

## CAPE AGULHAS MUNICIPALITY

## Animal Care and Control By-Law

### For the keeping of animals, poultry and bees

#### 1. INTRODUCTION

The intention of this Bylaw is to allow the keeping of animals expected to be kept within the Council area within understood guidelines that can be administrated equitably and easily by Council Officers.

Council acknowledges that animals are an important part of any community. There are, however, a number of issues of which we must be aware, especially where these concern the care, control and management responsibilities that we have as individuals and animal owners. The repercussions of poor management and inappropriate care can impact on neighbourhood amenity in terms of noise, odours, property damage, health and safety.

The Bylaw seeks to:

- \* Balance the rights of property owners and the rights of others to enjoy their own property free from external impacts of nuisance; and
- \* Ensure that animals kept on residential land are of an appropriate kind and in appropriate numbers and maintained in satisfactory conditions so as to not result in unhealthy or unsafe conditions and do not cause a nuisance to others.

Cape Agulhas Municipality makes this bylaw pursuant to the powers contained in the Local Structure Act 117 of 1998.

This bylaw controls the keeping of pigs, horses, goats, cattle, birds, bees, poultry and other animals in localities where the keeping of them is, or is likely to become a nuisance or dangerous or injurious to the health of any person.

#### Short title and commencement

This bylaw may be cited as the Cape Agulhas Municipality Keeping of Animals, Bees and Poultry Bylaw.

This law comes into force on the 1<sup>st</sup> day of \_\_\_\_\_.

#### 2. INTERPRETATION - DEFINITIONS:

In this By-law, words used in the masculine gender include the feminine, the singular includes the plural and vice versa, the Afrikaans text prevails in the event of an inconsistency between the different texts and unless the context otherwise indicates:

##### 2.1 To this By-law, unless the context otherwise indicates -

**“Animals”** means any horses, mules, donkeys, cattle, pig, sheep, goats, indigenous mammals and other wild animals

**“Animal”** means any living stage of any member of the animal kingdom except human beings and in the case of any mammal, bird, fish or reptile includes the carcass.

**“Approved”** – by the Director: Community Services or such officer of Council who delegated by him/her to act on his/her behalf for the purpose of this bylaw.

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

**“Cat”** includes a male and a female cat;

**“Cattery”** means premises in or upon which –

- (a) boarding facilities for cats are provided; or
- (b) cats are bred for commercial purposes.

**“Council”** means –

- (a) the council of Cape Agulhas Municipality established by Provincial Notice No 6766 of 2000 dated 1 October 2000, as amended, exercising its legislative and executive authority through its municipal Council; or
- (b) its successor in title; or
- (c) a structure of person exercising a delegated power or carrying out an instruction, where any power in this By-law has been delegated or sub-delegated, or an instruction given, as contemplated in section 59 of the Local Government Municipal Systems act, 2000.

**“Director: Community Services”** means the person appointed as the Director: Community Services or such officer of Council as he/she delegates to act on his/her behalf.

**“Dog”** for the purpose of sections 3 and 4 means a dog over the age of six months;

**“Dog”** includes a male and a female dog;

**“Dog breeder”** means a person who is registered as a dog breeder with a registered dog breeders association approved by the Council.

**“Dwelling house”** means a single building designed for use as a residence for a single family.

**“Flat”** means a single dwelling unit in any residential building other than a dwelling house.

**“Keep or Keeping”** includes owning, looking after, caring for, being in charge, a custodian or in possession of any animal(s).

**“Keep”** in relation to a dog, includes to have such dog in possession, under control or in custody or to harbour such dog;

**“Kennel”** means premises in or upon which -

- (a) boarding facilities for dogs are provided; or
- (b) dogs are bred for commercial purposes.

**“Law Enforcement Officer”** means a Law Enforcement Officer appointed to such office by Council.

**“Municipality”** means the Municipality of Cape Agulhas established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, Provincial Notice 487 dated 22 September 2000 and includes political offices 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;

**“Nuisance”** means, inter alia, any act, omission or condition which is, in the opinion of the local authority, detrimental to health or offensive or injurious or which materially interferes with the ordinary comfort or convenience of the public or adversely affects the safety of the public or which disturbs the quiet of the neighbourhood, and

**“Nuisance”** means, any act, omission or condition which is, in the opinion of the municipality, detrimental to health or offensive or injurious or which materially interferes with the ordinary comfort or convenience of the public or adversely affects the safety of the public or which disturbs the quiet of the neighbourhood.

**“Owner”** in relation to any animal including, domestic animals and livestock means any person who keeps any type of animal or in his/her possession or care under his/her control or on whose private premises the animals is present.

**“Pets”** means any dogs, cats, guinea pig, hamsters, rabbits, chinchillas or birds not kept for breeding or business purposes; and any other word or expression, when used in this by-law, shall have the meaning assigned thereto in the Municipal Ordinance, 1974 (Ordinance 20 of 1974), or the Licences Ordinance, 1981 (Ordinance 17 of 1981).

**“Poultry”** shall mean only fowl, guinea fowl, chickens, geese, ducks, turkey, peacocks, pigeons, doves, turkeys, pheasants, swans, Muscovy duck, roosters and all other types of domestic or fancy exotic birds kept in aviaries, weather domesticated or wild.

**“Pound”** means a place designated by the Council in terms of any law or agreement for the impounding, sale and destruction of dogs or cat, or both; a place designated by the Council in terms of any law, and includes the premises of animal welfare organisations approved by council.

**“Pound Master”** means the person who has been appointed by the Council to be in charge of a pound.

**“Premises”** means any unit of land, whether built on or not and whether public or private.

**“Premises”** means 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.

**“Prescribed”** means prescribed by the Council from time to time by resolution;

**“Public Place”** means any beach, road, street, thoroughfare, bridge, overhead bridge, subway, foot pavement, footpath, sidewalk, lane, square, open space, garden, park, path, bus or taxi rank, enclosed space vested in the Council and includes any road, place or thoroughfare which is in the undisturbed use of the public of which the public have the right to use.

**“Public Place”** means any square, park, recreation ground, sports ground, lane, open space or enclosed place vested in the Municipality or other state authority or indicated as such on the Surveyor General’s records or utilized by the public or zoned as such in terms of the applicable zoning scheme or at any time declared or rendered such by the municipality or any other competent authority.

**“Public Road”** means any road, street or thoroughfare or any other place which is commonly used by the public or any section thereof or to which the public or any section thereof has a right of access, and includes-

- (a) the verge of any such road, street or thoroughfare;
- (b) any footpath, sidewalk or similar pedestrian portion of a road reserve;
- (c) any bridge, ferry or drift traversed by any such road, street or thoroughfare;
- (d) any other work or object belonging to such road, street or thoroughfare, footpath or sidewalk, and

- (e) any premises with or without structures thereon, used or set aside as a public parking area or public parking place for the parking of motor vehicles whether or not access to such a parking area or place is free of charge.

**“Livestock”** includes cattle, deer, donkeys, horses, sheep, goats and pigs and any other animal that the council by resolution from time to time determines to be stock for the purposes of this bylaw.

**“Urban area”** means all of the isthmus and the Central areas of Cape Agulhas as defined by the District Plan.

**“Wild Animal”** means any animal which is feral by nature or is undomesticated (for example an animal which was previously domesticated but is living in a wild state), and for the avoidance of doubt includes a cat, stoat, weasel, possum, deer, rabbit, pig, seagull and pigeon; but excludes birds hatched in captivity and animals that have been domesticated such as rabbits and cats.

- 2.2 If any provision in this By-law vests or imposes any power, function or duty of the council in or any employee of the Council and such power, function or duty has in terms of section 81 (2) of the Local Government: Municipal Systems Act, 2000, or any other law, been assigned to a service provider, the reference to such employee must be read as a reference to the service provider or, where applicable, an employee of the service provider authorised by it.

### **3. *Written permission***

No person shall keep or permit to be kept on any premises or property any animals (excluding pets) without the written permission of the local authority, and such permission may be withdrawn if at any time a nuisance is caused or the requirements of this by-law are not complied with.

#### **3.1 *Number of animals***

For the purpose of controlling and restricting the keeping of animals within townships, local authorities may from time to time, by special resolution, determine the number, kinds and sex of animals that may be kept per unit area and the areas within which such animals shall be prohibited.

##### **3.1.1 *Plans for structures to be approved***

- (i) An application for permission to keep animals shall be accompanied by detailed site plan indicating all structures and fences, existing and proposed, on the premises.
- (ii) Detailed plans and specifications shall be submitted to and approved by the local authority in respect of all structures where animals are to be accommodated.
- (iii) The number, kinds and sex of animals shall be indicated on the plan.

- (iv) Notwithstanding anything to the contrary contained in this by-law the local authority may refuse to approve the application and plans if, in its opinion, the property, owing to its location, situation or geographical features, is unsuitable for the keeping of animals thereon.

### **3.1.2 Structures shall comply with requirements**

- (i) All structures housing animals shall be constructed in a workmanlike manner and of materials approved by the authority.
- (ii) No structure shall be sited within a distance of 3 m from any dwelling and staff quarters or the boundary of a residential erf and 8 m from any road boundary.
- (iii) Every part of the structure shall be properly maintained and painted as often as the local authority to be undesirable or objectionable by reason of its local authority may deem necessary.
- (iv) No animals shall be kept in a structure or on land which is considered by the local authority to be undesirable to be undesirable or objectionable by reason of its locality, construction or manner of use.

### **3.1.3 Premises to be kept clean**

- (i) All manure from animals shall be stored in a manner approved by the local authority and disposed of on a regular basis so as to prevent any nuisance from being created.
- (ii) All feed shall be stored in a rodent-proof place.
- (iii) The premises shall be kept in such condition as not to attract or provide shelter for rodents, parasites and insects.

### **3.1.4 Animals kept in an unsatisfactory manner**

Whenever, in the opinion of the local authority, any animals kept on any premises, whether or not such premises have been approved by the local authority may by written notice require the owner or occupier of such premises, within a period to be stated in such notice but not less than 24 hours after the date of such notice, to remove the cause of and to abate such nuisance or danger to health and to carry out such work or do such things as the local authority may deem necessary for the said purpose.

### **3.2 Application of by-law**

The provisions of sections 4 and 4.10 of this by-law shall not apply to premises which is zoned for agricultural purposes, provided that a person keeping dogs on premises zoned for agricultural purposes shall not be exempted from compliance with any other provision of this by-law or any other legislation which may be applicable.

The provisions of section 4.10.10 shall not apply to a guide dog which is utilised to accompany a blind person.

#### **4. KEEPING OF ANIMALS LIKELY TO CAUSE NUISANCE OR DANGER PROHIBITED**

No person shall within the Living or Business Environments as defined in the Cape Agulhas Municipal Area keep any animal, or permit or suffer any animal to remain on any property owned or occupied by that person, if, in the opinion of the Director: Community Services or a Law Enforcement Officer, there is a likelihood that the animal will cause or is causing a danger to any person, or injury to the health of any person.

##### **4.1 KEEPING OF ANIMALS**

4.1.1 Every person keeping an animal on private land shall ensure that the animal:

- \* does not cause a nuisance to any person;
- \* is kept in conditions which are not offensive or injurious to health;

4.1.2 If in the opinion of an authorised officer an animal kept on private land is causing or is likely to cause a nuisance, or is kept in conditions which are or are likely to be offensive or injurious to health, the authorised officer may issue a notice requiring the owner or the person in control of the animal or the owner or occupier of the private land, to take such actions as is considered necessary within any time specified to abate or prevent the nuisance of the conditions, which are or are likely to be offensive or injurious to health. A person issued with such a notice shall comply with the notice.

4.1.3 Every person keeping an animal on private land shall collect manure including soiled straw or litter bedding from animal enclosures and either keep it in fly proof bins or containers or shall bury it under at least 100mm of soil.

4.1.4 Every person keeping animals, other than cats and pigeons shall be responsible for ensuring that the animals are "confined" within the boundaries of the private land on which they are kept.

##### **4.2 POULTRY KEEPING**

4.2.1 No person shall keep within the Living or Business Environments poultry, except in accordance with the following requirements.

4.2.2 Number of poultry permitted to be kept

- \* With the exception of pigeons, not more than 12 head of poultry shall be kept on any private land within the urban area without a permit from an authorised officer. An authorised officer may refuse or revoke this authority if the poultry house or run in question is considered to be likely to cause a nuisance or be injurious to health.
- \* An authorised officer may impose a limit on the number of pigeons kept on any private land if because of their number, the conditions in which they are kept or of any other reason they are considered to be causing a nuisance or to be offensive or injurious to health and if the person responsible for keeping those pigeons fails to comply with any reasonable request to abate or prevent that nuisance or the conditions which are injurious to health.

- \* Only 12 hens of poultry may be kept on premises when hens are confined to a henhouse and poultry run; or five hens when they are permitted to a free-range.
- \* Plans for poultry houses/aviaries/lofts must be submitted and approved by council's Building Control Officers in accordance with the National Building Regulations and Standards Act 1977; Zoning Regulations and the environmental Health By-Law prior to commencement of any construction thereof. The poultry house/aviary/loft must be constructed of suitable robust materials which are aesthetically pleasing and compatible with the norms of the surrounding area.

#### **4.2.3 Poultry not to be a nuisance or health risk**

- \* **Poultry, in residential areas, must not be kept under such conditions as to create a nuisance or to be dangerous.**
- \* **Poultry yards must at all times be kept clean and free from offensive odours.**
- \* **All reasonable precautions must be taken to ensure that rodents, insects and parasites are controlled in order to ensure that poultry yards do not become a breeding ground, for rodents and pests.**  
**Cause all poultry manure to be properly stored in a non-corrugated metal bin with a close-fitting cover or other container as approved by the municipality.**  
**Feed such poultry in a proper manner so as not to cause an nuisance or to attract rodents, flies or other vermin, and any residual food or other putrescible matter shall be removed at least once every day from the poultry-house and/or enclosed run.**

#### **4.2.4 Removal of litter**

No person shall place, throw, leave or allow to remain on any premises any poultry litter, refuse or manure in such manner or for such period as to favour the breeding of flies or attracts rodents or other vermin to such premises.

The municipality may by notice in writing addressed to any person keeping or causing to be kept any poultry in a poultry-house and/or enclosed run, prohibit the use of any such poultry-house and/or enclosed run if in the opinion of the municipality, it is unfit, undesirable or objectionable by reason of its locality, construction or manner of use.

#### **4.2.5 Poultry not to be kept near certain premises**

- \* Poultry must not be kept within 1.5m (or such greater distance as the council may determine in a particular case) of any adjoining premises.
- \* Poultry / Birds are not to be able to approach within 3 meters of a dwelling house, public building or premises where people are employed or where food is stored, prepared, manufactured or sold.

#### 4.2.6 Poultry house requirements

A poultry house shall be provided and shall:

- i. Be of sound construction;
- ii. Have a floor of smooth concrete or other easily cleaned approved materials with a fall of 1 in 50 to the front;
- iii. Have an enclosed run attached, provided that this shall not apply in the case of any pigeon loft or other pigeon enclosure;
- iv. Have a rainproof roof;
- v. Have a floor area of not less than 0.40 square metres for each bird;
- vi. Have a height not less than 1 metre from floor to ceiling;
- vii. Plans must be submitted for approval.

#### 4.2.7 Location

The poultry house and run shall be located at least 3 metres from any occupied building and at least 1.5 metres from any public place, or boundary of adjoining premises.

*Lofts for racing pigeons shall generally meet the requirements of the Code of Conduct produced by Pigeon Racing Unions.*

#### 4.2.8 Maintenance

Every poultry house and run shall be, to the satisfaction of an authorised officer:

- i. Maintained in good repair;
- ii. Maintained in a clean condition;
- iii. Free from any offensive smell or overflow;
- iv. Vermin and other pests must be controlled;
- v. Free from accumulations of manure and food.

#### 4.2.9 Roosters

**No person shall keep within the living or business environment roosters without the prior approval of an authorised officer. Approval if given may be subject to conditions.**

### 4.3 **KEEPING OF BIRDS / DOVES**

- a. All aviaries and holding facilities must be constructed of appropriate materials and of a quality of construction and maintenance that is acceptable to Council, and be designed to be vermin proof, well ventilated, have an impervious surface and not cause or be likely to cause injury to birds.
- b. All aviaries and facilities must be well maintained by the owner so as to avoid escape.
- c. Careful regard must be given to the requirements of neighbours, especially the avoidance of excessive noise and odour.
- d. Flooring must be constructed of an impervious material or in some external situations, sand or gravel with a rodent proof mesh underlay with fall of 1 in 50 to the front.
- e. No animal trade may be conducted without prior consent.
- f. Vermin proof storage facilities must be provided.
- g. An adequate rodent and pest control program must be in place.



- h. excessive noise and odour must be controlled by the use of sound proofing materials, distance and choice of bird species.
- i. Council will consider varying the criteria on a case-by-case basis, depending on the facilities provided by the owner, and after taking submissions of close neighbours into account.

#### 4.3.1 Other Birds

Include budgies, finches, etc. The Cape Agulhas Municipality only permits a person to keep 20 of these types of birds on their premises in total irrespective of species.

#### 4.3.2 Pet Shops and Vets

Some of those restrictions do not apply to pet shops or vets.

#### 4.3.3 Aviaries

If you wish to construct an aviary you must submit plans and get building approval. Any person wanting to construct an aviary should submit building plans and obtain consent from Council prior to constructing aviary/ies.

### 4.4 **KEEPING OF PIGEONS**

- a. The keeping of domestic pigeons by hobbyists and racing enthusiasts shall be permitted with the following control conditions apply in residential areas.
- b. All pigeons must be housed in purpose built facilities and may not exceed 3.6m in height from the ground. Council consent may be required for the construction of lofts provided with a concrete floor with a fall on 1 in 50 to the front.
- c. Enclosed housing must use deep litter or other appropriate substrate.
- d. Rodents and other vermin must be vigorously controlled.
- e. All offensive odours must be controlled.
- f. All food must be stored in sealed vermin-proof containers and must not be left uncovered.
- g. Pigeons must not be kept within 10 metres of any property used for the sale, preparation, handling or storage of food for sale and not nearer than 1.5m from any boundary.
- h. Adequate protection from predators must be provided.
- i. Positioning of pigeon lofts must be such that the amenity of adjoining premises is preserved, with no inconvenience or nuisance resulting from this activity of from flying birds.
- j. Waste must be disposed of in a approved manner.

### 4.5 **BEE-KEEPING**

Any person keeping bees or causing or permitting bees to be kept on private property must ensure that:

- \* The bees are kept in such conditions or sited in such a way as to create or be likely to create a nuisance or pose a danger to any person or animals;
- \* Where there is more than one beehive kept on private property , the consent of an authorised officer has to be obtained .(if it is within 500m of any houses).

#### **4.6 DOG KENNELS AND CATTERIES**

##### **4.6.1 Requirements for premises**

No person shall keep a kennel or cattery within a living area, requirements listed hereunder are to be complied with:

- (a) Every dog or cat shall be kept in an enclosure complying with the following requirements:
  - (i) It shall be constructed of durable materials and the access thereto shall be adequate for cleaning purposes.
  - (ii) The floor shall be constructed of concrete or other durable and impervious material brought to a smooth finish and graded to a channel 100 mm wide, extending over the full width of the floor and situated within the enclosure, which channel shall be graded and shall drain into a gully connected to the local authority's sewer system by means of an earthenware pipe or a pipe of any other approved material with a minimum diameter of 100 mm, or to another approved disposal system.
  - (iii) A kerb 150mm high shall be provided along the entire length of the channel referred to in subparagraph (ii) and on the side thereof adjacent to the surrounding outside area, to prevent storm water from such area from entering the channel.
- (b) Every enclosure referred to in paragraph (a) shall contain a roofed shelter for the accommodation of dogs and cats which shall comply with the following requirements:
  - (i) Every wall shall be constructed of brick, stone, concrete or other durable material and shall have a smooth internal surface without cracks or open joints.
  - (ii) The floor shall be of concrete or other impervious and durable material brought to a smooth finish without cracks or open joints, and the surface between the floor and the walls of a permanent structure shall be covered.
  - (iii) Every shelter shall have adequate access thereto for the cleaning thereof and for determination.
- (c) In case of dogs, a dog kennel of moulded asbestos or other similar material, which is movable and placed on a base constructed of concrete or other durable material with an easily cleaned finish, without cracks or open joints, may be provided instead of a shelter contemplated in paragraph (b), and if the base of such kennel is not rendered waterproof, a sleeping board which will enable the dog to keep dry shall be provided in every such kennel.
- (d) A concrete apron at least 1m wide shall be provided at the entrance of the enclosure over its full width, the apron to be graded for the drainage of water away from the enclosure.
- (e) A supply of potable water, adequate for drinking and cleaning purposes, shall be provided in or adjacent to the enclosure.
- (f) All food shall be stored in a rodent-proof store-room, and all loose food shall be stored in rodent-proof receptacles with close-fitting lids in such store-room.

- (g) At least 5m of clear, unobstructed space shall be provided between any shelter or enclosure and the nearest point of any dwelling, other building or structure used for human habitation or any place where food is stored or prepared for human consumption.
- (h) Separate isolation facilities for sick dogs and cats shall be provided to the satisfaction of the local authority.
- (i) If cages are provided for the keeping of cats, such cages shall be of durable, impervious material and constructed so as to be easily cleaned.
- (k) All kennels, enclosures or cages should be in a state of good repair at all times and should be free from any dangerous materials that could cause possible injury to any animal.
- (l) All reasonable precautions must be taken to minimise the risk of escape.

#### **4.7 PET SHOPS**

##### **4.7.1 Requirements for premises**

No person shall conduct the business of a pet shop upon any premises unless the premises are constructed and equipped in accordance with the following requirements:

- (a) Every wall, including any partition of any building, shall be constructed of bricks, concrete or other durable material shall have a smooth internal surface and shall be painted with a light coloured washable paint or given some other approved finish.
- (b) The floor of any building shall be constructed of concrete or other durable and impervious material brought to a smooth finish.
- (c) The ceiling of any building shall be constructed of durable material, have a smooth finish, be dustproof and be painted with a light coloured washable paint.
- (d) Sanitary facilities shall be provided in terms of the National Building Regulations.
- (e) A rodent-proof store-room shall be provided to the satisfaction of the local authority.
- (f) Facilities for the washing of cages, trays and other equipment shall be provided to the satisfaction of the local authority.
- (g) If required, change room or locker facilities shall be provided to the satisfaction of the local authority.
- (h) No door, window or other opening in any wall of a building on the premises shall be within 2 m of any other door, window or other opening to any other building in which food is prepared, store or sold for human consumption or is consumed by humans.
- (i) There shall be no direct access to any habitable room or any room which clothing or food for human consumption is stored.

##### **4.7.2 Business requirements**

Every person who conducts the business of a pet shop shall-

- (a) Provide movable cages for the separate housing of animals, poultry or birds, and the following requirements shall be complied with:
  - (i) The cages shall be constructed entirely of metal or other durable, impervious material and shall be fitted with a removable metal tray below the floor thereof to facilitate cleaning.

- (ii) Every cage shall be free from any recess or cavity not readily accessible for cleaning and every tubular or hollow fitting used in connection therewith shall have its interior cavity sealed.
  - (iii) If rabbits are kept in a cage, the metal tray referred to in subparagraph (i) shall drain into a removable receptacle.
  - (iv) Every cage shall be fitted with drinking vessel kept filled with water and accessible to pets kept in the cage;
- (b) Provide rodent-proof receptacles of impervious material with close-fitting lids in the store-room in which all pet food shall be stored;
- (c) Maintain the premises and every cage, tray, container, receptacle, basket and all apparatus, equipment and appliances used in connection with the pet shop in a clean, sanitary condition, free from vermin and in good repair;
- (d) Take effective measures to prevent the harbouring or breeding of, and to destroy, flies, cockroaches, rodents and other vermin, and to prevent offensive odours arising from the keeping of pets on the premises;
- (e) Provide suitable isolation facilities in which every pet which is or appears to be sick shall be kept whilst on the premises;
- (f) Ensure that there is a constant supply of potable water for drinking and cleaning purposes;
- (g) Ensure that the premises are at all times so ventilated as to ensure sufficient movement of air for the comfort and survival of the pets, and
- (h) Ensure that the number of pets per cage is not such that the free movement of such pets is impeded.
- (i) Ensure that no pets are kept in such manner as to expose them to direct sunlight for length of time, and take all reasonable precautions to minimise the risk of any pet escaping.

#### **4.8 PET SALONS**

##### **4.8.1 Requirements for premises**

No person shall conduct the business of a pet salon in or upon any premises unless the premises are constructed and equipped in accordance with the following requirements:

- (a) A room shall be provided with a minimum floor area of 6,5m<sup>2</sup> for the washing, drying and clipping of dogs or cats.
- (b) The floor of such room shall be constructed of concrete or other durable, impervious material brought to a smooth finish and graded to a channel drained in terms of the National Building Regulations.
- (c) The surface between the floor and the wall of such room shall be coved and shall have a minimum radius of 75 mm.
- (d) Every internal wall surface shall be smooth-plastered and be painted with a light-coloured washable paint.
- (e) The room shall be equipped with-
  - (i) a bath or similar facility with a constant supply of hot and cold water, drained in terms of the National Building Regulations;
  - (ii) an impervious-topped table, and
  - (iii) a refuse receptacle of impervious, durable material with a close-fitting lid for the storage of cut hair pending removal.

- (f) If cages are provided for the keeping of cats and kennels for the keeping of dogs, such cages and kennels shall be of durable material and constructed so as to be easily cleaned.

#### **4.8.2 Business requirement**

Every person who conducted the business of a pet salon shall-

- (a) Ensure that every cage, including its base, is of metal construction and movable;
- (b) Ensure that pesticide preparations, and preparations used for the washing of dogs and cats and the cleaning of equipment and materials are stored in separate metal cupboards;
- (c) Ensure that all tables used for the drying and grooming of dogs and cats are of metal with durable and impervious tops;
- (d) Maintain the premises and every cage, tray receptacle, basket and all apparatus, equipment and used in connection with the pet shop in a clean, sanitary condition, in good repair and free of vermin;
- (e) At all times keep every dog or cat inside the building on the premises, unless otherwise approved by the local authority.
- (f) Provide portable storage receptacles of impervious material with close-fitting lids for the storage of dogs and cat faeces, and
- (g) Remove all faeces and other waste matter from the enclosure and shelter at least once every 24 hours and place it in the receptacles referred to in paragraph (f).

#### **4.9 CATS**

4.9.1 An authorised officer may impose a limit on the number of cats which may be kept on private land (such limit being not more than 5) where:

- \* the council has received a complaint about the number of cats kept on the private land; and
- \* the officer considers that the number of cats creates or is likely to create a public health nuisance; and
- \* the person keeping those cats fails to comply with any reasonable request of the officer to abate or prevent the nuisance created.

#### **4.9.2 Criteria**

- a. Those persons requiring to keep or hold on residential premises, more than five (5) cats must be authorised by Council to do so. Council officers will determine the suitability of the premises for the purpose and number of cats to be held. All cats kept in urban areas must be sterilised unless the cats are shown to be registered with any breeding institution, organisation or association.
- b. The provision of adequate holding facilities must be in place, especially for all non-de-sexed male cat, and female cats.
- c. Cats must not be permitted to create a nuisance in the form of noise nuisance or damaging the properties of others.
- d. The owner must have the ability to control all odours and waste to the satisfaction of Council.
- e. The health of all cats is to be monitored and appropriate veterinary treatment obtained in the event of illness.
- f. Wildlife must be protected where possible from cats.

- g. Council will consider varying the above criteria on a case-by-case basis, depending on the facilities provided by the owner, and after taking submissions of close neighbours into account. Cat breeders may apply for permission from Council to vary the number of cats permitted on any property.

#### **4.10 KEEPING OF DOGS**

##### **Purpose of By-Law**

To provide for the control over the amount of dogs that may be kept, the breeding with dogs, control over dogs by their owners, pounding of stray dogs and the prevention of nuisances through the keeping of dogs.

##### **4.10.1 Restriction on number of dogs**

Subject to the provisions of subsection (2), no person may keep more than two dogs to be kept on any erf or premises without the prior written consent of the council.

Notwithstanding the provisions of subsection (1):

- \* Any person who, at the date of commencement of this of this By-law, is keeping a dog in contravention of subsection (1), may on application for a special permit issued by the Council, continue to keep such dog but may not replace any dog that dies or is lost or disposed of it would result in such a contravention;
- \* the foregoing restriction does not apply to-
  - (i) a dog breeder who has the written consent of the Council to keep such greater number of dogs as the Council may approve;
  - (ii) the holder of a permit issued by the Council;
  - (iii) the owner or manager or person in charge of a pet shop;
  - (iv) the owner or person in charge of premises where guide dogs for the blind are being kept or trained, or
  - (v) the owner or manager of a veterinary clinic or registered animal welfare Society;
  - (vi) premises zoned for agricultural purposes, shall be entitled to do so without any restrictions.

##### **4.10.2 Registration of dogs**

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

##### **4.10.3 Dogs which may not be kept**

No person may keep a dog-

- \* which is wild, dangerous or fierce to such an extent that the dog is a danger to any person who legally enters upon the premises occupied by the owner of that dog, unless muzzled and held on a leash under control of some responsible person;
- \* which barks, whimpers or howls to such an extent that it, or has another habit which, causes an unreasonable disturbance or nuisance to inhabitants to the neighbourhood;

- \* which suffers from an infectious disease, which, in the opinion of a veterinary surgeon, is of such a nature that such dog cannot be beneficially treated or boarded at a veterinary clinic;
- \* that poses a threat / danger to other animals.
- \* which is starved or underfed or denied water or adequate shelter.
- \* On premises that are not adequately fenced in such a manner that such dog is at all times confined to the premises.

#### **4.10.4 Dogs in public places**

- (a) Subject to any provision to the contrary in this By-law or any other law, no person may bring a dog into any public place or allow it to be done if that dog-
  - \* is wild, dangerous or ferocious;
  - \* is in a habit of charging at or chasing people or vehicles; or
  - \* is an unsterilized female dog which is on heat.
- (b) No person may allow or cause to be allowed any dog to be in a public place unless it is kept on a leash under control of a responsible person.
- (c) Any person in control of a dog in a public place, excluding a blind person who is led by a guide-dog, must remove any defecation or other offensive matter of such dog by placing it in a plastic bag or wrapper and dispose of it in a receptacle providing for the deposit of litter or refuse.

#### **4.10.5 Prohibited behaviour in respect of dogs**

No person may-

- (a) Without reasonable grounds,
  - \* Incite a dog against a person, animal or bird, or
  - \* Allow a dog in his or her custody or under his or her control to attack or put fear into any person, animal or bird,
- (b) provoke a dog or harass or tease any dog.
- (c) terrify or cause distress or fear to any dog with fireworks or by any other means.
- (d) neglect or abuse a dog kept by him.
- (e) as the owner or person in control of any shop or other place where food is prepared, sold or exposed for sale permit any dog to be or remain in or on such shop or place.

#### **4.10.6 Control of dogs**

No person shall-

- (a) permit any bitch on heat owned or kept by him or her to be in any public road or public place without supervision,
- (b) urge any dog to attack, worry or frighten any person or animal, except where necessary for the defence of such first-mentioned person or his or her property or of any other person;
- (c) keep any dog which
  - (i) by barking, yelping, howling or whining;
  - (ii) by having acquired the habit of charging any vehicles, animals, poultry, pigeons or persons outside any premises where it is kept, or

- (iii) by behaving in any other manner, interferes materially with the ordinary comfort, convenience, peace or quiet of neighbours, or
- (d) Permit any dog owned or kept by such person –
  - (i) to be in any public road or public place while suffering from mange or any other infectious or contagious diseases;
  - (ii) which is ferocious, vicious or dangerous to be in any public road or public place, unless it is muzzled and held on a leash and under control of some responsible person;
  - (iii) to trespass on private property;
  - (iv) to constitute a hazard to traffic using any public road;
  - (v) to constitute or to his knowledge be likely to constitute a source of danger or injury to any person outside the premises on which such dog kept, or
  - (vi) To be in any public road or public place except on leash and under control of some responsible person.

#### **4.10.7 Fencing of property**

No person shall keep a dog if the premises where such a dog is kept, is not properly and adequately fenced to keep such dog inside when it is not on a leash.

#### **4.10.8 Dogs shall not be a source of danger**

Any person who keeps a dog on any premises shall keep such dog in such manner as not to be a source of danger to employees of the municipality entering upon such premises for the purpose of carrying out their duties. A notice to the effect that a dog is being kept on such premises shall be displayed in a conspicuous place.

#### **4.10.9 Removal of offensive matter**

If any dog defecates in any public road or public place, any person in charge of such dog shall forthwith remove the excrement, place it in a plastic or paper bag or wrapper and dispose of it in a receptacle provided for the deposit of litter or refuse.

#### **4.10.10 Dogs on premises where food sold**

Any person being the owner or person in control of any shop or other place where food is prepared, sold or exposed for sale, shall not permit any dog to be or remain in or on such shop or place.

#### **4.10.11 Seizure, impounding and destruction of dogs**

- (i) Any dog, found in any public road or public place suffering from mange or any other infectious or contagious disease, or which is ferocious, vicious or dangerous, or which is badly injured, may be seized and destroyed by the municipality.
- (ii) The municipality may seize and impound at a place designated by the municipality, any dog which is found in any public road or public place in contravention with the provisions of this by-law.
- (iv) A dog impounded may be released to the owner of such dog upon payment of a fee determined by the municipality in addition to any costs, fines or taxes which may be outstanding in respect of such dog.



- (v) If a dog has been impounded and has not been claimed by its lawful owners within 72 hours the municipality reserves the right to deal with the dog as it deems fit, either by causing it to be humanely destroyed or releasing the dog for re-homing purposes.

#### **4.10.12 Breeding of dogs**

All bitches must be spayed unless the bitch is shown to be registered with a breeding institution, federation, association or organisation.

#### **4.10.13 Liability**

The municipality shall not be liable for any injury suffered or disease contracted by or damage caused to any dog as a result of or during its seizure, impounding, detention or destruction in terms of this by-law.

#### **4.11 Wild Animals**

No person shall keep a wild animal without a permit from an authorised officer. In deciding whether to grant permission, the council may consult with relevant persons or agencies such as the Ministry of Agriculture and Forestry and may impose terms and conditions on any permit or may decline the permit if the keeping of the animal is considered to be a potential nuisance or a threat to bio-security or public health or safety.

#### **4.12 Pig keeping**

##### **4.12.1 No person shall:**

###### *a. Areas where pig keeping is permitted*

Keep any pigs in any part of the urban area without a permit from an authorised officer.

###### *b. Nuisance pollution*

Keep any pigs in such a manner that they are likely to create a nuisance, or become injurious to health, or offensive, or in such a manner as to pollute or be likely to pollute any water.

The bio-security (Meat and Food Waste for Pigs) Regulations 2005 prohibits the feeding to pigs of untreated meat, or food waste containing untreated meat, to reduce the risk of an outbreak of foot-and-mouth disease or other diseases.

##### **4.12.2 Pigsties**

Without limiting clause 3.10.1 above no person shall keep any pigs except in accordance with the following requirements (Building plans must be submitted for approval):

##### **4.12.3 Sleeping pen roof:**

Roofs of sleeping pens shall be provided and be watertight.

##### **4.12.4 Sleeping pen walls:**

The walls of sleeping pens shall be constructed to prevent the accumulation of filth thereon and to provide a surface that is easily cleaned and impervious.

#### 4.12.5 Floors

Floors of sleeping and feeding pens shall be of concrete or other approved impervious material finished to a smooth even surface and graded to a fall on 1 in 25 to an approved outfall.

#### 4.12.6 Effluent disposal

All effluent from sleeping and feeding pens shall be disposed of in such a manner as to not create a health nuisance or the pollution of any waterway.

#### 4.12.7 Maintenance

The pigsty including runs, drains, catch pits and settling tanks shall be maintained in a clean condition.

#### 4.12.8 Housekeeping

Accumulated manure and offensive matter shall be removed and disposed of so as not to create a nuisance.

#### 4.12.9 Feeding areas

Troughs from which pigs are fed shall be watertight and able to be easily cleaned and shall be maintained in a clean condition.

Troughs whether in feeding pens or elsewhere shall be placed on a smooth concrete slab with a raised nib wall all round and of sufficient size to prevent pollution of the area or ground surrounding the trough.

#### 4.12.10 Accumulation/storage of manure and offensive matter

No manure or offensive matter from pigsties or any swill be stacked, accumulated or stored in any place within 50 metres from any occupied building, or public place, or the boundary of any adjoining private land or in such a way as to give rise or likely to give rise to a nuisance, or be likely to be injurious to health or offensive.

#### 4.12.11 Transport, storage of pigswill

Pigswill shall be conveyed and stored in impervious receptacles, with close-fitting covers, to prevent the escape of odour and the swill, or access by flies.

#### 4.12.12 Pigswill storage area

Any storage area for pigswill shall be sited at least 50 metres from the edge of any watercourse and shall be located above the estimated 50 year return flood period level of the watercourse.

*Council can provide information on the location of 50 year return flood period levels of watercourses.*

#### 4.12.13 *Maintenance of pigswill containers*

Every vehicle, receptacle, cover or utensil in the handling of pigswill or pig feed of a perishable nature shall be thoroughly cleaned daily. The washing from these items shall be disposed of in such a manner that no direct or indirect discharge to any watercourse occurs.

#### 4.13 **Dead Animals**

No person shall:

- \* Leave, or permit, or suffer to remain any dead animal or vermin, or part thereof, on any land or body of water or premises that they own or occupy so as to create a nuisance.
- \* Bury any animal or part thereof of more than 20 kilograms body weight (other than on land with a minimum lot size of 3 hectares and which is located outside the urban area) without the approval of an authorised officer. Any animal or part thereof may be disposed of at the disposal facilities provided by the council for this purpose.

#### 4.14 **Livestock**

##### 4.14.1 *Livestock Slaughter*

No person shall slaughter any livestock including livestock intended for human consumption for the purpose of selling to the public in any part of the urban area.

##### 4.14.2 *Persons Exempted*

Nothing in clause 4.14.1 shall apply to:

- i. A veterinary surgeon registered under the Veterinary Surgeons Act 1956.
- ii. An inspector appointed for the purpose of the Animals Act 1967.
- iii. An inspector appointed for the purposes of the Animal Protection Act 1960.
- iv. Any person who is carrying out bona fide grazing of farming operations within the urban area and where consent has been granted in writing by an authorised officer to slaughter livestock.

##### 4.14.3 *Any person who does any act contrary to clause 4.14.1 commits an offence notwithstanding:*

- i. That such slaughter is on any land or premises in the ownership or occupation of such person.
- ii. Any meat derived from slaughter is not sold or intended for sale.
- ii. The person is the owner of such livestock.

#### 4.15 **Noise from Animals or Birds**

No person shall keep on any private land any noisy animal or bird which causes a nuisance to residents in the vicinity.

#### 4.16 **Horses, Goats, Lama's, Sheep, Donkey's and cattle restricted**

No person shall within the living or business environment as defined in Cape Agulhas Municipal Area keep any horse, goat, lama's, sheep, donkeys, mules or cattle on any property except with the written consent of the Director: Community Services.

No person may keep any stallions, bulls, rams, Billy goats, or boars without the written approval of the Municipality. If permission is granted for the keeping of abovementioned livestock the animals must be confined in a secure adequately fenced area where all reasonable precautions have been taken to ensure that the animals do not pose a danger to any person/s or other animals.

#### **4.17 Conditional consent, refusal and right of appeal**

4.17.1 The authorised officer may refuse to give consent under any of Clauses .....4.2.1, 4.2.2, 4.5, 4.9.1 and 4.9.2..... of this bylaw.

4.17.2 Any consent given under any of Clause ...3.1.4..... of this bylaw may be given subject to such conditions as the Director: Community Services considers necessary to avoid nuisance or danger to any person, or injury to the health of any person.

4.17.3 Any consent given under Clauses 4.3.(i),4.9.2(g), 4.10.1..... of this bylaw may be withdrawn at any time by written notice given by the Director: Community Services.

#### **4.18 Unfenced land not permitted**

No person shall de-pasture livestock on any property adjoining a public place other than on land that is fenced sufficiently to keep such livestock from that public place.

#### **4.19 Wandering Animals – Livestock wandering on public land**

Except as may be permitted in any other bylaw, no person being the owner of, or having the care or custody of, any animal shall permit such animal to wander or be at large without proper control on any public place.

#### **4.20 Removal of unauthorised works**

Council may remove or alter any breach of this bylaw:

- i. Fowl house, fowl run, aviary or pigeon coop or any other structure used to house or contain birds of any nature if such is, or has been constructed or is maintained in a condition which is contrary to the terms of this bylaw.
- ii. Pen, shed, cage or other structure used to house or contain any animal(s) or bee(s) which is, or has been, constructed or is maintained in a condition which is in breach of this bylaw.
- iii. Structure where such is being used to house or contain any animal(s) or bee(s) on any property contrary to the terms of this bylaw.

#### **4.21 Fees**

Council may prescribe fees or charges payable for any authority, approval, permit of consent or inspection required of, applied for from or made by it or by the Director: Community Services or a Law enforcement Officer under this bylaw.

#### **4.22 Offences**

Every person who breaches this bylaw commits an offence.

## 5. MISCELLANEOUS

### 5.1 Offences and penalties

Any person who-

- (a) Contravenes or fails to comply with any provision of this By-law, or
- (b) Fails to comply with any notice issued for the purposes of this By-law; or
- (c) Fails to comply with any lawful instruction given for the purpose of this By-law; or
- (d) Obstructs or hinders any authorised official or employee of the Council in the execution of his or her duties under this By-law,

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

Any person who contravenes any of the provisions of this by-law or refuses to comply with any order lawfully given thereunder by the local authority shall be guilty of an offence and liable upon conviction to a penalty as prescribed in section 213(3) of the Municipal Ordinance, 1974 (Ordinance 20 of 1974), of the Divisional Councils Ordinance, 1976 (Ordinance 18 of 1976)

## 6. NAPIER LOCAL AREA OVERLAY ZONE

### Development Rules

1. Animals may be kept within the area designated as the Napier Local Area Overlay zone as follows:

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

2. The municipality may prescribe, for appropriate management and control purposes, additional regulations with regard to, but not restricted to:
  - (i) the number, and sex of animals that may be kept per square meter area;
  - (ii) health regulations for animals, and
  - (iii) rights of animals to have appropriate nutrition, shelter, space and nurturing.

3. Urban agriculture may be practiced within the area designated as the Napier Local Area Overlay zone, provided that the Municipality may prescribe additional regulations with regard to but not restricted to:
- (i) the use of pesticides and organic fertilizers, and
  - (ii) the storage of implements and produce.
4. The size of the premises and not the zoning will depend on how many animals can be kept and will be as follow: (1 unit = 1 cattle, 1 horse , 1 donkey , 1 lama, 4 sheep or 4 goats).

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