

## MOSSEL BAY MUNICIPALITY

### BY-LAW RELATING TO PUBLIC NUISANCES

To provide for procedures, methods and practices to regulate the prevention of public nuisances in the area of jurisdiction of the Mossel Bay Municipality.

Under the provisions of section 156(2) of the Constitution of the Republic of South Africa, 1996, the Mossel Bay Municipality enacts as follows:-

#### *Definitions*

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

**“animals”** ~~means any tame or wild mammal, reptile, amphibia, fish, insect or bird;~~ **means horse, pony, mule, donkey, cattle, pig, sheep, goat, camel, reptile (including snakes and tarantulas), pets, pet-pigs, dog, cat or other domestic animal, indigenous animal and other wild or exotic animal;**

**“authorised officer”** an employee of the Municipality or any other person who is appointed or authorised thereto to perform any act, function or duty related to the provisions of this By-law, or exercise any power in terms of this By-law; and “officer” has a corresponding meaning;

~~**“cattery”** means any establishment where cats are bred or boarded;~~

**“director”** means the person appointed as the head of a Directorate and includes an acting Director;

**“District Municipality”** means the Eden District Municipality;

**“farm animal”** means animals connected as associated in general with farming activities, like pigs, horses, donkeys, poultry;

~~**“kennel”** means any establishment that has as its business the breeding, training or boarding of dogs and includes pounds whether operated by the State or otherwise;~~

**“manager”** means the person appointed by the Municipality as the head of the Section: ~~Parks and Horticultural Services~~ **Horticulture, Sport and Recreation** of the Municipality, or his duly authorised representative or any other municipal official authorised by the Director: Community Services;

**“Municipality”** means the Municipality of Mossel Bay established in terms of section 12 of the Municipal Structures Act, 117 of 1998, and includes duly authorised agent, service provider 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 agent service provider or employee;

**“noise nuisance”** means any sound which disturbs or impairs or may disturb or may impair the convenience or peace of any person;

**“nuisance”** means any act, omission or condition on any street, place or premises, including any building, structure, plant, growth or animal thereon, which, whether realised or potential, is offensive, annoying, injurious or dangerous or materially disrupts or interferes with the ordinary comfort, convenience, peace or quietness of the public or which adversely affects the safety or health of the public or places the public in any danger;

**“owner”-**

- (a) in relation to an animal, includes the person having the possession, charge, custody or control of such animal;
- (b) in relation to property and to a public nuisance as contemplated in this By-law-
  - (i) the person or persons in whom from time to time shall be vested the legal title to any immovable property;
  - (ii) in any case where a property is subject to a registered lease, the lessee of such property;
  - (iii) in cases where the person in whom the legal title is vested is insolvent or deceased, or is of unsound mind or whose estate has been assigned for the benefit of his creditors, the person in whom the administration of the property is vested as trustee, executor, curator or assignee, or administrator;
  - (iv) in cases where the owner as above described is absent, the agent or person receiving the rent of the property in question;
  - (v) in any case where the property is beneficially occupied under a servitude or right similar thereto, the occupier of such property.

**“pet”** means an animal, insect or bird which is kept in a household and which is normally and in general associated with human beings, and which is kept for companionship or pleasure but not for trade or breeding purposes; but excludes game reptiles and farm animals;

~~**“pet parlour”** means an establishment where pets are groomed;~~

~~**“petshop”** means an establishment where pets are kept for trading purposes;~~

**“premises”** means-

- (a) land or a portion of land, whether or not a building or structure has

been constructed or erected on such land or portion thereof; or

- (b) a building, structure or tent and the land on which it is situated and includes any vehicle, carriage or vessel;

**“public place”** means any square, building, park, recreation ground or open space which-

- (a) is vested in the Municipality;
- (b) the public has the right to use; or
- (c) is shown on a registered general plan of a township and which has been provided or reserved for the use of the public or the owners of erven in such township;

**“street”** means any road, street, sidewalk or thoroughfare or any other place (whether a thoroughfare or not) 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 bridge, ferry or drift traversed by any such road, street or thoroughfare; and
- (c) any other work or object forming part of or connected with or belonging to such road, street or thoroughfare;

**“structure”** means any structure regardless the design, shape or material made of, that is used for human residence or business purposes or the keeping, enclosing or sheltering of animals.

#### Administration and enforcement

- (2)
  - (a) The Director : Community Services is responsible for the administration and enforcement of this By-law or parts thereof.
  - (b) The Director in (a) above may delegate these powers and duties to any other Director under whose functional duties such may fall, to act accordingly.
  - (c) A Director may delegate any power or duty granted to him to any competent official in his Directorate.

#### *Application of By-law*

- 2. (1) The provisions of sections 7, ~~18 to 20, 25 to 29~~ are is not applicable to-
  - (a) premises or land which is zoned for agricultural purposes and on which

bona-fide farming activities are pursued full time, excluding agricultural smallholdings where municipal services are rendered; or

~~(b) premise or land identified by the municipality where the keeping of animals or the operation of pet parlours, pet shops or catteries and kennels is permitted and indicated as such in an approved spatial development framework and zoning scheme.~~

(2) A person who keeps animals on premises contemplated in subsection (1), is not exempt from the provisions of any other By-laws of the appropriate municipality or legislation with regard to the inception or bringing about of a public nuisance.

### **GENERAL PROVISIONS RELATING TO PUBLIC NUISANCES**

*Buildings, structures, premises, built and vacant land, businesses and business premises*

3. (1) No person shall-

- (a) do work on any premises or use any building or land in such a way that it depreciate or disfigure such premises, or nearby buildings or land, or interfere with the convenience or comfort of people, or become a source of danger to any person or the environment. Should the Municipality be of the opinion that this provision is being disregarded, the Municipality may instruct that such work or use be discontinued forthwith and that the previous or an acceptable condition be reinstated;
- (b) allow the fencing of any premises to fall into a state of disrepair or to become unsightly or dilapidated;
- (c) allow any building or structure or any portion thereof on any premises to fall into a dilapidated, neglected or unsightly state, or fail to maintain the roof-water disposal system, pipes, sewers, drains, water fittings, waste water fittings, water closet fittings and all other appurtenances forming part of or attached to any building or structure in good and sound repair, or that it cause a nuisance or fail to maintain the walls of any building or structure free from dampness and in a clean and acceptable state;
- (d) allow any stand to be overgrown with bush, weeds, grass or vegetation, except protected and cultivated trees, flowers, shrubs that is maintained in a garden, to such an extent that, in the opinion of the Municipality, it may be used as a shelter by vagrants, wild animals or vermin or may threaten the public health or the safety of the community or may cause or promote the starting or spreading of fires or depreciate or disfigure any nearby building or land or become a nuisance to other people;
- (e) allow buildings, structures, premises or vacant land to be invaded by or to become a home or a shelter for squatters for undesirable elements;

allow buildings, structures, premises or vacant land to become a depository for waste material, refuse or other offensive or dangerous materials or liquids;

- (f) subject to the provisions of the Town Planning Scheme Regulations, carry on any trade, business or profession on any premises in the municipal area which causes, or be a source or become a source of discomfort or annoyance to other people or may in the opinion of the Municipality become a nuisance;
- (g) use or cause or permit to be used any stoep and/or veranda of any shop or business premises or vacant land adjoining such shop or business premises for the purpose of storing, stacking, displaying, keeping, selling or offering for sale any goods, articles or merchandise, without the prior written consent of the Municipality;
- (h) use or cause or permit any shop or business premises or vacant land adjoining such shop or business premises or any portion thereof which is open or visible to the public, for the purpose of storing, stacking, dumping, disposing, or keeping any waste material, refuse, cartons, crates, containers, objects, or other articles which disfigure or depreciate such building or become a nuisance;
- (i) enclose or cause or permit the enclosing of any stoep or veranda of any shop or business premises by means of movable or immovable structures, objects, articles or devices otherwise than by such means as prior approved by the Municipality;
- (j) advertise wares or services in any street or public place by means of any megaphone, loudspeaker, or similar device or by insistent shouting, striking of gongs, blowing of horns or ringing of bells in such manner as to constitute a public nuisance;
- (k) allow a light to be installed on the inside or outside on any premises that will shine directly onto any other premises or street which will negatively impact on traffic; provided that this does not apply to any illumination which merely causes an increase in ambient light beyond the property boundary;
- (l) exceed or fail to comply with the limitations and conditions determined by the Municipality in terms of town planning legislation;
- (m) with exclusion of an industrial zoned premises, allow the frequency of deliveries, the loading and unloading of goods, the calling of persons or the frequency of arrival, departure or parking of vehicles attached to the activities on the premises, to cause a disturbance or nuisance.

*Behaviour and conduct*

4. (1) No person shall-

- (a) cause or allow the disturbance of the ordinary comfort, convenience, peace or quiet of other people by the utilisation or use of malfunctioning or defect electrical appliances, machinery, appliances or similar equipment;
- (b) defoul, misuse or damage a toilet provided in a public building or public place;
- (c) at any time during the day or night disturb the convenience, quietness or public peace in any public or private place or premises or a street by making unseemly noises or by shouting, insistent hooting, loud wrangling or quarrelling, or by collecting a crowd or by organising any demonstration or by fighting or challenging to fight, or by striking with or brandishing or using in a threatening manner any stick, object or other weapon in such manner that it endangers humans or property or by any other riotous, violent or unseemly behaviour at any time of the day or night, or by loitering in any street or public place or by gathering in crowds on pavements without any obvious reason;
- (d) in or upon any property or premises disturb the convenience, quietness or public peace in the neighbourhood of such premises by making therein or thereon or permit any singing or playing therein or thereon a musical instrument or use or permit to be used any musical instruments, radios, television sets or the like or any loudspeaker or other device for the reproduction or amplification of sound, in such manner or at such a time or in such circumstances that the sound thereof is audible beyond the boundaries of such property or premises and materially interfere with the ordinary comfort, convenience, peace or quiet of other people;
- (e) bathe or wash himself or any animal or clothing or any other article or thing in any public stream, pool, fountain or water trough or at any public hydrant, or at any place which has not been set aside by the Municipality for that purpose;
- (f) in any street or public place use any abusive or threatening language or commit any act which may breach or cause a breach of the peace;
- (g) in any street or public place wash, clean or service any building material, -machinery, apparatus or object or mix or prepare any paint, liquids, concrete or cement;
- (h) in any street or public place feed a wild animal for instance a rock-rabbit, apes or monkeys; except avifauna;

- (i) by an action directly or indirectly or by negligence allow that a nuisance be created or continued.

*Firearms*

5. To prevent or restrict noise nuisance, nuisance, disturbance or risks no person shall-
- (a) discharge a firearm, airgun or air pistol in a street, public or private place or premises except-
    - (i) an employee or authorised official of the Municipality or a lifesaver or nature conservation officer in performing his official duties, member of the SA Police Services or other person with the Municipality's written consent;
    - (ii) in emergency cases for protection of life and property;
    - (iii) the firing of blank cartridges during approved organised competitions; or
    - (iv) to signal distress;
  - (b) use explosives or undertake blasting operations, except with the prior written permission of the Municipality;
  - (c) use a crossbow, bow and arrow or catty in any street, road or public space; except on private premises.

*Pedestrian and vehicular traffic*

6. (1) No person shall-
- (a) push, park, left behind after use or accumulate trolleys or similar devices in such a manner that it impeded or poses a risk for pedestrian and vehicular traffic;
  - (b) walk or stand in groups in such a manner that pedestrian or vehicular traffic is impeded;
  - (c) offer services, goods or articles for sale from the side of the road in such a manner that pedestrian or vehicular traffic is impeded or the attention of drivers of vehicles is distracted;

### *Overgrown Premises*

7. (1) No owner or resident of any erf shall-
  - (a) permit such erf or any portion thereof to be overgrown with trees, bushes, weeds, grass or any other vegetation to such an extent that it causes a public nuisance and/or is obnoxious and/or is unsightly or poses a fire risk;
  - (b) where any such erf or portion thereof has been planted with trees, shrubs, vegetables, flowers or grass, permit the erf in question to become so overgrown with cultivated vegetation and/or so neglected that it causes a public nuisance and/or is obnoxious and/or unsightly;
  - (c) permit any erf or portion thereof whether with natural or cultivated vegetation to be so overgrown that it is aesthetically unacceptable.
- (2) In the event of any contravention of the provisions of subsection 7(1) the Municipality will be entitled to address to the owner or resident of such erf per registered post, a notice informing such owner or resident of such contravention and requiring such owner or resident to comply with this By-law or Fire Safety Regulations within a period of thirty days after the date on which the aforesaid notice was posted to the owner or resident.
- (3) If any owner or resident, to whom a notice has been addressed fails to comply with the requirements of such notice within the period stipulated in such notice, the Municipality may in terms of its authority to prosecute, and without any further notice to such person and with any other assistance or any advisors which may be required, forthwith enter upon such erf and take all reasonable steps and incur such costs to remove the public nuisance.
- (4) The Municipality will be entitled to claim all reasonable and fair costs incurred in the removal of the public nuisance from the owner or resident of the erf.
- (5) If the public nuisance on any such erf is caused by vegetation which has been proclaimed as a protected tree, group of trees, woodland or species in terms of section 12 of the National Forestry Act, No 84 of 1989 or any other related legislation, the owner or resident will be obliged, where applicable, to obtain the necessary licence to remove, prune or chop down such vegetation at his own cost.
- (6) If the removal of such public nuisance will result in an activity which will most likely result in a negative effect on the environment in terms of the regulations published in terms of the National Environmental Management Act, Act No 107 of 1998 and also activities identified in terms of the Outeniqua Sensitive Coastal Area Regulations, 1996, (R879, R881 of 31 May 1996) which require a permit, such permit must be obtained by the owner or resident of such erf at their own cost.



*General*

8. (1) Notwithstanding the provisions of any other By-law no person shall-
- (a) deposit, leave, spill, drop or place any fruit or vegetable or their peels, whole or broken bottles, glass, plastic bottles, plastic bags, paper, cartons, cigarette or cigar stub or refuse or thing which is offensive or likely to cause annoyance, danger or injury to persons in or on any premises, street or public place;
  - (b) carry or convey, or cause or permit to be carried or conveyed through or in any street or public place, any objectionable material or thing, liquid or solid, which is or may become offensive or dangerous or injurious to health, unless such objectionable material or thing is covered with a suitable material to prevent the creation of any nuisance;
  - (c) accumulate, dump, store or deposit any article or thing of whatsoever nature, which in the opinion of the Municipality is waste material or likely to constitute an obstruction in any street, public place or built-up or vacant premises or land;
  - (d) permit the carcass of any animal, which died on his premises, or elsewhere on municipal property, that is his property or in his charge, to remain unburied or shall bury a carcass in an illegal place;
  - (e) operate any device which interferes with radio and television reception.
- (2) In the event of a contravention, the Municipality may in its discretion, issue a notice on the owner or occupier or the alleged offender to terminate within a prescribed period, the action or to abate the nuisance created. In the event of non-compliance with such order and without prejudice to or in addition to the Municipality's right to prosecute, the Municipality may take the necessary steps to remove the cause or source of the nuisance and any costs incurred in connection therewith shall be recoverable from the person responsible for the nuisance or the owner or occupier or the premises on which the nuisance originates or is being continued.

*Light Nuisances*

9. (1) No person shall-
- (a) use any light of intense illuminations; or
  - (b) display any flashing light, whether or not the frequency of intermittent alterations thereof disturbs the occupants of any nearby premises or is a source of nuisance to the public.

- (2) Notwithstanding any provisions of this By-law or of any authorisation, where an electric advertisement, light of intense illumination or animated advertisement sign, after displaying or erection become a nuisance to the occupants of any other premises, the Municipality may by notice to the person given the authorisation to erect such light, require the light to be altered in such manner, or limited to such hours of operation as may be specified in such notice or, where necessary be removed.

#### *Bill-sticking*

10. Where any bill or other like thing has been attached to or placed on any premises or any premises has been in any way defaced whether by the use of chalk, ink or paint or by any other means whatsoever and such defacement, bill or the like is visible from a street or public place, the Municipality may serve an notice on the owner and/or occupier of the premises concerned, requiring him to remedy the eyesore in the manner set out in such notice.

#### *Litter*

11. (1) No person shall throw, discarded or deposited any litter at a local facility or in a public facility or in a public place or street, other than receptacles provided for the purpose.
- (2) No person shall without the prior permission of the Municipality, distribute or cause, allow, permit or suffer to be distributed any brochures, handbills, pamphlets, notices, or the like, in any public place.

#### *Soil Hazards*

12. No person on any premises shall excavate or remove soil or other material or cause, allow, permit or suffer the excavation or removal of soil or other material in a position in relation to a boundary of the premises with other premises or a public place, so as to or to be likely to remove lateral support from those premises or that public place or to create a source of danger to any person or damage to that property or place.

#### *Wind Hazards*

13. No owner, resident or person is allowed to erect any shed, cover, sign, pole or any other appliance, structure or object on, to or over any building, which will cause a hazardous situation, resulted from a strong wind or weather condition, without ensuring that the attachment's weight is safely and secure balanced and evenly distributed on or to the structure of the building by a sufficient foundation or support by cables, strays, brackets, pillars or any other restraining measures.

#### *Water Sources*

14. (1) Save for any other prescription, no person shall-
  - (a) deposit or discharged or cause, allow, permit or suffer to be deposited or discharged any litter, refuse, night soil, industrial waste or liquid or

other matter which may cause pollution of any nature on a portion of the catchment area; or

- (b) pollute or cause, allow, permit or suffer the pollution of any canal, spring or subterranean water; or
- (c) cause, allow, permit or suffer any solid, liquid or gaseous substance other than stormwater to enter any river, stream or natural water source or any other public water, whether ordinarily dry or otherwise;
- (d) pollute or cause, allow, permit or suffer any water in any potable water supply system to be polluted, or become unsuitable for drinking by human beings;
- (e) take or use or cause to be taken or used for domestic purposes any water from any furrow, dam or other supplies, which is or is likely to be polluted.

*Waste Water*

15. (1) No person shall discharged or cause, allow, permit the discharge or entry into any road, drain, natural or constructed watercourse river, stream, onto the sea-shore, of water or any substance-
- (a) which contains any constituents in concentrations which can create a nuisance on the beaches or in the sea, or which may endanger the safety of any person, animal or property or have an adverse effect on bathing areas or other recreational areas;
  - (b) which contains any floating material;
  - (c) containing any materials capable of creating frothing in the sea; or
  - (d) containing any standard domestic effluent.
- (2) No owner or occupier of any premises shall cause, allow, any contaminated water or any other hazardous liquid, to run or flow from any premises into any public or private road or allow any such liquid to run or flow into any premises of another.

*Offensive action*

16. (1) No person shall-

- (a) display or cause, allow or permit to be displayed any material at anything which is immoral, indecent, obscene, offensive or illegal and such material is clearly visible to the general public outside of any such premises; or

- (b) build, draw, print, write or otherwise produce any immoral, indecent or offensive figure, letter, picture, word or other representation or matter and such representation or matter is visible to the general public outside of any such premises.

#### *Airconditioning Appliances*

17. No owner or occupier of a building or a portion of a building, who has installed therein or who maintains and operates therein an air conditioning appliances, shall fail to ensure that such appliance is so installed maintained and operated as to preclude-
- (a) the generation of noise, smell or vibration which constitutes a nuisance to the public, including any other occupier of that building and any occupier of premises in the neighbourhood; or
  - (b) the discharged or generation of condensate onto a public thoroughfare or public place or street, so as to be a source of danger or nuisance to the public.

### **THE KEEPING OF ANIMALS**

#### *Permission to keep animals*

- ~~18. (1) No person shall keep or permit to be kept on any premises or property any animals, excluding bees and pets, without the prior written permit issued by the Manager; unless the premises is in terms of an applicable town planning scheme zoned to allows the use appropriation for the keeping of such animals.~~
- ~~(2) (a) For the purpose of managing the keeping of animals on premises, the Municipality may determine the kind, number and sex of animals that may be kept and the areas within which the keeping of such animals shall be prohibited.~~
  - ~~(b) No poultry that are likely to cause a noise nuisance, will be permitted, and no application for the keeping of roasters, geese, turkeys and peacocks will be entertained.~~
  - ~~(3) Permits issued will only be valid for the specific property in respect of which the application was made and will not be transferable, which will only be valid for a maximum period of two years after date of issue.~~
  - ~~(a) The Municipal Manager is authorised to cancel such permit, after considering a report from the Manager or responsible authority and the comments of the permit holder, if he considers it as a public health hazard or a nuisance and necessary in the interest of the abutting neighbours or persons residing in the vicinity of the permit holder's property, or to other animals or poultry.~~

~~(b) — The Manager may, subject to compliance with the provisions of this By law, issue a new permit if the Manager is satisfied that the reasons for the cancellation no longer exist and that there is no reason why a new permit should not be issued.~~

~~(4) — An application fee for new applications and for every amendment or extension to the original permit will apply, as determined by the Municipality from time to time.~~

*Plans for structures and management*

~~(5) — An application in terms of sub-section 18(1), to keep animals must be accompanied-~~

~~(a) — by a detailed site plan indicating all existing or proposed structures and fences on the premises for which the permit is required;~~

~~(b) — the comments of the owners or occupants of surrounding premises;~~

~~(c) — detailed plans and specifications of structures in which it is proposed to keep the animals;~~

~~(d) — where possible, an exposition of the numbers, kinds, sizes and gender of the animals.~~

~~(6) — All structures in which animals are kept shall be suitably screened from any street to the satisfaction of the Manager.~~

*Wavering of requirements and withdrawal of permits*

~~19. Notwithstanding the aforementioned provisions, the Manager may after considering conditions particular to the property and on condition that no objection is received from adjoining neighbours, waive any or all of the requirements of this part and impose other conditions if appropriate and may further withdraw any authorisation in terms of section 18(1) if any of the conditions therein are not adhered to.~~

*Validity of permits*

~~20. (a) — All permits, authorisations and concessions to keep animals that are in existence on the date of promulgation of this By law and that do not comply with the provisions of this By law, and/or have not been approved by the Municipality, must within a period of nine months of the date of promulgation, be brought in compliance with this By law by means of a written application.~~

~~(b) — In terms of the provisions of the Municipal Systems Act, Act 32 of 2000, the provisions of sub-section (a) must be brought under the attention of the public twice by means of a notice.~~

*Duties of owner or keeper of animal*

21. ~~The owner of an animal or the keeper thereof~~

- ~~(a) — may not cause or allow an animal to interfere with the ordinary comfort, convenience, peace or quiet of other people cause damage or pose a danger to other people or animals;~~
- ~~(b) — must at all times maintain the premises on which an animal is kept, and all appurtenances in good repair and in a clean and neat condition so as to prevent the occurrence of a public nuisance, with adequate shelter, water and food;~~
- ~~(c) — may not leave or allow any animal to be on a public road or any section thereof or leave such animal in a place where it may stray into such section of a public road, or roamed uncontrolled.~~

*Animals kept in an unsatisfactory manner*

22. ~~(1) — Whenever, in the opinion of the Manager, animals kept on any premises, whether or not such premises have been approved under this or other By-law, are a public nuisance, the Manager 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 and to carry out such work or take such steps as the Manager may deem necessary for the said purpose, or any fair condition that may be imposed.~~

~~(2) — Any activities required in terms of such notice will be for such owners own account, and failing to comply with such a notice, the Manager may take or see to that steps required be taken and recover the costs thereof from such owner.~~

*Impoundment of animals*

23. ~~(1) — The Municipality may impound or have an animal impounded or act as determined in article 22(1) when such animal~~

- ~~(a) — dangerous or ferocious;~~
- ~~(b) — found at large in a weakened or neglected state on any premises or in a street or public place and appears to be ownerless or abandoned by its owner or keeper; or~~
- ~~(c) — injured or diseased to such an extent that it would be humane to do so.~~

*Hawking of animals*

24. (1) ~~No person may hawk an animal—~~

- ~~(a) — in a street or public place; or~~
- ~~(b) — in or from a movable structure or vehicle.~~

*Permission to keep bees*

25. ~~(1) — To manage or restrict a nuisance, disturbance or risk no person may not keep bees on premises within the area of jurisdiction of the Municipality, except in terms of a permit, on application issued by the Manager.~~

~~(2) — Application for a permit must be made in writing which must be signed by the applicant or his agent who has been duly authorised in writing to do so, and must be submitted to the Manager.~~

~~(3) — (a) — The Manager must on receipt of an application for a permit establish all the relevant facts, and may, if necessary, inspect the premises where the bees will be kept.~~

~~(b) — The application must indicate reasonable proof—~~

~~(i) — that the keeping of bees on the premises will not constitute a nuisance or danger to human or animal life;~~

~~(ii) — that the conditions contemplated in sub-section (7)(a) will be met; and~~

~~(iii) — that the written comments of the neighbours are attached.~~

~~(4) — (a) — The manager must within 30 days of receipt of a fully motivated application for a permit, consider the application.~~

~~(b) — If the application is refused, the Manager must inform the applicant accordingly, and must on request provide the applicant with written reasons for doing so.~~

~~(c) — (i) — If the application is granted, the Manager must on payment, subject to sub paragraph (ii), by the applicant to the Municipality of the prescribed fee, issue the permit to the applicant and include the particulars in a record of permits issued.~~

~~(ii) — No fee is payable if the bees are kept in observation bee hives for experimental or educational purposes only.~~

#### Duration of permit

- ~~(5) (a) A permit issued under sub-section (4)(c) is valid up to the first ensuing 30<sup>th</sup> of June following the date of its issue.~~
- ~~(b) A permit holder may, at least one month before the expiry of the permit, apply in writing to the Manager for the renewal of the permit.~~
- ~~(c) The Manager may renew the permit on a yearly basis if he is satisfied that the permit holder complies with sub-section (7)(a) and has paid to the Municipality the prescribed renewal fee, unless the bees are kept in observation bee hives for experimental or educational purposes only.~~
- ~~(6) (a) The Manager may at any time by notice served on a permit holder rescind the permit if there is convincing evidence, which on request has not been rebutted by the permit holder, that the permit holder does not comply with a provision of sub-section (7)(a) or that the keeping of the bees constitute a public nuisance or a danger to human or animal life.~~
- ~~(b) A permit holder is not on account of the rescission of the permit under paragraph (a) entitled to a refund of any part of the fee paid in terms of sub-section (4)(c)(i) or sub-section (5)(c).~~

#### Conditions of permit

- ~~(7) (a) A permit to keep bees is subject to the conditions-~~
- ~~(i) that the bees must be kept in a bee hive made of solid and weatherproof material and built in such a manner that the honeycombs may be formed in frames that can be separated and removed from the bee hive;~~
- ~~(ii) that the bee hive must be kept at least 100 metres from any residence, business premises or place where animals or birds are kept;-~~
- ~~(iii) that the bee hive must be surrounded by a wire fence, hedge or wall of at least 1,5 metres high and which is at least 2 metres from any part of the bee hive; and~~
- ~~(iv) that the permit holder must display a notice board approved by the Manager, in the three official languages of the Western Cape that bees are kept on the premise.~~
- ~~(b) The Manager may at any time inspect the premises concerned to ascertain whether the conditions of the permit are complied with.~~



### Removal or destruction of bees

- ~~(8) — (a) — If a person keeps bees on premises without a permit or contrary to a condition contemplated in sub-section (7)(a), the Manager may serve a notice on the owner or occupant of the premises, to the effect that the bees must within the period stated in the notice be destroyed or removed to premises where they may be kept legally, otherwise they will be destroyed or removed by the Manager and the cost related thereto will be recovered from such owner or occupant.~~
- ~~(b) — If the owner or occupant fails to comply with a notice contemplated in sub-section (1), the Manager may authorise the destruction or removal of the bees and recover the costs related thereto from the owner or occupant concerned.~~
- ~~(c) — If the keeping of bees on premises constitutes an immediate and serious danger to human life, the Manager may authorise the destruction or removal of the bees, without prior notice to the owner or occupant concerned, and recover the costs related thereto from such owner or occupant.~~
- ~~(d) — For the purpose of this section the owner or occupant of premises is also deemed to keep bees or destroy it immediately that have naturally settled on the premises concerned.~~

### Service of notices

- ~~(9) — A notice contemplated in this section 25 is regarded to have been duly served if it has been handed over to the permit holder or the owner or occupant concerned or to a member of his household, or to a person at his residence or place of employment, who is ostensibly over the age of 16 years.~~

## **PROVISIONS RELATING TO KEEPING OF CATS**

### *Number of cats*

- ~~26. — (1) — No person may keep on any premises a cat or cats in such a manner so as to cause any nuisance or annoyance to other people.~~
- ~~(2) — The Municipality may impose conditions for and restrictions on the number of cats that may be kept on a premise.~~

### *Breeders of cats*

- ~~27. — (1) — A breeder of cats who wishes to keep more than two cats must obtain permission from the Municipality.~~
- ~~(2) — An application in terms of sub-section (1) must contain an exposition of the race, gender and number of cats applied for.~~

- ~~(3) Plans and specifications of structures in which it is proposed to keep the cats as well as a site plan indicating all existing or proposed structures and fences on the premises for which the permit is required, must accompany the application.~~

*Conditions and restrictions*

- ~~28. The Managers consent may be granted subject to such conditions and restrictions as the Municipality, or the Responsible Authority, may deem fit to impose, or may refuse permission.~~

*Withdrawal of permission*

- ~~29. (1) Where a person contravenes or fails to adhere to a condition or restriction, the Responsible Authority or Municipal Manager may, after hearing that person, withdraw its consent and may order the removal of animals from the premises for care, safekeeping or disposal by an animal welfare organisation or pound.~~
- ~~(2) Any costs incurred for the removal and safekeeping of animals contemplated in sub-section (1), shall be recovered from the owner or keeper of such animals.~~

*Transitional provisions*

- ~~30. A person who, at the commencement of this By law, owns a larger number of animals than the number prescribed in this By law, may continue to keep such larger number of animals-~~
- ~~(a) but may not replace any animal in excess of that number should one or more of the animals die or be disposed of, unless permission is obtained from the Manager for exceeding that number; or~~
- ~~(b) until the expiry date of his permission to keep animals.~~

**~~DOG KENNELS, CATTERIES, PET SHOPS AND PET PARLOURS~~**

*Permission to operate*

- ~~31. (1) No kennel, cattery, pet shop or pet parlour may be operated without the permission of the Manager on behalf of the Municipality, which permission may be subject to conditions.~~
- ~~(2) Application for permission must be done in the form prescribed by the Municipality and or responsible authority.~~
- ~~(3) The person operating a kennel, cattery, pet shop or pet parlour may not conduct the business in such a manner so as to cause any nuisance or annoyance to other people.~~

## **CO-OPERATION BETWEEN MUNICIPALITIES**

### *Service Delivery Arrangements*

18. (1) In an effort to achieve optimal service delivery in terms of this By-law, the Municipality may enter into agreements with the District Municipality with which legislative and executive powers is shared, in respect of-
- (a) the practical arrangements with regard to the execution of the provisions of this By-law;
  - (b) the imposition and enforcement of conditions with regard to any application in terms of this By-law, in so far as such conditions pertain to the functions and powers performed by the District Municipality;
  - (c) any other matter regarded necessary by the parties to achieve optimal service delivery in terms of this By-law or other prescriptions.

## **GENERAL PROVISIONS**

### *Right of entry and inspection*

19. (1) Any duly authorised person is authorised to inspect any premises within the municipal area in order to determine whether there is compliance with the provisions of this By-law.
- (2) When entering a premise in terms of sub-section (1), the authorised person must on request by any person, identify himself by producing written proof of authorisation.
- (3) The authorised person may be accompanied by a person reasonably required to assist in conducting the inspection.
- (3) A person commits an offence if he or she-
- (a) hinders or interferes with an official in the execution of his or her official duties;
  - (b) falsely professes to be an official;
  - (c) furnishes false or misleading information when complying with a request of an official; or
  - (d) fails to comply with a request of an official.

### *Exemptions*

20. (1) Any person may in writing apply to the Municipality for exemption from any provision of this By-law.

- (2) The Municipality may-
  - (a) grant an exemption in writing and set and determine the period for which such exemption is granted;
  - (b) alter or cancel any exemption or condition in an exemption; or
  - (c) refuse to grant an exemption.
- (3) An exemption does not take effect before the applicant has undertaken in writing to comply with the conditions imposed by the municipality, however, if an activity is commenced before such undertaking has been submitted to the municipality, the exemption lapses.
- (4) If any condition of an exemption is not complied with, the exemption lapses immediately.
- (5) Where any action takes place with the consent of the Municipality and any conditions, requirements or restrictions of approval are ignored or not fully comply with or complaints are received the Municipality may take action against the offender and/or institute legal proceedings.

*Service of documents and process*

21. (1) Whenever a notice, order, demand or other document is authorised or required to be served on a person in terms of this By-law, it shall be deemed to have been effectively and sufficiently served on such person-
  - (a) when it has been delivered to him personally;
  - (b) when it has been left at his place of residence or business in the Republic with a person apparently over the age of sixteen years;
  - (c) when it has been posted by registered or certified mail to his last known residential or businesses address in the Republic and an acknowledgment of the posting thereof is produced;
  - (d) if his address in the Republic is unknown, when it has been served on his agent or representative in the Republic in the manner provided by paragraph (a), (b) or (c); or
  - (e) if his address and agent in the Republic are unknown, when it has been posted in a conspicuous place on the immovable property (if any) to which it relates.
- (2) When any notice, order, demand or other document as aforesaid is authorised or required to be served on a person by reason of his being or having been the owner or occupier of or holding some other right in respect of immovable

property, it shall not be necessary to name him but it shall be sufficient if he is therein described as the owner, occupier or holder of such immovable property or other right, as the case may be.

#### *Limitation of liability*

22. (1) The Municipality is not liable for any damages or loss caused by-
- (a) the exercise of any power or the performance of any duty in good faith under these By-laws; or
  - (b) the failure to exercise any power, or perform any function or duty in good faith under these By-laws.

#### *Penalties*

23. (1) Any person who continues to commit an offence after notice has been served on him or fails to cease committing such offence after he has been convicted of such offence, is guilty of a continuing offence.
- (2) Any person who fails to give or refuses access to any authorised employee or representative of the Municipality if he requests entrance on any land or premises, or who furnishes a false statement, or gives false or misleading information knowing it to be false or misleading, and any person who contravenes or fails to comply with any other provision of this By-law shall be guilty of an offence and liable upon conviction to-
- (a) fine or imprisonment, or to both such fine and such imprisonment and;
  - (b) in the case of a continuing offence, to an additional fine or an additional period of imprisonment for each day on which such offence is continued; and
  - (c) a further amount equal to any costs and expenses found by the court to have been incurred by the Municipality as result of such contravention or failure.

#### *Repeal of By-laws*

24. (1) The By-laws listed hereunder are hereby repealed:
- (a) Mossel Bay Municipality: Regulations for the Prevention and Suppression of Nuisances - PN 84/1972 dated 28 January 1972.
  - (b) Hartenbos Municipality: By-law relating to the Prevention and Suppression of Nuisances - PN 83/1984 dated 16 March 1984
  - (c) Mossel Bay Municipality: By-law to the Control of Shopping Trolleys - PN 748/1990 dated 30 November 1990.

- (d) Mossel Bay Municipality: Additional Regulations Relating to the Keeping of Poultry - PN 724/1963 dated 1 November 1963.
- (e) Mossel Bay Municipality: Standard By-law relating to the Keep of Animals - PN 485/1990 dated 27 July 1990.
- (f) **Mossel Bay Municipality: By-Law Relating to Public Nuisances – PG6688 dated 18 January 2010**

*Short title and commencement*

- 25. This By-law shall be known as the By-law relating to Public Nuisances of the Mossel Bay Municipality and shall come into operation on the date of publication thereof in the Provincial Gazette.