

Stellenbosch Municipality, by virtue of the powers vested in it by section 156 (2) of the Constitution of the Republic of South Africa as amended, read with section 13 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), has made the By-law set out below:

BY-LAW ON THE PREVENTION OF PUBLIC NUISANCES AND THE KEEPING OF ANIMALS

TABLE OF CONTENT

1. Definitions
2. Application of this By-law

CHAPTER I: GENERAL PROVISIONS RELATING TO PUBLIC NUISANCES

3. Conduct and behaviour

CHAPTER II: GENERAL PROVISIONS RELATING TO KEEPING OF ANIMALS

4. Permission to keep animals
5. Keeping of pit bulls
6. Plans for structures and management
7. Consideration of applications and imposition of conditions
8. Visibility of structures on premises
9. Wavering of requirements and withdrawal of permits
10. Validity of authorisation
11. Duties of owners or keepers of animals
12. Animals kept in an unsatisfactory manner
13. Euthanasia of animals
14. Hawking of animals

CHAPTER III: PROVISIONS RELATING TO KEEPING OF DOGS, CATS AND PETS

PART 1 - GENERAL PROVISION RELATING TO DOGS, CATS AND PETS

15. Number of dogs and cats
16. Breeders of dogs and cats
17. Breeders of pets
18. Conditions and restrictions
19. Withdrawal and permission

20. Dogs or cats in public places

PART 2 – SPECIFIC PROVISIONS FOR DOGS

21. Control of dogs

22. Fencing of property

23. Fire works

24. Animal cruelty

CHAPTER IV: DOG KENELS, CATTERIES, PET SHOPS AND PET PARLOURS

25. Permission to operate

CHAPTER V: CO-OPERATION BETWEEN MUNICIPALITIES

26. Service delivery arrangements

CHAPTER VI: POWERS OF MUNICIPALITY IN CASE OF OMISSION BY DISTRICT MUNICIPALITY

27. Failure or omission by a district municipality

CHAPTER VII: NOISE NUISANCE

28. Noise nuisance

CHAPTER VIII: GENERAL PROVISIONS

29. Right of entry and inspection

30. Service of documents and process

31. Transitional provisions

32. Appeal

33. Offences and penalties

34. Exemptions

35. Repeal of by-laws

36. Short title and commencement

1. Definitions

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

“animals” means any equine, bovine, sheep, goat, poultry, camel, dog, cat or other domestic animal or bird, or any wild animal or reptile which is in captivity or under the control of a person.

“authorised official” means -

- (a) a designated person;
- (b) a member of the Service as defined in section 1 of the South African Police Service Act, 1995 (Act 68 of 1995)
- (c) a municipal police officer or a law enforcement officer appointed under any law; or
- (d) a person who has been declared a peace officer under section 334(1) of the Criminal Procedures Act, 1977 (Act 51 of 1977);

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

“Cattery” means any establishment where cats are bred or boarded.

“District municipality” means the Cape Winelands District Municipality established in terms of **section 12 of the Municipal Structures Act, 1998 (Act 117 of 1998) Provincial Notice 480 dated 22 September 2000**, as amended by **Provincial Notice 162 dated 20 August 2004**, and includes any political structure, political office bearer, councillor, duly authorised agent 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.

“Dwelling house” means a single building designed for use as a residence for a single family situated on premises containing not more than two such buildings;

“dwelling unit” means an inter-connected suite of rooms including a kitchen or scullery designed for occupation by a single family, other than dwelling house, irrespective of whether such unit is a single building or forms part of a building containing two or more such units;

“guide dog” means a dog which has been trained to assist a blind or poor-sighted person 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, vibration, radiation, refuse, waste products, dirt, chemical or biochemical material, microbial infection, vermin, vegetation, overcrowding, lack of proper general hygiene, ventilation, lighting, design, situation or on

account of any other cause or practise whatsoever, is/ are in the opinion of the Cape Winelands District Municipality or a duly authorised Council employee of the District Municipality potentially injurious or dangerous to health or which is/ are 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;

“**kenel**” 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 purposes of being trained or hired out with or without handlers; or
- (d) dogs are kept for commercial security purposes;

“**municipality**” means the municipality of Stellenbosch established in terms of **section 12** of the **Local Government: Municipal Structures Act, 1998 (Act 117 of 1998)**, **Provincial Notice 5642** dated b **4 December 2000** and includes any political structure, political office-bearer, councillor, 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, or employee.

“**Municipal Manager**” means a person appointed in terms of **section 54S** of the **Municipal Systems Act, 2000 (Act 32 of 2000)** and includes any person;

- (a) acting in such position; and
- (b) to whom the municipal manager has delegated any power, function or responsibility in as far as it concerns the execution of those powers, functions or duties.

“**Owner**” means;

- (a) in relation to any animal, includes the person having possession, charge, custody or control of such animal;
- (b) in relation to a public nuisance as contemplated in **CHAPTER III: PART 1** of 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, assignee or administrator;

(iv) in any case where the property is beneficially occupied under a servitude or right similar thereto, the occupier of such property.

“Permit” means the written permission granted by the Council in terms of this By-law;

“Pit bull” is defined as:

A pit bull terrier

A Staffordshire bull terrier

An American Staffordshire terrier

An American pit bull terrier

A dog that has an appearance and physical characteristics substantially similar to any of those dogs.

“Pet” means a tame animal which is kept in a household for companionship and amusement.

“Pet parlour” means an establishment where pets are groomed.

“Pet shop” means an establishment where pets are kept for trading purposes.

“Poultry” means fowl, goose, ostrich, duck, pigeon, dove, turkey, muscovy, guineafowl, peacock or peahen or bird whether domesticated or wild.

“Premises” means;

- (a) land or portion of land, whether or not a building or structure has been constructed or erected on such land or portion thereof;
- (b) a building, structure, tent or caravan and the land on which it is situated and includes any vehicles, carriage, ship or boat.

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

“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 general plan of a township filed in a deeds registry or a surveyor general's office and has been provided for or reserved for the use of the public or the owners or even in such township.

“Responsible authority” means the Cape Winelands District Municipality or any national or provincial department that may in terms of its powers and functions impose conditions or restrictions in respect of the keeping of animals.

“Street” means any road, street or thoroughfare or any other place (whether a thoroughfare or not) which is commonly used by 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 of object forming part of or connected with or belonging to such road, street or thoroughfare.

“Structure” means any stable, shed, pigsty, kraal, aviary, paddock, covering structure, poultry house, enclosed, run, loft or building used for human shelter or the keeping or enclosing of animals.

2. APPLICATION OF BY-LAW

- (1) The provisions of **section 4(1), 15(1) and 28** are not applicable to;
- (a) premises or land which is used for bona fida agricultural purposes; or
 - (b) premises or land identified by the municipality where the keeper 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)(a) and (b)**, 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.

CHAPTER I: GENERAL PROVISIONS RELATING TO PUBLIC NUISANCES

3. BEHAVIOUR AND CONDUCT

(1) Notwithstanding the provisions of any other by-laws no person shall:

- (a) do work on any premises or use any building or land for purposes calculated to disfigure such premises or to interfere with the convenience or comfort of other people or to become a source of danger to any person;
- (b) carry on any trade, business, profession or hobby on any premises in the municipal are, which may in the opinion of the municipality be a source or become a source of discomfort or annoyance to other people;
- (c) deposit, leave, spill, drop or place any fruit or vegetable peels, broken bottles, glass, refuse or thing which is offensive or likely to cause annoyance, danger or injury to persons in or upon any premises, street or public place;
- (d) allow the fencing of any premises to fall into a state of disrepair or to become unsightly or dilapidated, which may in the opinion of the municipality be a source or become a source of danger, discomfort or annoyance to other people;
- (e) allow any building or structure or any portion thereof 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 fail to maintain the walls of any building or any structure free from dampness, which may in the opinion of the municipality be a source or become a source of danger, discomfort or annoyance to other people;
- (f) use or cause or permit to be used any stoop and/or veranda of any shop or business premises for the purpose of storing, stacking, dumping, disposing, displaying or keeping articles or merchandise, which may in the opinion of the municipality be a source or become a source of danger, discomfort or annoyance to other people;
- (g) 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, displaying or keeping ay waste material, refuse, cartons, crates, containers or other articles of a like nature, which may in the opinion of the municipality be a source or become a source of danger, discomfort or annoyance to other people;
- (h) enclose or cause or permit the enclosing of any stoop 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 the municipality may approve;
- (i) cause or allow the disturbance of the ordinary comfort, convenience, peace or quiet of other people by the utilisation or use of electrical appliances, machinery, malfunctioning air conditioning units or similar appliances or equipment;
 - (j) permit the sounding of an alarm siren, or similar noise, from a private residence or business premises for a continuous period longer than five (5) minutes;
 - (k) permit the sounding of an alarm siren, or similar noise, from a private residence or business premises to cause a disturbance albeit intermittently, and during the hours of the night and the next day;
 - (l) defile, misuse or damage a toilet provided in a public building on public place;
 - (m) 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;
 - (n) 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 build-up or vacant premises or land, where such actions takes place with the consent of the municipality and any conditions of approval are ignored or complaints are received from the general public, the municipality may take action in terms of **subsection (2)**;
 - (o) allow any erf to be overgrown with bush, weeds or grass or other vegetation, except cultivated trees, shrubs or grass, to such an extent that it may be used as a shelter by vagrants, wild animals or vermin or may threaten the safety of any member of the community;
 - (p) by an action directly or indirectly or negligence allow that nuisance be created or continued;
 - (q) bath or wash himself or any animal or article or clothing or any other article or thing in any public stream, pool or water through or at any public hydrant or fountain or at any place which has not been set aside by the municipality for that purpose;
 - (r) in any street or public place use any abusive or threatening language or commit any act which may or is calculated to cause a breach of the public peace;
 - (s) cleanse or wash any vehicle or part in any street or public place;

- (t) discharge any firearm, air gun or air pistol on any premises, except premises or land zoned for agricultural purposes and which does not form part of a general plan for a township.
- (2)(a) In the event of a contravention of **section 3(1)(a) to (t)**, the municipality may issue a notice on the owner or occupier or the alleged offender to terminate the action or to remove the nuisance created. In the event of non-compliance with such order and without prejudice to the municipality's right to prosecute, the municipality may take the necessary steps to remove the cause or the source of the nuisance and any cost incurred in connection therewith shall be removable from the person responsible for the nuisance or the owner or occupier of the premises on which the nuisance originates or is being continued, whether or not such owner is responsible therefore.
- (b) Where a person complies with a notice issued in terms of **subsection (a)**, the municipality may require such person to apply for a certificate of compliance which will be issued by the municipality once the nuisance has been removed or the action creating a nuisance has been terminated.
- (c) Where the municipality has evidence that any vacant or dilapidated premises or land in the vicinity of a street is being used for any purposes by unauthorised persons or that any of the materials or things mentioned in **subsection 3(1)** are being dumped or deposited on such premises, it may serve notice in writing on the owner or the occupier thereof requiring him to enclose or fence it in to its satisfaction by a date specified in the notice. Every such enclosure or fence shall be not less than two metres in height and shall be of such a nature and so constructed that it will effectively prevent the entry of unauthorised persons and the dumping or depositing thereon of materials and things.
- (3) For the application of this by-law, any action or condition on any premises, including any building, structure or vegetation thereon, which in the opinion of the municipality endangers the safety of any person or property or which is untidy, annoying, troublesome, offensive or disturbing to the peace of other people, shall be considered a public nuisance.

- (4) Any person who contravenes or fails to comply with any provisions of this section or fails to comply with any notice lawfully given thereunder shall be guilty of an offence.

CHAPTER II: GENERAL PROVISION RELATING TO KEEPING OF ANIMALS

4. PERMISSION TO KEEP ANIMALS

- (1) No person shall keep or permit to be kept on any premises or property any animals, excluding pets, without the written permission of the municipality.
- (2) For the purpose of managing the keeping of animals on premises, the municipality may determine the number of bee hives, as well as the kind, number and sex of animals that may be kept and the areas within which the keeping of such animals and bees shall be prohibited.
- (3) In order to consider an application in terms of **subsection (1)**, the municipality may obtain the input or comments of the owner or occupants of surrounding premises.

5. KEEPING OF PIT BULL DOGS

A. Responsibilities of Owners

- (1) Pit bull owners will have to have their pit bulls leashed and muzzled in public.
- (2) The pit bulls be muzzled and leashed unless the dogs are on their owners' enclosed property or on enclosed property occupied by another person who consents to the pit bull being without a muzzle or leash.
- (3) Among other specific requirements, a leash may be a maximum of 1.8 metres long.
- (4) Muzzles should be humane, but strong enough and well-fitted enough to prevent the pit bull from biting, without interfering with the breathing, panting, or vision of the pit bull or with the pit bull's ability to drink water.
- (5) No person shall be in possession, own or be in control of a pit bull dog, whether in a public place, public street or a private dwelling, unless such person is above the age of 21 years of age.

B. Dog Owners' Liability

- (1) The owner of a dog is liable for damages resulting from a bite or attack and that liability does not depend on the owner's fault, negligence or knowledge of the propensity of the dog to bite or attack.
- (2) Where it is alleged that:
 - (i) a dog has bitten or attacked; or
 - (ii) the dog has behaved in a manner that poses a menace to the safety of persons or domestic animals; or
 - (iii) an owner did not exercise reasonable precautions to prevent a dog from biting or attacking or posing a menace to the safety of persons or domestic animals; or
 - (v) failing to exercise reasonable precautions to prevent a dog from biting or attacking a person or domestic animal; or
 - (iv) failing to exercise reasonable precautions to prevent a dog from behaving in a manner that poses a menace to the safety of persons or domestic animal

C. Extent of liability

The liability of the owner does not depend upon knowledge of the propensity of the dog or fault or negligence on the part of the owner, but the court shall reduce the damages awarded in proportion to the degree, if any, to which the fault or negligence of the plaintiff caused or contributed to the damages.

D. Protection of persons or property

Where a person is on premises with the intention of committing, or in the commission of, a criminal act on the premises and incurs damage caused by being bitten or attacked by a dog, the owner is not liable in terms of this bylaw.

E. Examples, measures for more effective control

- (1) Confining the dog to its owner's property.
- (2) Restraining the dog by means of a leash.
- (3) Restraining the dog by means of a muzzle.
- (4) Posting warning signs.

F. Owner to prevent dog from attacking

The owner of a dog shall exercise reasonable precautions to prevent it from,

- (a) biting or attacking a person or domestic animal; or
- (b) behaving in a manner that poses a menace to the safety of persons or domestic animals.

G. Law Enforcement officers

- (1) A designated law enforcement will be able to obtain warrants to seize a dog from a particular location where it is not desirable in the interests of public safety that the dog be so located.
- (2) *In urgent circumstances, designated peace officers will have a right of entry without warrant. Urgent circumstances include circumstances where there are reasonable grounds to believe that entry without warrant is necessary to prevent imminent bodily harm or death to any person or domestic animal seizure in public places.*

6. PLANS FOR STRUCTURES AND MANAGEMENT

- (1) An application to keep animals must be submitted on an application form obtainable from the municipality, and be accompanied by a detailed site plan indicating all existing or proposed structures and fences on the premises for which the permit is required.
- (2) Detailed plans, according to specifications obtainable from the municipality, of structures in which it is proposed to keep animals must accompany the application in **section 4** and such plans must be approved by the municipality.
- (3) Where possible, an exposition of the numbers, kinds and genders of animals must accompany the plans in **subsection (2)**

7. CONSIDERATION OF APPLICATIONS AND IMPOSITION OF CONDITIONS

- (1) The municipality may grant permission or refuse, after consideration of;
 - (a) the input or comments obtained in terms of **section 4(3)**;
 - (b) the location, geographical features or size of the premises in respect of which the application is submitted;
 - (c) the documents and expositions submitted in terms of **section 6**; or
 - (d) any other information relating to the application.

- (2) Where consent is refused, the municipality must furnish the applicant with the reasons for such refusal and at the same time advise him or her of the right appeal in terms of **section 29**.
- (3) Where consent is granted, the municipality may impose conditions.

8. VISIBILITY OF STRUCTURES ON PREMISES

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

9. WAVERING OF REQUIREMENTS AND WITHDRAWAL OF AUTHORISATIONS

Notwithstanding the aforementioned provisions, the municipality may after considering conditions particular to the property and on condition that no objection is received from the owners or occupants of surrounding premises, 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 7(3)** if any of the conditions therein are not adhered to.

10. VALIDITY OF AUTHORISATIONS

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

11. DUTIES OF OWNERS OR KEEPERS OF ANIMALS

The owner of animals 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;
- (b) must provide such animal with bedding, shelter, water and proper food daily; and

- (c) must at all times maintain the premises on which the animals are kept, and all appurtenances in good repair and in neat condition so as to prevent the occurrence of a public nuisance.

12. ANIMALS KEPT IN AN UNSATISFACTORY MANNER

Whenever animals are kept on any premises, whether or not such premises have been approved by the municipality under this by-law, are a public nuisance, the municipality 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 carry out such action or take such steps necessary to ensure the prevention of such nuisance.

13. EUTHANASIA OF ANIMALS

- (1) The municipality may order the destruction of an animal which are;
- (a) dangerous or ferocious
 - (b) injured or diseased to such an extent that it would be humane to do so.
- (2) Animals destroyed in terms of **section (1)** must be destroyed with such instruments or appliances and in such a manner as to inflict as little suffering as possible.

14. HAWKING OF ANIMALS

- (1) No person may hawk an animal –
- (a) in a street or public place; or
 - (b) in or from a movable structure or vehicle.
- (2) A person who contravenes any of the provisions of **section 4, 5, 7, 10, 11** as well as **subsection (1)** of this section commits an offence.

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

PART 1 – GENERAL PROVISIONS RELATING TO DOGS, CATS AND PETS

15. NUMBER OF DOGS AND CATS

(1) Subject to the provisions of **section 16**, no person may keep on any premises;

(a) more than two dogs; and

(b) more than two cats,

without the permission of the municipality.

(2) An application in terms of **subsection (1)**, must be submitted on an application form obtainable from the municipality and must contain an exposition of the breed, gender and number of dogs and cats applied for.

(3) A restriction imposed under **section 18** on the number of animals that may be kept on the premises does not apply for a period of 10 weeks after the birth of the litter from an animal in terms of a permit.

16. BREEDERS OF DOGS AND CATS

(1) A breeder of dogs who wishes to keep more than two dogs or a breeder of cats who wishes to keep more than two cats must obtain permission from the municipality.

(2) An application in terms of **subsection (1)** must be submitted in the form prescribed by the municipality and must contain an exposition of the race, gender and number of dogs or cats applied.

(3) Plans and specifications of structures in which it is proposed to keep the dogs and cats, as well as a site plan indicating all existing or proposed structures and

fences on the premises of which the permit is required, must accompany the application in **subsection (1)** and such plans must be approved by the municipality.

17. BREEDERS OF PETS

- (1) A person who breeds with pets must obtain the approval of the municipality.
- (2) The provisions of **section 16(2)** and **(3)** are, with the necessary adjustments applicable to an application in terms of **subsection (1)**.

18. CONDITIONS AND RESTRICTIONS

The municipality's consent in terms of **section 4, 15(1), 16(1)** and **22(1)**, shall be granted subject to such conditions and restrictions such as the municipality, in consultation with another responsible authority, may deem fit to impose.

19. WITHDRAWAL OF PERMISSION

- (1) Where a person contravenes or fails to adhere to a condition or restriction contemplated in **section 18**, the municipality may, after hearing that person, withdraw its consent and may order the removal of animals from the premises for care and safekeeping by an animal welfare organisation or pound.
- (2) Any cost incurred by the municipality for the removal and safekeeping of animals contemplated in **subsection (1)**, shall be recoverable from the owner or keeper of such animals.

20. DOGS OR CATS IN PUBLIC PLACES

- (1) The owner or keeper of a dog or cat may not bring or allow it in a street or public place; unless the dog is kept on a leash by a responsible person or the cat is under the physical control of the owner.

- (2) Except in the event of a blind person being led by a guide dog, a person in charge of a dog in the street or public place must remove any faeces left by the dog, by wrapping it in paper or plastic and disposing of it in a receptacle provided for litter or refuse.
- (3) A person who contravenes any of the provisions of **section 15, 16 or 20**, shall be guilty of an offence.

PART 2 – SPECIFIC PROVISIONS FOR DOGS

21. CONTROL OF DOGS

- (1) No person may;
 - (a) permit a bitch on heat owned or kept by him or her to be in a street or public place without supervision.
 - (b) Urge a dog or attack, worry or frighten any person or animal, except where necessary for the defence of such first-mentioned person or his or her property.
 - (c) Keep a dog if the premises where such a dog is kept is not properly and adequately fenced to keep such a dog inside when it is not on a leash.
 - (d) Permit a dog owned or kept by such a person;
 - (i) to trespass on private property;
 - (ii) in any public road or place where whilst such dog suffers from an infectious or contagious disease;
 - (iii) to constitute a hazard to traffic on any public road;
 - (iv) to constitute or to his knowledge be likely to constitute a source of danger or injury to persons outside the premises on which such dog is kept;
 - (v) 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 must be displayed in a conspicuous place.

- (e) Keep any dog which;
 - (i) by barking, yelping, howling or whining;
 - (ii) by having acquired the habit of charging any vehicle, 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 or neighbours.

- (2) The municipality may seize and impound at a place designated by the municipality, a dog which is found in a street or public place in contravention with the provisions of **section 21 (1)(d)**.

- (3) A dog impounded in terms of **subsection (2)** may be released to the owner of such dog upon payment of a fee determined by the municipality.

- (4) A dog impounded in terms of **subsection (2)**, may be sold or destroyed after having been kept in custody for seven days.

- (5) A person who contravenes any provision of this section commits an offence.

22. FENCING OF PROPERTY

- (1) No person shall keep a dog on his or her premises which are not properly and adequately fenced to keep such dog inside when it is not on a leash unless the dog is confined to the premises in some other manner, provided that such confinement is not inhumane in the assessment of the authorised official.

23. FIRE WORKS

- (1) No person may terrify or cause stress or fear to any animal with fireworks or by any other means.

24. ANIMAL CRUELTY

- (1) Any person who
 - (a) possesses, keeps, imports, buys, sells, trains, breeds or has under his or her control an animal for the purposes of fighting any other animal;

- (b) baits, provokes or incites any animal to attack another animal or to proceed with the fighting of another animal;
- (c) for financial gain or as a form of amusement promotes animal fights;
- (d) allows any of the acts referred to in paragraphs (a) to (c) to take place on any premises or place in his or her possession or under his or her charge or control;
- (e) owns, uses or controls any premises or place for the purposes or partly for the purpose of presenting animal fights on such premises or place or who acts or assists in the management of such premises or place, or who receives any consideration for the admission of any person to such premises or place; or
- (f) is present as a spectator at any premises or place where any of the acts referred to in paragraphs (b) to (e) is taking place or where preparations are being made for such acts,

is guilty of an offence and liable on conviction to a fine of R20, 000.00 (twenty thousand rand) or to imprisonment for a period not exceeding two years.

(2) In any prosecution it is presumed, unless the contrary is proved, that an animal that is found at any premises or place is the property or under the control of the owner of those premises or that place, or is the property or under the control of the person who uses or is in control of the premises or place.

CHAPTER IV: DOG KENNELS, CATTERIES, PET SHOPS AND PET PARLOURS

25. PERMISSION TO OPERATE

- (1) No kennel, cattery, pet shop or pet parlour may be operated without the permission of the municipality, which permission may be subject to conditions.
- (2) Application for permission must be done on an application form obtainable from the municipality.
- (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.
- (4) A person who contravenes any provision of this section commits an offence.

CHAPTER V: CO-OPERATION BETWEEN MUNICIPALITIES

26. SERVICE DELIVERY ARRANGEMENTS

In an effort to achieve optimal service delivery in terms of this by-law, the municipality may enter into agreement with the district municipality with which legislative and executive powers is shared, in respect of the following:

- (a) the practical arrangement with regard to the execution of the provisions of this by-law;
- (b) the imposition and enforcements 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) the recovery of costs and expenses related to any action in terms of this by-law;
- (d) subject to the provisions of **section 86** of the municipal structures act, mechanisms for the settlement of disputes with regard to execution of powers of functions in terms of this by-law or the matters on which have been agreed;
- (e) any other matter regarded necessary by the parties to achieve optimal service delivery in terms of this by-law.

CHAPTER VI: POWERS OF MUNICIPALITY IN CASE OF OMMISION BY DISTRICT MUNICIPALITY

27. FAILURE OR OMMISION BY DISTRICT MUNICIPALITY

- (1) If the municipality is of the opinion that optimal service delivery referred to in **section 26** in its area of jurisdiction is impede by the refusal or omission by district municipality to execute any of the practical arrangements envisaged in **section 26(a)**, it may serve written notice on such district municipality to give effect or adhere to such arrangement within reasonable time. upon failure to adhere to such notice, the municipality may proceed to give effect to such arrangement.

- (2) Any expenses or cost incurred by the municipality in giving effect to any arrangement referred to in **subsection (1)** may be recovered from the district municipality.

CHAPTER VII:

28. NOISE NUISANCE

No person shall in a public place;

- (1) cause or permit to be caused a disturbance by shouting, screaming or making any other loud or persistent noise or sound, including amplified noise or sound, causing a nuisance to other persons;
- (2) permit noise from a private residence or business to be audible in a public place, except for the purpose of loud speaker announcements for public meetings or due to actions of street entertainers;
- (3) at any time during the day or night disturb the public peace in any public or private place or premises or street by making unseemly noises or by shouting, insistent hooting, wrangling or quarrelling, or by playing loud music from any motor vehicle or vehicle, or by collecting a crowd or by organising any demonstration or by fighting or challenging to fight, or by striking with or brandishing or using in a threatening manner any stick or other weapon or by any other riotous, violent or unseemly behaviour at any time of the day or night, or by loitering in any street or public place or by gathering in crowds on pavements;
- (4) 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;
- (5) in or upon any property or premises disturb the public peace in the neighbourhood of such premises by making therein or thereon any unseemly noises, or by shouting, wrangling, quarrelling and singing or by playing therein or thereon a musical instrument or use or permit to be used or any loudspeaker or other device for the reproduction or amplification of sound, in such a manner or at such a time or in such circumstances that the sound thereof is audible beyond the boundaries of such property or premises in such a manner that it creates a

public nuisance and materially interferes with the ordinary comfort, convenience, peace or quiet of other people.

CHAPTER VIII: GENERAL PROVISIONS

29. RIGHT OF ENTRY AND INSPECTION

- (1) Any duly authorised employee of the municipality is authorised to inspect any premises within the municipal area in order to determine, whether there is compliance with the provisions of this by-law.
- (2) When entering a premise in terms on **subsection (1)**, the authorised employee must on request by any person, identify him/herself by producing written proof of authorisation.
- (3) The authorised employee may be accompanied by a person reasonably required to assist in conducting the inspections.
- (4) Any person who fails to give or refuses access to any authorised employee if he requests entrance on any land or premises, or obstructs or hinders him in the execution of his duties under this by-law, or who fails or refuses to give information that he may lawfully be required to give to such employee, or who gives false or misleading information knowing it to be false or misleading, shall be guilty of an offence.

30. SERVICE OF DOCUMENTS AND PROCESS

- (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, when it has been delivered to him personally;
 - (a) when it has been left at his place of residence or business in the republic with a person apparently over the age of 16;
 - (b) when it has been posted or registered by certified mail to his/her last known residential or businesses address in republic and an acknowledgement of the posting thereof is produced;

- (c) 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 **section (a) and (b)**; or
 - (d) if his address and agent in the republic is 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 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.

31. TRANSITIONAL PROVISIONS

A person who, at the commencement of this by-law, owns a larger number of animals than the number contemplated in **section 15**, may continue to keep such larger number of animals, 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^{9s} obtained from the municipality for exceeding that number.

32. APPEAL

- (1) A person whose rights are affected by a decision taken by a political structure, political office-bearer, councillor or staff member of a municipality in terms of a power of duty delegated or sub-delegated by a delegating authority to the political structure, political office-bearer, councillor or staff member may appeal against that decision by giving written notice of the appeal and reasons to the municipal manager within 21 days of the date of the notification of the decision.
- (2) The municipal manager must promptly submit the appeal to the appropriate appeal authority mentioned in **subsection (4)**.
- (3) The appeal authority must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.
- (4) When the appeal is against a decision taken by;

- (a) a staff member other than the municipal manager, the municipal manager is the appeal authority
- (b) the municipal manager, the executive committee or executive mayor is the appeal authority, or, if the municipality does not have an executive committee or executive mayor, the council of the municipality is the appeal authority or a political structure or political office-bearer, or a councillor;
 - (i) the municipal council is the appeal authority where the council comprises less than 15 councillors; or
 - (ii) a committee of councillors who were not involved in the decision and appointed by the municipal council for this purpose is the appeal authority, where the council comprises more than 14 councillors.
- (5) An appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable period.
- (6) The provisions of this section do not detract from any appropriate appeal procedure provided for in any other application law.

33. OFFENCES AND PENALTIES

- (1) A person who -
 - (a) contravenes or fails to comply with any provisions of this By-law or with any order or notice lawfully issued thereunder commits an offence; and
 - (b) continue to commit an offence after notice has been served on him or her to cease committing such offence or after he has been convicted of such offence shall be guilty of a continuing offence.
- (2) Any person convicted of an offence under this By-law shall be liable to a fine or imprisonment for a period not exceeding two years.
- (3) Any court convicting any person of keeping any animal which is not kept under control in accordance with the provisions of the By-law may, in addition to the penalty

referred to in subsection (2), order the destruction of the animal concerned, and thereupon an authorised official may destroy such animal.

34. EXEMPTION

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

35. REPEAL OF BY-LAWS

The by-laws listed in **Schedule A** are hereby repealed to the extent in the third column thereof.

36. SHORT TITLE AND COMMENCEMENT

This by-law shall be known as the “By-law relating to Public Nuisance and the Keeping of Animals” and shall come into operation on the date of publication thereof in the Provincial Gazette.

SCHEDULE A

BY-LAWS OF THE DISESTABLISHED MUNICIPALITY OF STELLENBOSCH		
PN No.	Short title	Extent of repeal
<i>PK 683/1984</i>	Stellenbosch Municipality: By-law relating to the control and Keeping of Dogs	Whole
<i>PK 667/1994</i>	Amendment to the Dog Control By-law	Whole
<i>PK 539/1995</i>	Municipality for the area of Franschoek: By-law on the Prevention and Suppression of Nuisances	Whole
<i>PK 180/1998</i>	Stellenbosch Transitional Local Council: By-law on the Prevention and Suppression of Nuisances	Whole
<i>PK 6011/2003</i>	Stellenbosch Municipality: By-law for the Control of Certain Offences in Public Places	Whole