



**BA-PHALABORWA**  
**MUNICIPALITY**

**BA-PHALABORWA MUNICIPALITY**  
**BIODIVERSITY BY-LAWS**

The national biodiversity act provides for the management and conservation of south Africa's biodiversity within the framework of the national environmental management act, 1998; the protection of species and ecosystems that warrant national protection; the sustainable use of indigenous biological resources, the fair and equitable sharing of benefits arising from bio prospecting involving indigenous biological resources, the establishment and functions of a south African national biodiversity institute and for matters connected therewith.

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# **BA-PHALABORWA MUNICIPALITY BY- LAWS FOR INVASIVE/ALIEN FLORA AND FAUNA**

South Africa is internationally renowned for its rich biodiversity heritage that comprises amongst others, many endemic animals and birds, an abundance of marine biodiversity and a large diversity of flora populations. These biodiversity resources are however under continual threat of exploitation and extinction. Having noticed this, the Ba-phalaborwa municipality enacted the National Environmental Management: Biodiversity Act 10 of 2004 (NEMBA). This act is the main legal platform on which biodiversity conservation is based in Phalaborwa. This act provides for the protection of the species and ecosystems that warrant national protection; the sustainable use of indigenous biological resources and the fair and equitable sharing of benefits arising from bioprospecting involving indigenous biological resources.

## **BA-PHALABORWA MUNICIPALITY BY-LAWS FOR INVASIVE/ALIEN FLORA AND FAUNA**

## Definitions

1. In these By-laws, unless the context otherwise indicates –

“Invasive alien species” means an introduced species to an environment that becomes overpopulated and harms its new environment.

“Biodiversity” means a biological diversity and variety of life on earth.

“Extinction” means a process of species, family, or other groups of animals or plants becoming extinct.

“Exploitation” means the action of making use of and benefiting from resources.

“Flora” means the plants of a particular region, habitat, or geological period.

“Indigenous” means originating or occurring naturally in a particular place.

“Endemic” native and restricted to a certain place.

“Fauna” means the animals of a particular region, habitat, or geological

period

## Prohibitions for invasive alien species

2. No person may, without lawful cause or without the permission in writing of the municipality and subject to such conditions as the

municipality may impose –

- (a) Plant or keep any invasive alien species
- (b) Uproot any significant alien species
- (c) Import any invasive alien flora or fauna
- (d) Sell or buy any invasive alien flora or fauna

## **Offences and penalties**

3. Any person who –

- (a) contravenes or fails to comply with any provision of these By-laws;
- (b) fails to comply with any notice issued for the purposes of these By-laws;
- (c) fails to comply with any lawful instruction given for the purposes of these By-laws; or
- (d) obstructs or hinders any authorised representative or employee of the Council in the execution of his or her duties for the purposes of these By-laws,

Is guilty of an offence and liable on conviction to a fine or in default of payment to imprisonment for a minimum period of six months, and in the case of a continuing offence, to a further minimum fine of R50, 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 municipality and served on the person concerned requiring the discontinuance of such offence.

## **Short title**

These By-laws are called the By-laws for invasive alien flora and fauna.

**BA-PHALABORWA MUNICIPALITY BY-LAWS**  
**FOR THE TRADE OF ENDANGERED FLORA AND**  
**FAUNA OF PHALABORWA**

In a province based on the rule of law, it is law that empowers government officials to act, places limits on human actions, and articulates policy concerning wildlife trade. International agreements CITES are generally not self-executing, so bylaws are needed to give effect to them at the local level.

**Definitions**

1. In these By-laws, unless the context otherwise indicates –

“Flora” means all the plant life naturally occurring in  
  
Phalaborwa.

“Fauna” means all wild animals occurring in Phalaborwa.

“hunt” means to hunt for, shoot at, kill, snare, capture, pursue or search for or lie in wait with intent to kill, shoot or capture, or disturb, destroy, wound or maim any wild animal or bird;

“Wild animal” means any animal other than a domestic or domesticated animal, rat and mouse.

“Endangered” means species seriously at risk of extinction.

“Cites” means a global agreement among governments to regulate or ban international trade in species under threat.

“Trade” means the action of buying and selling Flora and Fauna.

“Government officials” means people who hold an office or act in an official capacity for a government entity

### Prohibition of trading flora and fauna

1. No person may, without lawful cause or without the permission in writing of the municipality and subject to such conditions as the municipality may impose –
  - (a) Hunt any wild wildlife with an intent to trade.
  - (b) Remove, disturb or destroy any flora or fauna.
  - (c) Trade any flora and fauna.
  - (d) Smuggle any flora or fauna.



## Offences and penalties

1. Any person who –
  - (a) contravenes or fails to comply with any provision of these By-laws;
  - (b) fails to comply with any notice issued for the purposes of these By-laws;
  - (c) fails to comply with any lawful instruction given for the purposes of these By-laws; or
  - (d) obstructs or hinders any authorised representative or employee of the municipality in the execution of his or her duties for the purposes of these By-laws,

is guilty of an offence and liable on conviction to a fine or in default of payment to imprisonment of 10 to 15 years, and in the case of a continuing offence, to a minimum fine of R10 000 or such higher amount as determined by the municipality, or in default of payment to imprisonment not exceeding one day for everyday during the continuance such offence after a written notice has been issued by the Council and served on the person concerned requiring the discontinuance of such offence

## Short title

1. These By-laws are called the By-laws for the for the trade of endangered flora and fauna of Phalaborwa

# BA-PHALABORWA MUNICIPALITY

## BY-LAWS FOR THE PLANTING, PRUNING, REMOVAL AND TREATMENT OF STREET TREES

### By-law

To provide for the planting, pruning, removal and treatment of street trees within the municipal area of the municipality and to provide for matters incidental thereto.

The purpose of these By-laws is to:  
Regulate the protection, planting removal and long-term management of trees in Phalaborwa. Encourage the proper protection and maintenance of all existing tree

### DEFINITIONS

In these By-laws, unless the context otherwise indicates –

**“department”** means the department Sport, Recreation, Arts and Culture;

**“executive director”** means Executive Director of Sport, Recreation, Arts and Culture or his/her nominees;

**“Ba-Phalaborwa”** means the local Municipality of Phalaborwa or any other Committee or official acting in terms of delegated authority approved in terms of sections 59 - 65 of the Local Government: Municipal Systems Act, Act 32 of 2000, and exercising any functions or duties vested in the Council in relation to these By-laws;

**“removal of street trees”** means removal of the above ground level portion of a tree including the grinding away of the roots up to 30 cm below ground level. The complete root system will not be removed but may be poisoned if necessary to prevent further re-growth of the tree;

**“street trees”** means any tree or shrub, which has been planted on property, which is the property of the Ba-Phalaborwa Municipality

### 3 TREE PLANTING

- 3.1 The Department Environmental Development will plant up sidewalks with street trees in accordance with its tree planting programme determined by the management of the Department.
- 3.2 Individual and replacement tree planting may be carried out upon written application from residents to the Executive Director.

- 3.3 Residents requesting individual tree planting must undertake to water the tree until it becomes established (normally two seasons).
- 3.4 Trees planted on sidewalks are to allow unobstructed pedestrian and cyclist movement on the sidewalks and should not interfere and/or obstruct the sight to road signs, traffic signals, streetlights, etc. for motorists, pedestrians, cyclists, etc. In considering these trees to be planted the ultimate fully grown potential of the tree needs to be considered. This would apply for the tree planting program of the Ba-Phalaborwa municipality as well as to trees to be planted by residents in terms of clause 3.2 above.
- 3.5 New trees will not be planted if they interfere with existing services, i.e. electricity, street lights, water, sewerage, etc;

No tree planting will be undertaken by the Ba-Phalaborwa Municipality within 10metres of an intersection or 5metres of an existing driveway or electricity lamp pole.

Trees will not normally be planted on sidewalks less than 3metres wide. Notwithstanding the mentioned distances, no tree planting will be undertaken if sight distances for motorists on public roads, motorists entering or exiting private properties, pedestrians, cyclists, etc. are adversely affected

- 3.6 Planting distances between trees will depend on the species selected and existing services.
- 3.7 Choice of tree species is at the discretion of the Executive Director and will be restricted to varieties known to be suited to the local conditions and that will enhance the aesthetics of the Ba-Phalaborwa Municipality. Trees with large root systems will not be planted close to the roadway or buildings where they may later cause damage to the road construction and building construction.
- 3.8 It shall be prohibited to plant any tree that is a noxious weed or by the nature of its root system, form, fruit, etc., is deemed to be undesirable. The Department will remove such undesirable trees.
- 3.9 No private tree planting is permitted without prior consent of the Executive Director. Only residents are allowed to plant their own trees in their own private premises ,for example own house yard or farm

#### **4. WATERING OF TREES**

A watering and fertilization programme shall be applied to all newly planted trees at the discretion of the Executive Director. The Municipality shall use water gazers to water the street trees in case of draught.

## **5. PEST CONTROL**

Pest control shall be implemented at the discretion of the Executive Director.

## **6. REMOVAL AND PRUNING OF ESTABLISHED TREES**

- 6.1 Dead trees, tree roots, tree stumps or trees of the Ba-Phalaborwa Municipality that in the opinion of the Executive Director, present a danger to the public, shall be pruned or removed.
- 6.2 If the trees mentioned in 6.1 are situated on the sidewalks or outside the boundary of a private property, the cost shall be borne by the Ba-Phalaborwa Municipality.
- 6.3 Trees planted on a sidewalk by a member of the public shall become the property of the Ba-Phalaborwa Municipality and will therefore be maintained by the Ba-Phalaborwa Municipality.
- 6.4 At the discretion of the Executive Director, trees on sidewalks damaged by a member of the public shall be removed or pruned and the transgressor may be prosecuted.
- 6.5 Any request for the removal/pruning of a tree on a sidewalk shall only be considered if the request is submitted in writing and addressed to the Executive Director. The Ba-Phalaborwa shall determine the cost of removing the trees from time to time and this shall be recovered from the owner if it is not in the interest of the Ba-Phalaborwa Municipality to remove the said tree. Trees shall only be removed as stipulated in item 6.13.
- 6.6 On application by the public, a community consultation process determined by the Executive Director will take place prior to the removal of a tree.
- 6.7 Branches from trees on private properties overhanging the sidewalk or into overhead power lines may be pruned back to the boundary at the cost of the Ba-Phalaborwa Municipality.
- 6.8 At the discretion of the Executive Director, trees growing on sidewalk may be pruned or treated at any time.
- 6.9 No tree may be pruned or removed from the Ba-Phalaborwa property within the area except by the department or a contractor appointed by the Executive Director.

The cost of the removal of invader trees or declared noxious weeds on Phalaborwa, shall be borne by the Ba-Phalaborwa in terms of The Conservation of Agricultural Resources Act 43 of 1983.

6.11. Trees on Ba-Phalaborwa Municipality property that cause damage to private property, or to Phalaborwa property such as kerbs, sewers, etc., shall be removed or treated/pruned at the discretion of the Executive Director.

6.12. Ba-Phalaborwa Parks may not remove or prune any tree growing on private property except for reasons outlined in Clause 6.7;

6.13. Trees on Ba-Phalaborwa property will only be removed by Ba-Phalaborwa Parks under the following conditions:

6.13.1. Dead or dying;

6.13.2. diseased beyond recovery;

6.13.3. causes a traffic hazard that pruning would not alleviate the problem;

6.13.4. causes an electrical hazard, or causes non compliance with the relevant sections of the Occupational Health and Safety Act;

6.13.5. causes damage to water or sewer pipes;

6.13.6. necessary to accommodate Municipal Services provided no alternative route is available;

6.13.7. a proclaimed noxious weed or invader plant. (Regulation 15 of Conservation of the Agricultural Resources Act 43 of 1983.);

6.13.8. trees may only be removed from a side walk to provide vehicle access to a property if the application is supported by the Executive Director: Roads Transport and Civil Works in consultation with the Executive Director: Environmental Development and the approved tariff for removing such a tree is paid in advance;

6.13.9. developers shall provide a detailed site plan of any new development showing the location of all street trees adjacent to the property which shall be approved by the Executive Director: Sport, Recreation, Arts and Culture prior to the development proceeding;

6.13.10. existing trees, whose roots have developed extensively such that its roots causes structural damage to the road layers may at the request of the Roads, Transport and Civil Works Department be removed and replaced at the cost of the Ba-Phalaborwa municipality..

6.13.11. A dangerous tree where the danger cannot be alleviated by pruning or other horticultural work;

6.14. Trees on Ba-Phalaborwa property will be removed by Ba-Phalaborwa Local Municipality Parks in the event that

- 6.14.1. The existing trees causes a traffic hazard that pruning would not alleviate;
- 6.14.2. The existing trees obstruct or interfere with sight distance to road signs, traffic signals, street lights for motorist, pedestrians, cyclists, etc. that pruning would not alleviate;
- 6.14.3. The existing trees obstruct or interfere with the safe movement of pedestrians and cyclist within the road reserve, sidewalk, etc;
- 6.15. Trees will be removed by Ba-Phalaborwa Parks exercising its own discretion or as instructed/requested by the Department Roads, Transport and Civil Works (based upon proper motivation)
- 6.16. If in the opinion of the Executive Director: Environmental Development a tree on private property is considered to be dangerous because the type of tree is unsuitable in the urban environment or it is very old or diseased, or the nature of the soil in which it is rooted is unsatisfactory for the height and weight or the tree is causing damage to municipal services, the Executive Director may recommend to the City Manager that the owner or occupants of the property on which the tree is located be issued a notice in terms of the Local Government Ordinance, 17 of 1939, as amended to have the tree removed.
- 6.17. Damage to property whether private or public shall be for the account of the person removing a tree whether permission has been granted by the Ba-Phalaborwa municipality to remove such a tree or not.

## **7. REPLACEMENT VALUE OF TREES**

- 7.1. No trees planted on property owned by the Ba-Phalaborwa may be pruned or removed other than by the Department without written consent of the Executive Director;
- 7.2. Wherever trees and other plants on property under the jurisdiction of the Ba-Phalaborwa municipality have to be replaced as a result of damage caused by any means whatsoever, the replacement value of the tree will be determined using the Helliwell System of Tree Evaluation as approved by Council.

## **8. GENERAL**

- 8.1. All requests and/or complaints shall be considered only if addressed in writing to the Executive Director: Environmental Development, who will copy such to the relevant Ward Councillor for information."
- 8.2. Any request for the removal of a tree that is not in the interests of the Ba-Phalaborwa shall only be considered if the applicant is prepared to pay for

the value of the tree as determined using the Helliwell System of Evaluation of Trees;

- 8.3. Complaints shall be dealt in order of receipt or as determined by the Executive Director;
- 8.4. Anyone **accidentally** removing or damaging a tree / trees shall be charged for the replacement value of the tree in accordance with the tariff for the removal of street trees for the Ba-Phalaborwa Municipality, as determined using the Helliwell System of Evaluation of Trees;
- 8.5. In cases where trees are **wilfully** damaged or supports removed, trespassers shall be fined in accordance with the tariff for the removal of street trees for the Ba-Phalaborwa Municipality, determined by using the Helliwell System of Evaluation of Trees;
- 8.6. Trees shall not be removed simply because they drop leaves, drop flowers, fruit, seedpods, seeds, ooze gum or because of any other similar complaint but the Department may prune such trees to alleviate the problem.
- 8.7. In cases where a tree from a private property falls onto Ba-Phalaborwa property and creates an obstruction or an emergency situation, the obstruction will be cleared by the department
- 8.8. Private trees damaged or blown over during storms will only be cut to clear roads and pavements and the removal of the debris will remain the responsibility of the resident

The Ba-Phalaborwa municipality shall pay a reward as determined by the Municipality from time to time, for information leading to the conviction of persons who damaged or destroyed trees

## **9 PENALTIES**

Contravention of the By-Laws constitutes an offence and is punishable by a fine. Anyone accidentally or wilfully removing a tree/s on the Ba-Phalaborwa property will be charged the value of the tree/s as determined using the Helliwell System of Evaluation of Trees as approved in the Ba-Phalaborwa Municipality tariffs for the Removal of Trees. Any other contravention of the By-Laws is punishable by a fine of up to R 2 000 (Two thousand Rand) or a maximum sentence of 6 (six months) imprisonment or both and may be imposed upon sentencing for each and every offence (viz. Clause 105(1) of Local Government Ordinance 17/1939).

# **BA-PHALABORWA MUNICIPALITY**

## **BYLAWS FOR HUNTING WILD ANIMALS AND BIRDS**

Wildlife laws play a crucial role in preserving the delicate balance of ecosystems and safeguarding the diverse species inhabiting our planet. These regulations in Phalaborwa will serve as a framework to protect wildlife from exploitation, habitat destruction, and illegal trade. By establishing guidelines for responsible conservation and sustainable management, wildlife laws contribute to the maintenance of biodiversity and the overall health of our natural environment. Through legal frameworks, nations strive to ensure the co-existence of humans and wildlife, forestation harmonious relationship that allows both to thrive.

### **Definitions**

1) In these By-laws, unless the context otherwise indicates –

“bird” means any bird other than a domestic or domesticated bird; “Council” means –

- a) The Ba-Phalaborwa Local Municipality established in terms of the Municipal Structures Act No 117 of 1998 as an Executive Council with Ward Committees. The Municipality consists of 28 Council Members, 14 of which are Ward Councillors, and 14 proportionally elected Councillors to amend and exercise legislative and executive authority through its municipal council,
- b) its successor in title; or
- c) a structure or person exercising a delegated power or carrying out an instruction, where any power in these By-laws has been delegated or sub-delegated, or an instruction given, as contemplated in section 59 of the Local Government : Municipal Systems Act, 2000;

“hunt” means to hunt for, shoot at, kill, snare, capture, pursue or search for or lie in wait with intent to kill, shoot or capture, or disturb, destroy, wound or maim any wild animal or bird;

“wild animal” means any animal other than a domestic or domesticated animal, rat and mouse.



## **2) Prohibition against hunting wild animals and birds**

(1) No person may, without lawful cause or without the permission in writing of the Council and subject to such conditions as the Council may impose –

a) hunt any wild animal, protected wild animals, non-indigenous wild animals or bird by any means whatsoever;

b) Remove, disturb or destroy any nests of birds, their eggs or their young.

c) May without a permit poison any wild animals or non-indigenous wild animals or birds by any means whatsoever

(2) Keeping or conveyance of wild and non-indigenous animals in certain conditions

a) No person may keep or convey a wild animals or non-indigenous animals in conditions -

i) Which are unhygienic, or

ii) May be injured or otherwise impaired and suffer unnecessarily

(3) Prohibited acts relating to dead wild and non-indigenous animals

a) No person may -

i) Handle a dead wild animal without the required documentation

## **Offences and penalties**

(4)(1) Any person who –

a. contravenes or fails to comply with any provision of these By-laws;

b. fails to comply with any notice issued for the purposes of these By-laws;

c. fails to comply with any lawful instruction given for the purposes of these By-laws;

or

d. obstructs or hinders any authorised representative or employee of the Council in the execution of his or her duties for the purposes of these By- laws,

is guilty of an offence and liable on conviction to a fine or in default of payment to imprisonment for a period not exceeding six months, and in the case of a continuing offence, an additional fine will be required 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.

(2) A person is guilty of an offence if that person –

[a] fraudulently alters any permit;

[b] Fabricates or forges any document for purpose of passing it as a permit

[c] Passes, uses, alters or has in his/her possession any altered or false document purporting to be a permit

[d] Knowingly makes any false statement or report for the purpose of obtaining a permit

(3) A person convicted of an offence in terms of section 101 is liable to a fine, or to imprisonment for a period not exceeding five years or to both fine such imprisonment.

(4) A fine in terms of subsection may not exceed-

(a) An amount prescribed in terms of the adjustment of fines Act, 1991 (Act No 101 of 1991) or

(b) If a person is convicted of an offence involving a specimen of a listed threatened or protected species, an amount determined in terms of paragraph / which is equal to three times the commercial value of the specimen in respect of which the offence was committed, whichever is the greater?

### **3) Alternatives of how to comply with offence, if contravened or forced to contravene**

It shall be a defence to an action brought against any person arising out of the destruction of an animal by him or with his authority, to prove that such animal was so severely injured or so diseased or in such a physical condition that it would have been cruel to have kept it alive, and that to summon a police officer.



# BA-PHALABORWA MUNICIPALITY

## BY-LAWS FOR ANIMAL KEEPING

The regulation of animal keeping in Phalaborwa, Limpopo province is guided by a comprehensive legal framework that underscores the significance of ethical treatment, welfare and conservation. These laws are designed to address unique ecological and cultural aspects of the region, recognising the diverse range of domestic animals. These regulations aims to strike a balance that safeguard animal welfare while respecting the cultural and environmental tapestry.

### 1. Definitions

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

**"agricultural farming or agricultural purposes"** means the cultivation of land for crops and plants, the keeping and breeding of animals, beekeeping, or the operation of a game farm, and includes such activities and buildings as are reasonably connected with the main farming activities, such as dwelling units for the farmer, farm manager and farm labourers, the packing of agricultural produce grown on the property for delivery to the market, and a plant nursery; but excludes intensive horticulture, intensive animal farming, a farm shop, harvesting of natural resources, and agricultural industry;

**"agricultural property"** means land zoned for such purposes in terms of the City of Cape Town Municipal Planning By-law, 2015;

**"animal"** means any equine, cattle, pig, sheep, goat, camel, reptile, dog, cat, poultry, ostrich, bird, rabbit, fish or other aquatic animal, rodents kept in captivity, any other domesticated animal, indigenous animal and includes any wild animal, or exotic animal which is in captivity or under the control of any person in any way;

**"animal drawn vehicle"** means any cart or other type of vehicle which is physically attached to any animal in any manner for the purposes of moving the cart or other type of vehicle;

**"authorised official"** means an employee of the City responsible for carrying out any duty or function or exercising any power in terms of this By-Law and includes

employees delegated to carry out or exercise such duties, functions or powers;

**"bees"** means honey bees;

**"bird"** includes any wild bird, but does not include poultry;

**"captivity"** in relation to any animal means the keeping within an enclosure by means of any fence, wall or obstruction of any kind whatsoever in such a way that such an animal is unable to escape;

**"carcass"** means the remains of any animal or poultry that died;

**"cattery"** means premises in or upon which boarding facilities for cats are provided or where cats are bred for commercial purposes;

**"dangerous animal"** means any animal which poses a reasonable or potential threat to the safety of any person, animal or property or which has attacked any person or animal without provocation or which has damaged property;

**"dwelling house"** means a building containing only one dwelling unit, together with such outbuildings as are ordinarily used with a dwelling house, including domestic staff quarters;

**"dwelling unit"** means a self-contained, inter-leading group of rooms, with not more than one kitchen, used for the living accommodation and housing of one family or a maximum of 5 transient guests, together with such outbuildings as are ordinarily used therewith, but does not include domestic staff quarters, or tourist accommodation or accommodation used as part of a hotel;"

**"guide dog"** means a dog which has been trained to assist blind or visually impaired persons and includes a service dog which has been trained to assist a person who is mentally or physically incapacitated;

**"health nuisance"** means any activity, condition, premises or thing which, on account of effluent, vapours, chemical effluvia, odours, noise, refuse, waste products, dirt, chemical or biochemical material, microbial infection, vermin, lack of proper general hygiene, ventilation, lighting, design, situation or on account of any other cause or practice whatsoever, is in the opinion of the Director: City Health or an authorised official potentially injurious or dangerous to health or which is offensive, including, without affecting the generality of the foregoing, any facility for the storage, distribution or handling of water that is likely to be used by man for domestic purposes or consumption, including such water itself, which is contaminated or polluted;

**"hive"** means a container made of wood or some other material which is suitable for the keeping of bees;

**"keeper"** in relation to:

- (a) any animal means the owner or co-owner thereof or any other person in possession of the animal or responsible for the feeding and caring thereof; and
- (b) cattery, kennels, pet parlour or pet shop, means the person who operates the business or the person in charge of the premises on which the business is operated;

"**kennels**" means premises in or upon which—

- (a) boarding facilities for dogs are provided;
- (b) dogs are bred for commercial purposes;
- (c) dogs are kept for the purpose of being trained or hired out with or without handlers, or
- (d) dogs are kept for commercial security purposes;

"**large animal**" includes any horse, pony, donkey, mule, cattle, antelope, sheep, pig, goat, ostrich or camel and any other animal of similar size or larger;

"**large dwelling house**" means a dwelling house on an erf more than six hundred square meters;

"owner" in relation to an animal includes any person having the possession, charge, custody or control of that animal;

"**nuisance**" includes but is not limited to an act or omission which is offensive, injurious or dangerous to health, or which materially interferes with the ordinary comfort, convenience, peace or quiet of the public or which adversely affects the public at large;

"**permit**" means the written permission granted by the City in terms of this By-Law;

"person" includes any sphere of government, natural and juristic persons;

"**pet**" means any domestic or other animal which may be lawfully kept;

"**pet parlour**" means a business, approved by the City, providing a beauty treatment service for pets by washing, drying, brushing, clipping, trimming or dyeing them or by attending to their nails, teeth and any related treatments;

"**pet shop**" means premises, approved by the City, on which the business of keeping and selling of pets is conducted;

"**poultry**" means any fowl, goose, ostrich, duck, pigeon, dove, turkey, Muscovy, guinea-fowl, peacock or pea-hen, chicken or bird whether domesticated or wild;

"**poultry house**" means any roofed-over building or structure in which poultry is kept;

"**poultry run**" means an unroofed wire mesh or other enclosure in which poultry is kept, whether or not it is attached to a poultry house;

"**pound**" means a place designated by the town in terms of any law for the

impounding, sale and destruction of animals and includes the premises of animal welfare organizations recognized by the Town;

**"pound master"** means a person who has been appointed by the Town to be in charge of a pound;

**"premises"**

(a) means a building, tent or any other structure, together with the land on which it is situated and the adjoining land used in connection therewith;

(b) means any land without buildings or tents; and

(c) includes any vehicle, conveyance, ship or boat;

**"public health"** means the practice of preventing disease and promoting good health and the physical well-being of people in the area of jurisdiction of the Town;

**"public place"** includes—

(a) a public road, parking area, square, park, recreation ground, sports ground, sanitary lane, open space, beach, shopping center on municipal land, unused or vacant municipal land, or cemetery which has—

(i) been provided, reserved, or set apart for use by the public; or

(ii) been dedicated to the public;

(b) public transportation operated by service providers for the Town, but does not include public land that has been leased by the Town;

**"rabbit enclosure"** means any roofed-over building or structure in which rabbits are kept;

**"stray animal"** means any animal not under direct control by a person or not prevented from roaming, or an animal that has escaped or is lost;

**"structure"** means any stable, shed, pigsty, kraal, aviary, paddock, covering structure, poultry house, or enclosure. Run, loft or building, used for the keeping, housing or enclosing of animals and poultry;

**"wild animal"** means any live vertebrate or invertebrate animal (including the egg or spawn of any such animal) belonging to a non-domestic species and includes any such animal which is kept or has been born in captivity; and

**"working animal"** means an animal that is trained to perform certain tasks for human benefit.

## **2. Restriction on the number of animals**

(1) The capacity of the area may determine the number of animals that

may be kept on any premises.

- (2) The number of animals determined in subsection (1) does not apply to any person who—
- (a) is the lawful owner or manager in charge of a pet shop;
  - (b) is the owner or manager in charge of premises where animals are being kept or trained and such animals are kept or trained under the auspices of a registered animal association;
  - (c) is the owner or manager of a veterinary clinic;
  - (d) is in charge of dogs, horses or equine owned by the South African Police Service or the South African Defence Force, and are kept for operational purposes; or
  - (e) Operates a pound.

### **3. Written permission and levies**

[1] No person may keep or permit to be kept at or on any premises or public place any animal without the written permission of the municipality.

[2] Such permission may be withdrawn by the municipality at any time, if -

[a] the keeping of an animal causes or poses a nuisance to any person;

or

[b] the owner of an animal, or any other person keeping an animal, is denying the animal the provision of care or humane treatment, or the care or humane treatment of the animal is being neglected; or

[c] the provisions of this by-law have been contravened.

[3] The provisions of subsection [1] shall not apply to –

[a] premises or land which is zoned for agricultural purposes; and

[b] pets, except insofar as a pet is kept at or on a public place, in which

event –

(i) the written permission of the municipality shall be obtained; and

(ii) the payment of any applicable levy shall be made, as required

by the municipality.



### **Responsible keeping of animals**

[4] Any person who keeps an animal at or on any premises or public place shall do so reasonably, and in such a manner so as to ensure that –

- [a] no nuisance is caused or posed to any person; and
- [b] the animal is provided with food and water, given adequate shelter, permitted sufficient exercise where reasonably possible, and properly looked after in general.

### **Municipality may determine conditions for keeping of animals**

5. [1] For the purposes of controlling the keeping of animals, the municipality may determine conditions regarding -

- [a] the number of animals that may be kept;
- [b] the kind of animals that may be kept;
- [c] the facilities required to keep animals; and
- [d] the areas within which the keeping of animals may be -
  - [i] restricted;
  - [ii] prohibited; or
  - [iii] exempted from any specific provision of this by-law.

6. [1] Subject to the provisions of section 5, no person shall keep more than two dogs on any premises, unless –

- [a] the written consent of the municipality has been obtained; and
- [b] any applicable levy has been paid.

[2] A licensed breeder of dogs who wishes to keep more than two dogs on –

- [a] premises zoned for agricultural purposes, shall be entitled to do so, without any restrictions; and

[b] premises zoned for any purpose other than agricultural purposes, must comply with the provisions of subsection [1].

[3] An application for the municipality's consent in terms of subsection [1] shall not be considered by the municipality, unless it is satisfied that the size of the premises on which the dogs are to be kept shall not –

[a] cause or pose a nuisance to any person; or

[b] result in –

(i) the denial or neglect of the care or the humane treatment of the dogs; or

(ii) any other contravention of this by-law.

[4] The municipality's consent in terms of subsection [1] to keep more than two dogs on a premises shall be granted subject to such conditions and restrictions as the municipality may deem fit to impose.

[5] The municipality may at any time revoke any consent granted in terms of subsection [1], provided that reasonable grounds exist.

### **Control of animals**

7. No person shall –

[1] urge or incite any animal to attack, worry or frighten any person or other animal, except where reasonably necessary for the lawful defence of such first-mentioned person, or his or her property, or the property of any other person;

[2] keep any animal which, by –

[a] barking, yelping, howling or whining;

[b] chasing after vehicles, other animals, or persons, outside any premises where it is kept; or

[c] behaving in any other manner -

interferes materially with the ordinary comfort, convenience, peace or quiet of neighbours, or the public in general;

[3] permit any animal owned or kept by such person –

[a] to be in any public road or public place while suffering from mange or any other infectious or contagious disease;

[b] 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 the control of such person, or some other responsible person;

[c] to trespass on private property;

[d] to constitute a hazard to traffic;

[e] to constitute, or, to his or her knowledge, be likely to constitute, a source of danger or injury to any person outside the premises on which such animal is kept; or

[f] to be in any public road or public place, except under the control of some responsible person.

### **Fencing of property**

8. [a] No person shall keep an animal if the premises where such animal is kept is not properly and adequately fenced to keep such animal inside the confines of such premises when it is not on a leash.

[b] Any person that keeps an animal on any premises shall comply at all times with the provisions of the Fencing Act, 1963 [Act No. 31 of 1963].

### **Animals shall not be a source of danger**

9. [a] Any person who keeps an animal on any premises shall keep such animal in such manner so 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.

[b] A notice to the effect that an animal is being kept on such premises shall be displayed in a conspicuous place.

### **Removal of offensive matter**

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

### **Animals on premises where food is sold**

11. 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 animal to be or remain in or at such shop or place unless stated otherwise.

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

12. [a] All structures housing animals shall be constructed in a workmanlike manner, and of materials approved by the municipality.

[b] No structure shall be sited within a distance of 15 (fifteen) metres from any dwelling or the boundary of a residential erf, or within 8 (eight) metres from any road boundary. The municipality may, depending on circumstances, and in its sole discretion, allow a relaxation of the said distances.

[c] Every part of a structure in which animals will be housed shall be properly maintained and painted, as often as the municipality may deem necessary.

[d] No animals shall be kept in a structure or on land which is considered by the municipality to be undesirable or objectionable, by reason of its locality, construction or manner of use.

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

13. [a] All manure from animals shall be stored in a manner approved by the municipality, and disposed of on a regular basis at an approved place or disposal site, so as to prevent any nuisance from being created.

[b] All animal feed shall be stored in a rodent-proof receptacle approved by the municipality.

[c] The premises in which animals are accommodated shall be kept in such condition so as not to attract or provide shelter for rodents.

### **Requirements for premises**

14. No person shall keep a kennel or cattery unless the requirements listed hereunder are 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

[iii] A supply of potable water, adequate for drinking and cleaning purposes, shall be provided in or adjacent to the enclosure.

[iv] The isolation facilities for sick dogs and cats shall be provided, to the reasonable satisfaction of the municipality

[v] 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

[b] No person shall conduct the business of a pet shop upon any premises, unless the premises is constructed and equipped in accordance with the following requirements -

[i] Every wall, including any partition of any premises, shall be constructed of brick, 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.

[ii] The floor of any premises shall be constructed of concrete or other durable and impervious material brought to a smooth finish.

[iii] The ceiling of any premises shall be constructed of durable material, have a smooth finish, be dustproof, and be painted with a light-coloured washable paint.

[iv] The sanitation facilities shall be provided at the premises, as required by the national building regulations.

[v] A rodent-proof storeroom shall be provided on the premises, to the reasonable satisfaction of the municipality.

[vi] Facilities for the washing of cages, trays and other equipment shall be provided on the premises, to the reasonable satisfaction of the municipality.

[vii] If required, change room or locker facilities shall be provided on the premises, to the reasonable satisfaction of the municipality

[viii] No door, window or other openings in any wall of the premises shall be within 2 (two) metres of any other door, window or other opening to any other building in which food is prepared, stored, or sold, for human consumption, or is consumed by humans.

**[ix]** There shall be no direct access from the premises upon which the business of a pet shop is conducted to any habitable room, or any room in which clothing, or food for human consumption, is stored.

### **Offenses and penalties**

[15] Any person who contravenes, or fails to comply with, any provision of this by-law shall be guilty of an offence, and liable, upon conviction, to a penalty not exceeding –

[i] A fine or imprisonment for a certain period or to such imprisonment without the option of a fine, or to both such fine and such imprisonment;

[ii] In the case of a continuing offense, 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 offense is continued; and

[iii] A further amount equal to any costs and expenses found by the court to have been reasonably incurred by the municipality as a result of such contravention or failure.

### **Regulations**

[16] The municipality may make regulations regarding –

[i] The granting of written permission for the keeping of animals, the withdrawal of such permission, and exemptions from the provisions of section

[ii] The imposition of a levy and issuing of a license, as contemplated in terms of section 3[4];

[iii] The number of dogs that may be kept on any premises, the granting of written consent, and the payment of any levy, as contemplated in terms of section 6[1];

