

## **THEEWATERSKLOOF MUNICIPALITY**

### **PUBLIC NUISANCES AND NUISANCES RESULTING FROM THE KEEPING OF ANIMALS BY-LAW**

**Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996 the Municipal Council of the Theewaterskloof Municipality, hereby enacts as follows:**

#### **PREAMBLE**

The purpose of this by-law is -

- i) to protect and promote the constitutional rights of each member of the public, for an environment of general peace and harmony, which is not a threat to his or her health or welfare; and
- ii) to overcome the services delivery, welfare and economic inequalities of the previous local government dispensation, by striving to achieve the new envisaged objectives for local government as contemplated in section 152 of the Constitution of the Republic of South Africa, 1996.

#### **TABLE OF CONTENTS**

1. Interpretation
2. Application

#### **CHAPTER 1: GENERAL PROVISIONS REGARDING PUBLIC NUISANCES**

3. Public nuisances

#### **CHAPTER 2: GENERAL PROVISIONS FOR THE KEEPING OF ANIMALS**

4. Approval to keep animals and / or bees
5. Plans for structures
6. Consideration of applications and the imposition of conditions for the keeping of animals
7. Visibility of structures on premises
8. Suspension of conditions and the cancellation of approvals
9. Validity of previous approvals
10. Responsibilities of the owner or keeper of animals
11. The keeping of animals
12. The destruction and sterilization of animals
13. Trading with animals

### **CHAPTER 3: PROVISIONS WITH REGARD TO THE KEEPING OF DOGS, CATS AND PETS**

#### **Part 1 – General provisions regarding dogs, cats and pets**

14. Number of dogs and cats
15. Breeders of dogs and cats
16. Breeders of pets
17. Conditions and restrictions for approvals
18. Withdrawal of approvals
19. Dogs, cats and other animals on public places and public roads

#### **Part 2 – Specific provisions with regard to dogs**

20. Control over and the licensing of dogs

### **CHAPTER 4: ACCOMMODATION FOR DOGS AND CATS, PET PARLOURS AND PESHOPS**

21. Approval to trade

### **CHAPTER 5: CO-OPERATIONS BETWEEN MUNICIPALITIES**

22. Arrangements for service delivery

### **CHAPTER 6: GENERAL PROVISIONS**

23. Right of access and inspection
24. Serving of notices and other documents
25. Transitional arrangements
26. Appeals
27. Offences and penalties
28. Exemption from provisions
29. Community liaison forums
30. Conflict between legislation
31. Repeal of by-laws
32. Short Title
33. Operative date

#### **1. INTERPRETATION**

In this by-law, the English text prevails in the event of any conflict with the Afrikaans text, and unless the context indicates otherwise -

**“accommodation for cats”**, means any institution where the breeding of cats take place, or where cats are kept and cared for;

**“accommodation for dogs”**, means any institution where the breeding, care or training of dogs takes place, and can include a pound, whether operated by a public institution or in any other manner, and include any reference to **“kennels”**;

**“agent”**, means a person who acts on behalf of an owner of a property, and who has been appointed and authorized by such owner to -  
(a) receive rental income or any other payments with regard to such property, on behalf of the owner; or  
(b) make payments with regard to such property, on behalf of the owner;

**“animals”**, means any equine, bovine, donkey, mule, camel, sheep, goat, fowl or other bird, poultry, ostrich, hare, rabbit, dog, cat or other domestic animal or bird, or a wild animal, bird or reptile which is in captivity or under the control of someone, or insects such as bees, but not restricted thereto, kept and controlled by someone;

**“authorized official”**, means an official authorized in terms of section 8 of the Animal Protection Act, 1962 (Act No 71 of 1962), as amended, or any peace officer authorized in terms of section 334 of the Criminal Procedures Act, 1977 (Act No 51 of 1977), as amended, or any employee of the Theewaterskloof Municipality, who is authorized by the Theewaterskloof Municipality to enforce the provisions of this by-law;

**“bird”**, means any dove, peacock, swan, pheasant, sand grouse, guinea-fowl, ostrich or any tame or wild bird in captivity or under the control of someone;

**“bona fide agricultural purposes”**, means an agricultural or agricultural related activity, undertaken for the purpose of profit, which is registered as such with the South African Revenue Service;

**“breed”**, means a population of breeding animals, with a high degree of genetic stability, as characterized by identifiable uniform breed characteristics and looks;

**“breeder”**, means the persons who as a registered breeder, is the owner of a female breeding animal, at the time of the natural or artificial impregnation of such female or the birth of her progeny;

**“District Municipality”**, means the Overberg District Municipality established in terms of section 12 of the Local Government: Municipal Structures Act, 1998 (Act No 117 of 1998), as amended, by Provincial Notice 486 of 2000, dated 22 September 2000, and as amended by Provincial Notice 162 dated 20 August 2004, and includes any reference to any duly delegated and / or appointed officials in terms of service level agreements of the Overberg District Municipality;

**“implement”**, means any electrical or mechanical tool or implement, or a tool or implement with an alternative drive, used for construction, commercial, agricultural or any other purposes;

**“Municipality”**, means the Theewaterskloof Municipality, and includes reference to any duly delegated and / or appointed officials and / or service providers in terms of service level agreements of the Theewaterskloof Municipality;

**“owner”**, means –

- (a) with regard to the ownership of an animal, any person who lawfully owns or who is the agent of such an owner, and is responsible for the care, custody or control of an animal;
- (b) in relation to the ownership of property, the person who is the registered owner of a property, and includes the occupant, the lessee, servitude holder, trustee, executor, curator or agent or administrator of such property;

**“pet”**, means any tame animal, which are normally kept by a household for comradeship or entertainment, and include, but is not limited to, any canary, budgie, parrot or any other type of bird, or any dog, cat, hamster, rabbit or any other domesticated animal;

**“pet salon”**, means a business or parlour where pets are groomed;

**“pet shop”**, means a business where pets are kept for purpose of the sale or purchase of them;

**“poultry”**, means any chicken, goose, duck, turkey or Muscovy duck, either tame or wild;

**“premises”**, means any portion of land situated within the area of jurisdiction of the Theewaterskloof Municipality, of which the outer boundaries are demarcated on a general plan or diagram or sectional title plan, registered in accordance with applicable legislation;

- **“public nuisance”**, means any action, omission or condition, on or at any premises or public place or public road, including any reference to any building, structure or growth on such premises, public place, or public road, which can put the safety of persons or property in jeopardy or which is unsightly, annoying, offensive or a disturbance for other persons, and includes **“nuisance”**;

**“public place”**, means any premises or property or land, under the control of the Theewaterskloof Municipality, to which the public have access, and includes, but are not restricted to: any square; building; park; nature reserve; open space; recreational area; sports grounds; public road; municipal street, alley or road reserve; parking area, municipal commonage; unused, used, build-up or vacant municipal land; or a cemetery;

“**public road**”, means any public road as referred to in section 1 of the National Road Traffic Act, 1996 (Act No 93 of 1996), as amended, and includes any municipal road, alley or road reserve;

“**responsible authority**”, the Theewaterskloof Municipality or any national or provincial government or institution, who may in terms of their functions and competencies, restrict the keeping of animals or impose conditions for the keeping of animals;

“**structure**”, means any container, stable, barn, pigsty, pen, bird gage, fowl-run, paddock, pigeon house or building, used for the keeping of animals;

“**under the influence of liquor or drugs**”, means a person, who as a consequence of the abuse of liquor and / or drugs, to such an extent lost control over his or her mental or physical ability, or both, that he or she is no longer able to maintain or behave himself or herself, or is not capable of performing any action; and

“**veterinary surgeon**”, means a person who is qualified and registered in accordance with the provisions of the Veterinary and Para-Veterinary Professions Act, 1982 (Act No 19 of 1982), as amended, to practice as a veterinary surgeon.

## 2. APPLICATION

- (1) The provisions of subsections 4(1), 14(1), 15(1) and 21(1) of this by-law shall not be applicable on –
  - (a) a premises or land used or zoned for *bona fide* agricultural purposes, or
  - (b) a premises or property identified by the Municipality, where animals are kept and cared for commercial purposes, and which are used as pet parlours, pet shops, or dog or cat accommodation facilities, in terms of an approved zoning scheme.
- (2) A person who is keeping animals on premises as contemplated in subsection 2(1) of this by-law, is not exempted from the provisions of any other by-law of the Municipality, or any other statutory stipulation, with regard to creating or causing a public nuisance.

**CHAPTER 1:  
GENERAL PROVISIONS REGARDING PUBLIC NUISANCES**

**3. PUBLIC NUISANCES**

- (1) No one may cause a public nuisance.
- (2) The following situations or actions may cause a public nuisance or shall be considered to be public nuisances, when proof thereof have been provided, and include, but is not restricted to –
  - (a) the keeping of animals or reptiles on a premises, excluding those animals and reptiles kept as pets, when such premises is not zoned in terms of an applicable zoning scheme for the keeping of such animals or reptiles;
  - (b) any person who allows any animal, reptile or dog –
    - (i) to wander or roam around on public or private land, outside the premises it is kept on, without being under control of any kind, and in the case of a dog without a lease or harness;
    - (ii) to suffer from a contagious or infectious disease, without proper medical treatment for such disease; or
    - (iii) to create a nuisance or to give offence on public or private land, or become a danger for other animals, adjacent property owners or the general public;
  - (c) any person who allows any animal to relief itself on a public road or a public place, without immediately removing the faeces of such animal;
  - (d) any person who keep pets in such a way, that it cause a nuisance or may cause a potential nuisance;
  - (e) the overnight parking of more than one heavy duty vehicle or boat or vessel on a premises zoned for residential purposes;
  - (f) the parking of an implement on a premises zoned for residential purposes;
  - (g) the repair, maintenance or servicing of a heavy duty vehicle, any other vehicle, boat, vessel or implement on a premises zoned for residential purposes;
  - (h) run-off water as a consequence of the washing of a heavy duty vehicle, any other vehicle, boat, vessel or implement, contaminated with oils, chemical substances or any other liquid, waste, human and animal waste, or any other substance which can lead to a health risk for humans or can pollute the environment or has a bad odour;

- (i) the parking of a vehicle, trailer, caravan, heavy duty vehicle, boat, vessel or implement on a premises, in such a way, that the boundaries of the premises on which it is parked are infringed on;
- (j) the discharging of fireworks without the required approval of the Municipality on or over any private property, and in such a way that the fireworks or fragments thereof may fall on adjoining or other premises, causing a fire hazard on such premises;
- (k) the running of a business on a residential premises in such a way, that notwithstanding the predetermined conditions for approval granted by the Municipality, for departure or new or additional land use rights for the premises concerned, a nuisance is created for adjacent property owners as a result of -
  - (i) the increase of activities on the premises to such an extent, that the restrictions and conditions determined by the Municipality with the original approval are exceeded;
  - (ii) the stock-piling and storage of goods and materials on the premises in plain view;
  - (iii) the vibration or noise exceeding the maximum sound level of eighty five (85) dBA, caused by pumps, compressors, fans or similar machines used on the premises;
  - (iv) the playing of loud music exceeding the maximum sound level of eighty five (85) dBA;
  - (v) the use of spray paint or other volatile substances in such a way, that the vapour, odour or gasses created by it disperse to adjoining premises;
  - (vi) the manufacturing of certain goods, or the activities related to such manufacturing processes, or the material used for such manufacturing processes;
  - (vii) the frequency of deliveries, or the amount of people visiting the premises;
  - (viii) the frequency of loading and off-loading of goods on vehicles in the street or on the premises;
  - (ix) the congestion of staff on or near the premises; or
  - (x) the frequency of vehicles arriving and parking at, and leaving from the premises or the adjoining public road, because of the activities on the premises;
  - (xi) any stoep, veranda or alley of a premises, be used for the unsightly storage, stock-piling or disposal of goods, waste generated by such business and waste material, which may cause a fire hazard and / or create a health risk;
  - (xii) any stoep, veranda or alley of a premises, be used for the purpose of displaying, keeping, selling, or offering for sale any goods, articles, services or merchandise, without the written approval of the municipality.

- (l) any person who allows vacant premises or buildings –
  - (i) to become unsightly or look offensive or become so dilapidated, that it negatively impact on the market values of adjoining properties;
  - (ii) to become a shelter for loafers and vagrants, and allow the illegal inhabitation or occupation thereof;
  - (iii) to become uncontrolled overgrown by grass, trees, scrubs or other cultivated or uncultivated plant material;
  - (iv) to become unsightly, as a result of waste paper, cartons, garden waste, building rubble or other waste material on it; or
  - (v) to become a dumping site for waste material;
  
- (m) any persons that allows that –
  - (i) waste generated on business premises, are disposed in street waste bins;
  - (ii) waste generated on business premises, are disposed or stored on a part of such premises, which is visible from any street or sidewalk, excluding waste disposed or stored in a waste container approved by the Municipality;
  - (iii) marketing or promotion activities on business premises, create confusion or pose a danger for passing traffic and pedestrians, or obstruct the use of a sidewalk in front of a business premises for pedestrians;
  - (iv) shopping trolleys of a business, piling up to such an extend in streets, on sidewalks or in public parking areas, that vehicular and / or pedestrian traffic are impeded by it;
  - (v) a radiator, a compressor, a fan or other machinery of a business, create a nuisance for adjacent premises, because of the vibration or noise, exceeding the maximum sound level of eighty five (85) dBA, thereof;
  - (vi) deliveries to a business premises or the clients of a business premises, prevent normal access to their own premises, for the occupants of adjacent premises; or
  - (vii) any stoep, veranda or alley of a business premises, be used for the unsightly storage, stock-piling or disposal of goods, waste generated by such business and waste material, which may cause a fire hazard and / or create a health risk;
  - (viii) any stoep, veranda or alley of a business premises, be used for the purpose of displaying, keeping, selling, or offering for sale any goods, articles, services or merchandise, without the written approval of the municipality.
  
- (n) the general conduct of persons in or on public roads and public places –
  - (i) by shouting, screaming, whistling or making any noise, exceeding the maximum sound level of eighty five (85) dBA, that may create a nuisance for other persons;
  - (ii) by driving a vehicle or parking a vehicle in such a way, that vehicular

- and pedestrian traffic are impeded;
  - (iii) by impeding vehicular and pedestrian traffic, with bicycles or similar vehicles;
  - (iv) by pushing or parking shopping trolleys or similar devices, that vehicular and / or pedestrian traffic are impeded;
  - (v) by walking or standing deliberately in groups to impede vehicular and pedestrian traffic;
  - (vi) by trading in such a way at road crossings, that the attention of vehicle drivers are diverted, causing potential traffic hazards;
  - (vii) by trading in such a way alongside public roads with goods and services, that vehicular and pedestrian traffic are impeded or the attention of vehicle drivers are diverted, causing potential traffic hazards;
  - (ix) by using a vehicle pulled by animals in peak traffic or on roads with congested vehicular traffic;
  - (x) by being under the influence of liquor and / or drugs, causing a nuisance for other persons;
  - (xi) by being disorderly and riotous;
  - (xii) by swearing and using offensive language; or
  - (xiii) by inconveniencing any other person with cigarette smoke or any other type of smoke;
- (o) the exhibition of anything that is considered in terms of general public opinion to be visually offensive;
- (p) the use of any device that interferes with radio and television reception;
- (q) the eliciting or persuasion of any person for purpose of prostitution or any other immoral deed;
- (r) to continue begging from a person or to follow a person to beg, after such person already reacted adversely to such begging;
- (s) to play loud music on any premises or to use megaphones, musical instruments or loudspeakers in such a way, that the maximum sound level of eighty five (85) dBA is exceeded, and that a disturbance or a nuisance is created;
- (t) a person who washes himself or herself, or wash or bath any animal in a public stream, pool, standpipe, water trough, fountain or any place where such action are explicitly forbidden by a notice board; or
- (u) any person who washes or service a vehicle on or in a public road or a public place.

- (3) When a transgression occur of any of the provisions of subsection 3(2) of this by-law, the Municipality may –
- (a) serve a notice on such owner or occupant or alleged transgressor, to terminate the activity within a specified time or remove the nuisance created; and
  - (b) by failure of the owner or occupant of a premises, or the alleged transgressor to comply with a notice, and without limiting the right of the Municipality to institute further prosecution, the Municipality may implement all the necessary measures to remove the cause or the source of the nuisance concerned, and may recover any costs incurred by the Municipality from the person responsible for the nuisance, or from the owner or occupant of a premises where the nuisance originated or may still continue, by rendering an account to the owner or occupant of the premises concerned, irrespective of who is responsible for causing the nuisance concerned.
- (4) Where any build-up or vacant premises, are used unauthorized by persons for any purpose which may cause a nuisance or when any of the nuisances as contemplated in subsection 3(2) of this by-law occurred on such premises, the Municipality may serve a written notice on the owner or the occupant of such premises, wherein the following may be demanded –
- (a) that the property or premises concerned be properly cleaned up before a specified date, and be closed off or be fenced off to the satisfaction of the Municipality; and
  - (b) that the enclosure or fencing required be of such a nature and structure, to restrict access to the premises for unauthorized persons and to prevent the illegal disposal or accumulation of material or any other nuisances recurring.
- (5) For purpose of the application of this by-law, any action or situation on any premises or public road or public place, which may put the safety of any person or property in jeopardy, or is disorderly, untidy, annoying, inconvenient, offensive or disturbing for other persons, may be considered to be a nuisance.
- (6) The Municipality may after consideration of –
- (a) the input or comments received, with regard to situations and actions in terms of section 3(2);
  - (b) the locality, geographical characteristics and size of a premises for which an application has been submitted;

(c) the documentation, the structural and building plans, zoning and land use approvals; and / or

(d) any other information applicable for the application,

accept or decline an application and may impose any conditions for the approval of an application.

## **CHAPTER 2: GENERAL PROVISIONS FOR THE KEEPING OF ANIMALS**

### **4. APPROVAL TO KEEP ANIMALS AND / OR BEES**

- (1) Nobody may without the written approval of the Municipality, keep any animals or allow them to be kept on any premises or properties not zoned for agricultural purposes, excluding pets, and the Municipality may also determine the type, the number and the gender of animals allowed to be kept, as well as the areas in which the keeping of such animals or the keeping of bees shall be totally prohibited.
- (2) Any person who applies for a permit to keep a wild animal, shall when such application is submitted to the Municipality in terms of subsection 4(1) of this by-law, also supply the Municipality with the necessary permits issued and required by the competent authority.
- (3) Bees may only be kept on premises zoned for agricultural purposes, and the Municipality may determine the desirability to keep bees in specific areas or to allow the repairing of beehives in an industrial or any other area, and may dictate the locality, positioning and the number of beehives that may be kept on a premises or the conditions in terms of which the repair of beehives on a premises shall be allowed.
- (4) For purpose of considering an application in terms of subsection 4(1) of this by-law, the applicant shall also obtain the input and comments of the owners and occupants of surrounding premises, as determined by the Municipality.
- (5) Any person who transgresses the provisions of subsection 4(1) of this by-law or who fails to comply with a determination in terms of subsections 4(2), 4(3) or 4(4) of this by-law, shall be guilty of an offence.

## **5. PLANS FOR STRUCTURES**

The Municipality may require from any person who is of intention to keep animals, to submit an application for the keeping of animals on the prescribed application form, and to supply detailed structural and building plans for structures to be used for the lodging of such animals, which shall comply to the specifications determined by the Municipality and / or the District Municipality, as applicable.

## **6. CONSIDERATION OF APPLICATIONS AND THE IMPOSING OF CONDITIONS FOR THE KEEPING OF ANIMALS**

(1) The Municipality may after consideration of –

- (a) the input or comments received in terms of subsection 4(4) of this by-law, with regard to the proposed keeping of animals;
- (b) the locality, geographical characteristics and size of a premises for which an application has been submitted;
- (c) the documentation, the structural and building plans and the expositions submitted in terms of section 5 of this by-law; and / or
- (d) any other information applicable for the application, including, but not limited to, the grazing potential of pastures, the type of existing fencing and the availability of water,

accept or decline an application.

(2) When an application is declined, the Municipality shall provide the reasons for the declining of the application, and notify the applicant of his or her right of appeal in terms of section 26 of this by-law.

(3) The Municipality may impose any conditions for the approval of an application.

## **7. VISIBILITY OF STUCTURES ON PREMISES**

Structures in which animals are kept shall be properly screened from any street, as applicable in terms of policy for each area.

## **8. SUSPENSION OF CONDITIONS AND THE CANCELLATION OF APPROVALS**

- (1) Notwithstanding the provisions of this by-law, the Municipality may after consideration of all the conditions applicable for an approval, suspend any or all conditions of this by-law imposed for the approval of an application or as applicable impose other specific conditions for an approval, on condition that no owner or occupant of adjoining properties have submitted a valid objection against such an application, and that no vested or general rights of other residents are affected.
- (2) The Municipality may cancel any approval provided in terms of subsection 6(1) of this by-law, when the stipulated conditions of the approval are not complied with.

## **9. VALIDITY OF PREVIOUS APPROVALS**

All previous approvals to keep animals, issued in terms of any repealed by-law, shall be considered to be issued in terms of this by-law, and shall remain valid.

## **10. RESPONSIBILITIES OF THE OWNER OR KEEPER OF ANIMALS**

- (1) The owner of an animal or the person in charge of an animal –
- (a) may not cause or allow that an animal disturb the convenience, comfort, peace and quiet of other persons;
  - (b) shall ensure that such animal has adequate sleeping accommodation, cover from the elements, water and food;
  - (c) shall ensure that the premises and / or structures and / or associated appurtenance where an animal is accommodated, are always in a neat and clean condition, to prevent the occurrence of a nuisance;
  - (d) shall exercise control over the animals in his or her custody, and prevent the animals concerned damaging other property or gardens; and
  - (e) may not allow any animal to enter or roam onto any portion of a public road.
- (2) When any provision of subsection 10(1) of this by-law has been transgressed, the Municipality may remove the offending animal and serve a written notice on the owner or the person in charge of such animal, to comply too the provisions of subsection 10(1) of this by-law, within the period stipulated in the notification concerned.
- (3) When any provision of this by-law or any legislation with regard to animal welfare have been transgressed, the Municipality may inform any official of an

animal welfare organization, to implement actions in terms of the Animal Protection Act, 1962 (Act No 71 of 1962), as amended, to address the transgression and / or matter.

- (4) When the owner or person in charge of an animal, give notice to the Municipality that a notification issued by the Municipality in terms of subsection 10(2) of this by-law has been complied with, the Municipality may hand over the offending animal to the owner or the person responsible for such animal, and recover the costs incurred by the Municipality for the removal, temporary safekeeping, care and transport of the animal, from such owner or person responsible for the animal concerned.
- (5) When a notification issued in terms of section 10(2) of this by-law has not been complied with, and without limiting the right of the Municipality to institute further prosecution, any animal removed from a premises in terms of subsection 10(2) of this by-law, shall be considered to be impounded in terms of provisions of the Impoundment of Animals By-law of the Theewaterskloof Municipality.

## **11. THE KEEPING OF ANIMALS**

- (1) When animals that are kept on a premises becomes a public nuisance, the Municipality may by means of written notification to the owner or the occupant of such a premises, instruct such owner or occupant of the premises concerned to attend to the nuisance created.
- (2) The Municipality may dictate steps to be implemented or work to be undertaken, to address or resolve or mitigate or prevent the nuisance concerned.
- (3) All actions undertaken by the person concerned in terms of subsection 10(1) of this by-law, to attend to the reported nuisance, shall be for the account of the person concerned.
- (4) When the owner of an animal fail to implement the measures required in terms of subsection 10(1) of this by-law, the Municipality may implement the required steps to rectify the situation or may impound such an animal in terms of the provisions of the Impoundment of Animals By-law of the Theewaterskloof Municipality, and recover the costs therefore from the owner of the animal concerned.
- (5) The Municipality may enter into a service delivery agreement with any organization or institution to render any service with regard to the control of the keeping of animals, including the licensing of dogs.

## 12. THE DESTRUCTION AND STERILIZATION OF ANIMALS

- (1) The Municipality may order the destruction of an animal in a humane manner, when it –
  - (a) has been found by a veterinary surgeon, that an animal is too dangerous, wild, uncontrollable, injured or malicious, to return it to the owner or the person in charge of such animal, and that such animal pose a danger to people, other animals or property, and on condition that –
    - (i) a written notice containing all the particulars and reasons for the intended action, is served on the owner of such an animal, where the contact particulars of the owner is known, and / or where the owner can be traced by means of the identification marks or a micro-chip on the animal; or
    - (ii) when it is an emergency situation, and it is impractical or impossible to give written notice to the owner of such animal, a verbal notification or any other practical method shall suffice as formal notification; and
  - (b) has been found by a veterinary surgeon, that an animal is injured in such a way or is so critically ill or totally out of control, that the most humane action shall be to destroy such animal.
- (2) When animals are to be destroyed in terms of subsection 12(1) of this by-law, it shall be done by a registered veterinary surgeon, on condition that the finishing off of such animal shall be in an acceptable and humane manner, with the minimum suffering for the animal concerned.
- (3) An authorized official may by means of a written notification, instruct the owner of a dog or cat, that such animal must be sterilized, or request a veterinary surgeon to sterilize a dog or cat, when considered necessary for the following reasons -
  - (a) for the well-being of a dog or a cat
  - (b) to prevent a nuisance;
  - (c) when such dog or cat is a vagrant animal; or
  - (d) when requested by the owner of an animal,

on condition that a written notice containing all the particulars and reasons for the intended action, is served on the owner of such animal, where the contact particulars of the owner is known, and / or where the owner can be traced by means of the identification marks or a micro-chip on the animal concerned, and the costs of sterilization may be recovered from the owner of the animal

concerned, and when the owner cannot be traced, an authorized official may instruct that the sterilization of such an animal must proceed.

- (4) When the owner of a dog or cat has been instructed to sterilize an animal, the owner concerned shall adhere to the instruction and provide proof of the sterilization of the animal concerned by a registered veterinary surgeon to an authorized official.
- (5) Any person who fail to comply with a notification, as contemplated in subsection 12(1) of this by-law, or who contravenes subsections 12(2), 12(3) or 12(4) of this by-law, is guilty of an offence and the Municipality may impound the animal concerned in terms of the provisions of the Impoundment of Animals By-law of the Theewaterskloof Municipality.

### **13. TRADING WITH ANIMALS**

No person may trade with animals from a mobile unit or a vehicle, or on a public road or a public place.

## **CHAPTER 3: PROVISIONS WITH REGARD TO THE KEEPING OF DOGS, CATS AND PETS**

### **Part 1 – General Provisions regarding Dogs and Cats**

### **14. NUMBER OF DOGS AND CATS**

- (1) Subject to the provisions of section 15 of this by-law, nobody may keep without the prior written approval of the Municipality –
  - (a) more than two (2) dogs; and
  - (b) more than two (2) cats,on any premises.
- (2) An application for exceeding the number of animals to be kept on a premises, as contemplated in subsection 14(1) of this by-law, shall include an exposition of the breed, gender, age and the additional number of dogs and / or cats for which an application is submitted, as well as the consent and / or comments of the adjoining property owners or occupants of premises.
- (3) The conditions and restrictions imposed in terms of section 17 of this by-law, with regard to the number of animals that may be kept on a premises, shall not

be applicable for a period of ten (10) weeks from the date of birth of the progeny of a female animal, which is kept in terms of the provisions of this by-law.

#### **15. BREEDERS OF DOGS AND CATS**

- (1) An owner or a breeder of dogs or cats, who wish to keep more than two (2) dogs or cats on a premise for breeding purposes, shall obtain the approval of the Municipality therefore.
- (2) Any person who fails to obtain the approval of the Municipality, as contemplated in subsection 15(1) of this by-law, shall be guilty of an offence.
- (3) The provisions of section 5 of this by-law shall be *mutis mutandis* applicable on an application in terms of section 15(1) of this by-law.

#### **16. BREEDERS OF PETS**

- (1) A person who intent to breed with other kinds of pets shall submit an application for approval to the Municipality, prior to such breeding activities.
- (2) The provisions of section 5 of this by-law shall be *mutis mutandis* applicable on an application in terms of section 16(1) of this by-law.

#### **17. CONDITIONS AND RESTRICTIONS FOR APPROVALS**

The approvals of the Municipality in terms of section 4, and subsections 14(1), 15(1) and 16(1) of this by-law, may be subject to such restrictions and conditions as deemed necessary by the Municipality, after consultation with other responsible authorities and institutions.

#### **18. WITHDRAWAL OF APPROVALS**

- (1) When a person contravenes any condition or restriction imposed in terms of section 17 of this by-law, or fail to adhere thereto, the Municipality may after the expostulations of the person has been heard, withdraw any or all the approvals for the keeping of animals and may remove the animals concerned from the involved premises for safe keeping by an animal welfare organization or at a pound.
- (2) All costs incurred by the Municipality for such removal and / or safekeeping of animals, as contemplated in subsection 18(1) of this by-law, shall be recovered from the owner or person in charge of such animals.

## **19. DOGS, CATS AND OTHER ANIMALS ON PUBLIC PLACES AND PUBLIC ROADS**

- (1) Subject to the provisions of the Public Amenities By-law of the Theewaterskloof Municipality, the owner or the person in charge of any dog, cat, cattle, horse or any other animal, may not bring such animal or allow such animal on a public place or a public road, except in the case of a dog when it is held by a responsible person on a lease or in a harness, or in the case of other animals when such animal is under the physical control of the owner or another responsible person in charge of such animal.
- (2) Nobody may disregard a notice board at a public place, prohibiting the access of any dog or horse or any other animal to such public place.
- (3) Except in the case of a blind person who is accompanied by a guide dog, any person in charge of a dog on a public road or a public place, shall remove the faeces of such dog, by wrapping it in plastic or paper and placing it in any container provided for waste.

### **Part 2 – Specific provisions with regard to dogs**

## **20. CONTROL OVER AND THE LICENSING OF DOGS**

- (1) Nobody who is the owner of a dog may –
  - (a) keep a dog, without paying a license fee for dogs as required when imposed by the Municipality, and when the licensing of dogs are applicable, the owner of a dog shall provide proof of the payment for a dog license on request of an authorized official;
  - (b) allow any lewd bitch on a public road or a public place, without being under any type of control or without a lease or a harness;
  - (c) incite any dog to attack or to inconvenience or to chase any person or other animal;
  - (d) keep any dog for the use of such animal for dog fights;
  - (e) keep a dog on a premises which is not properly fenced in;
  - (f) allow a dog to –
    - (i) trespass on private property;
    - (ii) be a danger for traffic and pedestrians on any public road;

- (iii) be a danger for persons outside the premises on which such dog is kept; or
  - (iv) be a danger for officials of the Municipality who must enter the premises concerned in the execution of their duties;
- (g) neglect to post notices on conspicuous places on a premises, that a vicious dog is kept on such a premises; and
- (h) allow that any dog kept on a premises –
- (i) by continuous barking, yapping, whining or howling, and exceeding the maximum sound level of eighty five (85) dBA;
  - (ii) by charging out of habit at vehicles, other animals, poultry, birds or persons outside the premises where the animal is kept; or
  - (iii) by revealing any other bad habits, disturb the convenience, comfort, peace and quiet of adjacent neighbours.
- (2) The Municipality may impound any dog found on a public road or a public place, or who contravenes the provisions of this by-law by creating a nuisance, in terms of the stipulations of the Impoundment of Animals By-law of the Theewaterskloof Municipality.
- (3) A dog impounded in terms of subsection 20(2) of this by-law, may only be released in the care of the owner or the person responsible for such dog, on payment of the prescribed amount determined by the Municipality and on submission of reasonable proof of ownership.

#### **CHAPTER 4: ACCOMMODATION FOR DOGS AND CATS, PET PARLOURS AND PETSHOPS**

##### **21. APPROVAL TO TRADE**

- (1) No place of accommodation for dogs, place of accommodation for cats, pet parlour or pet shop may be operated without the approval of the Municipality, and such approval may be subject to certain conditions.
- (2) A person who wishes to operate a place of accommodation for dogs, a place of accommodation for cats, a pet parlour or a pet shop may not allow that the operation of such a business, create a public nuisance or a nuisance for other persons.

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

### **22. ARRANGEMENTS FOR SERVICE DELIVERY**

For purpose of ensuring optimal service delivery, the Municipality may enter into service delivery agreements with the District Municipality, any other municipality or any organization or institution.

## **CHAPTER 6: GENERAL PROVISIONS**

### **23. RIGHT OF ACCESS AND INSPECTION**

- (1) Any properly authorized official of the Municipality, is authorized to enter any premises within the area of jurisdiction of the Municipality, and to inspect such premises for purpose of determining whether the provisions of this by-law have been adhered to, subject thereto that a private residence may not be entered for routine inspection purposes without the explicit approval of the owner or occupant of such residence.
- (2) When a premise is accessed for an inspection in terms of subsection 23(1) of this by-law, the authorized official shall provide proof of his or her identification on request of any person, by showing a written authorization and proof of identification.
- (3) The authorized official may be accompanied by any person, who may assist with any inspection.
- (4) Any person who refuse to grant access to a premises to a properly authorized official of the Municipality, when access is requested by such authorized official, or who obstructs or inhibits an authorized official in the execution of his or her duties in terms of the provisions of this by-law, or any person who refuse to provide information lawfully requested by an authorized official or deliberately provide false and misleading information to an authorized official, shall be guilty of an offence.

### **24. SERVING OF NOTICES AND OTHER DOCUMENTS**

- (1) A notice, instruction, letter of demand, or other document issued by the Municipality in terms of this by- law, is deemed to be duly issued, when a duly delegated official of the Municipality has signed it.

- (2) Any notice, instruction, letter of demand, or other document that is served on a person in terms of this by-law, is regarded as having been duly and effectively served –
- (a) when it has been delivered to that person personally;
  - (b) when it has been left at that person's place of residence or business in the Republic of South Africa, with a person apparently older than sixteen years;
  - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic of South Africa, and proof of the posting thereof is provided;
  - (d) if that person's address in the Republic of South Africa is unknown, when it has been served on that person's agent or representative in the Republic of South Africa, in a manner as provided in subsections 24(2)(a), 24(2)(b) or 24(2)(c) of this by-law;
  - (e) if that person's address and agent or representative in the Republic of South Africa is unknown, when it has been posted in a conspicuous place on the property or premises to which it relates; or
  - (f) in the event of a body corporate, when it has been delivered at the registered office or the business premises of the body corporate.
- (3) When any notice, instruction, letter of demand, or other document is served on a person in terms of this by-law, it is sufficient for purpose of the serving of the notice, instruction, letter of demand or other document, to describe the person in the notice, instruction, letter of demand or other document, as the owner, occupant, or holder of the property or rights in question, and it is not a requirement to name that person.
- (4) A notice, instruction, letter of demand, or other document shall for purpose of authentication, be properly signed by the Municipality.

## **25. TRANSITIONAL ARRANGEMENTS**

A person who on the operative date of this by-law, is keeping more animals than the number contemplated in subsection 4(1) of this by-law, may not replace such animals, when one or more of them pass away or are done away with.

## **26. APPEALS**

A person whose rights are affected by a decision of the Municipality in terms of any delegated powers, may appeal against such a decision in terms of section 62 of the

Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000), as amended, by giving written notice of the appeal against such a decision and the reasons for the appeal to the Municipal Manager, within twenty one (21) days of the date of the notification of the decision.

## **27. OFFENCES AND PENALTIES**

Any person who contravenes or fails to comply with the provisions of this by-law, or fails to comply with a notice served in terms of this by-law, or fails to comply to an instruction of an authorized officer or posted on a notice board, is guilty of an offence and is liable on conviction, for –

- (a) a fine or imprisonment, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment;
- (b) in the case of a successive or continuing offence, to an additional fine or additional period of imprisonment, or such additional imprisonment without the option of a fine, or to both such additional fine and such additional imprisonment, for every day such offence continues; and
- (c) any further amount as an order of court for costs, equal to any costs and / or expenses, deemed by the Court, to have been incurred by the Municipality as a result of such contraventions.

## **28. EXEMPTION FROM PROVISIONS**

Notwithstanding the provisions of this by-law, the Municipality may exempt any person or group of persons, from any or all the provisions of this by-law, in terms of the principles as contemplated in subsection 8(1) of this by-law.

## **29. COMMUNITY LIAISON FORUMS**

- (1) The Municipality may establish liaison forums in a community for the purpose of –
  - (a) creating opportunities for the community to participate in the affairs of the Municipality;
  - (b) advising the Municipality on matters, referred to a liaison forum by the Municipality, and
  - (c) promoting a safe and healthy environment .

- (2) A liaison forum may consist of –
- (a) a member or members of an interested group, or affected persons;
  - (b) a member or members of the community; and
  - (c) a designated official or officials of the Municipality, or other organs of state.
- (3) (a) The Municipality may, when considering an application for an approval, permit or an exemption in terms of this by-law, request the input of a liaison forum.
- (b) A liaison forum or any person or persons contemplated in subsection 29(2) of this by-law, may on their own initiative provide input to the Municipality for consideration.

### 30. CONFLICT BETWEEN LEGISLATION

When any stipulation of this by-law, is in conflict with national and provincial legislation or regulations, the national and provincial legislation or regulations shall prevail.

### 31. REPEAL OF BY-LAWS

- (1) The provisions of any by-laws previously promulgated by the Municipality, or by any of the disestablished municipalities now incorporated in the Municipality, are hereby repealed as far as they relate to matters provided for in this by-law.
- (2) The following by-law of the Theewaterskloof Municipality is hereby specifically repealed –

<b>Date published</b>	<b>Name of by-law</b>	<b>As a whole or partially</b>
PG 6234 dated 8 March 2005	By-laws regarding Public Nuisances and the Keeping of Animals	As a whole

### 32. SHORT TITLE

This by-law shall be called the Public Nuisances and Nuisances resulting from the Keeping of Animals By-law of the Theewaterskloof Municipality.

### 33. OPERATIVE DATE

This by-law shall take effect on the date of publication.