie Verordening, of wat versuim of weier om inligting te verstrek wat wettiglik van hom vereis kan word of vals of misleidende inligting aan sodanige behoorlik gemagtigde werknemer van die munisipaliteit verstrek, welwetende dat dit vals of misleidend is, is skuldig aan 'n misdryf.



**21. Dien en/of publikasie van kennisgewings**

- 21.1 Die munisipaliteit mag kennis gee van sy voorneme om 'n aansoek ingevolge enige afdeling van hierdie Verordening te oorweeg deur in die plaaslike koerante te publiseer of om gedien te word op enige persoon wie se regte of verwagtinge wesenlik en nadelig geraak kan word deur die aansoek.
- 21.2 Die koste van enige kennisgewings ingevolge subartikel 21.1 kan verhaal word van die aansoeker.

**22. Bediening van dokumente en geregtelike prosedures**

- 22.1 Wanneer enige kennisgewing, bevel, aanskrywing of ander dokument gemagtig is of nodig is om bedien te word op 'n persoon ingevolge hierdie Verordening, word dit geag effektief en na behore aan sodanige persoon beteken te wees:
- a) wanneer dit persoonlik aan hom afgelewer is;
  - b) wanneer dit by sy plek van inwoning of besigheid in die Republiek gelaat is by 'n persoon wat duidelik ouer as sestien jaar is;
  - c) wanneer dit per e-pos aan sy laaste bekende e-pos adres versend is;
  - d) wanneer dit gepos is per geregistreerde of gesertifiseerde pos aan sy laaste bekende woon- of besigheidsadres in die Republiek en 'n erkenning van die versending verskaf word;
  - e) indien sy adres in die Republiek onbekend is, wanneer dit aan sy agent of verteenwoordiger in die Republiek bedien is op so 'n manier soos bepaal deur paragraaf (a), (b) of (c), of
  - f) indien sy adres en agent in die Republiek onbekend is, wanneer dit opsigtelik vertoon word op die vaste eiendom, indien enige, waarop dit betrekking het.
- 22.2 Wanneer enige kennisgewing, bevel, aanskrywing of ander dokument bedien moet word aan 'n persoon sal dit nie nodig wees om hom by name te noem nie, maar sal dit voldoende wees as hy daarin beskryf word as die eienaar, bewoner of houer van sodanige vaste eiendom of ander reg, wat ook al die geval mag wees.

**23. Oorgangsbepalings**

- 23.1 'n Persoon wat tydens die inwerkingtrede van hierdie Verordening meer diere aanhou as die getal soos voorgeskryf in enige bepaling van die Verordening mag nie diere vervang wanneer een of meer daarvan te sterwe kom of weggemaak word nie en moet die aantal diere wat gehou word, geleidelik verminder.
- 23.2 Behoudens die bepalinge van subartikel 23.1 is die bepalinge van die Verordening, ten opsigte van die aanhou van diere, nie van toepassing op bestaande persele waar diere aangehou word

nie: Met dien verstande dat die gemagtigde beampte, indien hy oortuig is dat die toepassing van een of meer van die genoemde vereistes, noodsaaklik is, om 'n bewese klagte ten opsigte van 'n oorlas te besweer, skriftelik kan kennis gee aan die eienaar of persoon in beheer van sodanige perseel waarop die oorlas voorkom en die eienaar versoek om te voldoen aan die vereistes wat hy mag spesifiseer en binne 'n redelike tydperk wat in die kennisgewing vermeld word.

- 23.3 Behoudens die bepalings van subartikels 23.1 en 23.2 moet enige persoon wat diere aanhou, binne twaalf (12) maande vanaf die datum van afkondiging van hierdie Verordening, voldoen aan die bepalings daarin vervat.

#### **24. Appèl**

'n Persoon wie se regte geraak word deur 'n besluit wat deur die Munisipaliteit gedelegeer is, mag ingevolge Artikel 62 van die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet 32 van 2000) teen daardie besluit appèl aanteken deur binne 21 dae van die kennisgewing van die besluit skriftelike kennis van die appèl en die redes daarvoor aan die munisipale bestuurder te gee.

#### **25. Oortredings en strawwe**

- 25.1 'n Persoon wat enige bepaling van hierdie Verordening oortree of versuim om daaraan te voldoen of versuim om te voldoen aan 'n kennisgewing uitgereik ingevolge hierdie Verordening, pleeg 'n misdryf en kan by skuldigbevinding—

- (a) 'n boete of gevangenisstraf opgelê word, of sodanige boete of gevangenisstraf, of beide sodanige boete en sodanige gevangenisstraf; en
- (b) in die geval van 'n voortgesette misdryf, 'n bykomende boete of 'n bykomende tydperk van gevangenisstraf of sodanige bykomende gevangenisstraf sonder die opsie van 'n boete of beide sodanige bykomende boete en gevangenisstraf vir elke dag waarop sodanige misdryf voortduur; en
- (c) 'n verdere bedrag gelyk aan enige koste en uitgawes wat die hof bevind deur die munisipaliteit aangegaan is weens sodanige oortreding of versuim.

- 25.2 'n Persoon pleeg 'n misdryf indien hy of sy—

- (a) 'n werknemer of kontrakteur van die munisipaliteit in die uitvoering van enige magte of die verrigting van enige funksie of plig ingevolge hierdie Verordening dreig, teenstaan, hinder, belemmer of hom of haar andersins pla of vuil taal of skeltaal teenoor hom of haar gebruik; of
- (b) hom of haar as 'n werknemer of kontrakteur van die munisipaliteit voordoen.

## 26. Vrystellings

Nieteenstaande die bepalings van die Verordening, mag die munisipaliteit enige persoon of klas van persone vrystel van enige of al hierdie vereistes en mag dit enige ander vereistes oplê wat dit as geskik beskou.

## 27. Vrywaring

Die Munisipaliteit en enige beampte, werknemer of agent van die munisipaliteit sal nie aanspreeklik wees vir die dood van, besering of diefstal van enige dier wat voortspruit uit of tydens die skut, beslaglegging, aanhouding of vernietiging ingevolge hierdie Verordening nie.

## 28. Teenstrydigheid met ander wetgewing

28.1 In die geval van teenstrydigheid tussen enige bepaling van hierdie Verordening en Nasionale- en Provinsiale wetgewing, standaard, beleid of riglyne, sal sodanige Nasionale- en Provinsiale wetgewing, standaard, beleid of riglyne voorrang geniet onderhewig aan artikels 151(3) en 156(4) van die Grondwet.

28.2 In die geval van enige teenstrydigheid tussen verskillende vertalings geld die Engelse teks.

## 29. Herroeping van Verordeninge

Die volgende verordeninge en die bepalings van enige verordening wat met die bepalings van hierdie Verordening in stryd is word hiermee herroep:

VERORDENINGE WAT HERROEP WORD	PROVINSIALE KENNISGEWING
Verordening insake die aanhou van honde	PK 6319 of 20 Desember 2005
Verordening insake die beheer van oorlaste	PK 7338 VAN 5 Desember 2014

## 30. Kort titel en aanvang

Die Verordening sal bekend staan as die Swellendam Verordening insake Openbare Oorlaste en die Oorlaste wat spruit uit die aanhou van diere en tree in werking op die datum waarop dit in die Provinsiale Koerant gepubliseer word.

