

# OVERSTRAND MUNICIPALITY



## **POLICY FOR: CREATING AND MAINTAINING FIRE WISE VACANT ERVEN WITHIN URBAN AREAS.**

**SEPTEMBER 2018**

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## **Preamble**

*The Overstrand is historically prone to devastating wildfires resulting from the abundance of highly combustible alien and indigenous vegetation endemic to the area. The continued substantial increase in population and associated urban development increases the risk exposure of the communities therefore, placing higher responsibility on the Overstrand Municipality in terms of the Constitution to provide a safe and healthy environment together with land owners who must manage risks by reducing fire hazards in and around residential areas.*

*Destruction of property as well as socio-economic hardship caused by fires have negative effects on the welfare of communities therefore the need for protection strategies against the ravages of fire as an important aspect in the development and sustainability of the economy and living conditions.*

*It is important to understand that the condition of vacant properties in the urban areas have to be controlled and managed in conjunction with communities in a manner that will instil fire wise consciousness in order to eliminate the effects of devastation resulting from vegetation fires.*

## **Chapter 1 Definitions and Abbreviations**

**Administration Fee** Means a tariff as approved by Council and provided for in the tariff list of the Overstrand Municipality

**Appeal Process** Provisions of section 62 of the Local Government: Municipal Systems Act, (Act 32 of 2000) which *inter alia* provides that a person, who feels that his/her rights have been affected by a decision taken by a staff member in

terms of a power or duty delegated, 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.

<b>Brush Cutter</b>	A hand held mechanical tool, powered by an electrical or petrol motor, and used to cut down shrubs and small trees.
<b>Bush-cutter (Bossiekapper)</b>	A machine drawn behind a tractor, powered by a power takeoff from the tractor, and is used to cut down shrubs and large areas of vegetation
<b>CARA</b>	Conservation of Agricultural Resources Act, No. 43 of 1983
<b>Chain Saw</b>	A hand held mechanical saw powered by an electrical or petrol motor, and used to cut down trees and logs
<b>Combustible material</b>	Means combustible refuse, combustible waste or any other material capable of being ignited manually or spontaneously.
<b>Community Fire Safety By-law</b>	Means the Overstrand Municipality By-Law relating to Community Fire Safety P.N. 6454 of 2007
<b>Contract</b>	Means a formal written agreement between parties to provide for the execution of a specific task under specific conditions as set out in the contract document
<b>Contractor</b>	Means a person, natural or juristic, who undertakes to execute a contract to render a service that is awarded by the Overstrand Municipality under the terms and conditions stipulated therein.
<b>Fire Brigade Services Act</b>	Means the Fire Brigade Services Act, No. 99 of 1987
<b>Fire hazard</b>	Means any situation, process, material or condition which may cause a fire or explosion or provide a ready fuel supply to increase the spread or intensity of the fire and which poses a threat to life or property.
<b>Green Belt (s)</b>	A land use designation for areas set aside as undeveloped natural areas surrounding or within urban areas.
<b>Hazard</b>	Means any physical situation with the potential to cause a fire hazard or the accumulation of excess waste material
<b>Herbicide</b>	Means a chemical substance (weed killer) that is registered under relevant legislation to control or destroy specific plants in accordance with the directions for the use of such a weed killer.
<b>Invasive Alien Vegetation</b>	Vegetation that is declared invasive in terms of the Conservation of Agriculture Resources Act, No. 43 of 1998, that landowners are legally required to remove from their property and which are deemed to be a verified fire hazard in terms of this policy.

<b>Land</b>	For the purposes of this policy - Means all privately, state, provincial and municipal owned undeveloped land.
<b>Land Clearing</b>	Means all actions required to ensure that fire hazard conditions are minimized on all land; that rubble, dead and dry vegetation and waste material is removed
<b>Land owner</b>	Any person (including a company, close corporation or trust) in whose name the land is registered, or if such land has been purchased but not yet registered, such a purchaser. Also a person who has the right of ownership even though the land has not been registered in such a person's name. If the person is not residing in South Africa, or if that person cannot be found, a representative will be regarded as the owner.
<b>Land user</b>	Any person (including a company, closed corporation or trust) who is the owner of the land, or who leases the land or who has any legal right to use the land or the plants or other organic matter from the land, irrespective of that person living on the property or not.
<b>Manual clearing</b>	Means the removal of plant and other material by hand, with hand held tools.
<b>Mechanical Clearing</b>	Means the removal of plant and other material with mechanical equipment such as tractor driven lawn mowers or bush-cutters (bossiekappers).
<b>Municipal Service Provider</b>	Means a person, natural or juristic, who undertakes to execute a contract awarded by the Overstrand Municipality under the terms and conditions stipulated therein.
<b>Municipality</b>	Means Overstrand Municipality, which is a local authority duly established in terms of the Local Government: Municipal Structures Act, no 117 of 1998 with its head office situated at Magnolia Street, Hermanus, Western Cape.
<b>Nature Reserve</b>	An area with that has been declared as a Protected Area in terms of the National Environmental Management: Protected Areas Act No. 57 of 2003.
<b>Open Lands</b>	refers to non-built-up land with no, or with insignificant, vegetation cover
<b>Park Lands</b>	Land with trees and shrubs and together with lawn areas mainly used for recreational purposes.
<b>Procedure</b>	Means a dedicated single process to complete a required task, with as many steps or tasks, responsibilities, regulations or requirements, involving a number of people as required.
<b>Resort</b>	A place that is a popular destination for vacations or recreation, or which is frequented for an outdoor recreational purpose.

<b>Responsible Fire Safety Official</b>	Means an official of the Overstrand Municipality with the delegated responsibility for ensuring fire prevention standards.
<b>Waste material</b>	Means excessive combustible or non-combustible rubble, rubbish, other debris or waste accumulated on a property.

## **Chapter 2**

### **Intent of the Policy**

- 1 This policy is specific to municipal and privately owned vacant property, within residential areas and bordering urban edges.
  
- 2 The current Fire Safety By-law does not clarify between alien and indigenous vegetation relating to overgrown vegetation therefore, this policy is enacted to provide the municipality and property owners with the minimum standards and guidelines that will provide for the effective management and control of fire hazards created by overgrown erven as well as to also initiate mechanisms to combat proliferation of combustible vegetation thereby effectively eliminating fire risks and potential dangers within residential areas.
  
- 3 **The Policy gives effect to the following legislation:**
  - 3.1 Chapter 7 Section 152(d) of the Constitution of South Africa, - The Promotion of a safe and healthy environment;
  - 3.2 Articles 4, 34 of the Overstrand Municipality Community Fire Safety By-law, P.N. 6454/2007 – Prevention of fire hazards on properties;
  - 3.3 Fire Brigade Services Act, No. 99 of 1987 and amendments up to Act 14 of 2000 – Prevention of fires;
  - 3.4 Local Government: Municipal Finance Management Act, No. 56 of 2003 – Prescribed regulations with regard to financial aspects of local government;
  - 3.5 Local Government: Municipal Systems Act, No. 32 of 2000 – Prescribed regulations with regards to the functions of a municipality;
  - 3.6 The Veld and Forest Fire Act of 1998 (Act 101 of 1998) – Duty to prepare and maintain fire breaks.
  - 3.7 The National Forests Act of 1998 (Act No. 84 of 1998) – Protection of certain tree species declared as protected under the Act.
  
- 4 **Objectives include:**
  - 4.1 To prevent the outbreak and spread of fire by the removal and reduction of fire hazards created by overgrowth of combustible vegetation on erven irrespective of vegetation type,
  - 4.2 To provide for the identification of fire hazards on all vacant erven within the urban areas of the Overstrand Municipality,
  - 4.3 To enable a process to notify owners of the fire hazards created by overgrown erven and their obligation to prevent such situations arising in compliance with the relevant legislation,
  - 4.4 To ensure that the control and reduction of fire hazards are in accordance with the prescribed requirements and acceptable standards, and
  - 4.5 To ensure that all privately and publicly owned vacant erven, including public common areas within urban borders conform to the minimum standards in a continuous cycle.

## **Chapter 3**

## Principles of the Policy

- 1 All officials and contractors of the Overstrand Municipality, all residents, land owners and appointed agents, shall be subject to the contents of this Policy and follow the procedures and any processes as prescribed.
- 2 All land owners are obligated to maintain their vacant erven in terms of Articles 34 & 54 of the Community Fire Safety By-law in such a manner that the land is in a satisfactory condition as determined by the Chief Fire Officer in that it does not present a fire hazard to the surrounding environment and community.
- 3 Property owners are obligated to comply with the standards determined by the Municipality.
- 4 Clearing methods used for reducing fire hazards shall only be manual in areas that are proclaimed as protected (bio-sphere) and mechanical clearing shall be permitted in areas that are not proclaimed as protected in accordance with the relevant legislation.

### 4.1 Manual Clearing:

- 4.1.1 Manual clearing is done using hand tools such as bow-saws, pruning scissors, motor operated hand held chain saws or motor operated hand held brush cutters.

### 4.2 Mechanical Clearing:

Clearing is done using industrial driven motorised lawnmowers or tractor drawn brush cutters commonly known as “bossiekappers”.

### 4.3 Fire Breaks (urban area borders):

Where necessary, suitably wide and cleared fire breaks on that are free of combustible material shall be created on urban perimeters as determined by the Chief Fire Officer in order assist in preventing fire spread and provide access for firefighting vehicles of all types to control fires.

- 5 The use of driven motorised lawnmowers or tractor drawn brush cutters “bossiekappers” may be used with the discretion of a land owner where permitted who is encouraged to promote the protection of animals and natural vegetation.
- 6 Areas such as road verges, municipal gardens, public commons and parklands, fire breaks or sport fields where continuous maintenance occurs is subject to compliance with the minimum standards of this policy.

## Chapter 4

### Responsibilities, procedures and rights of the Municipality

- 1 Officials with delegated authority for the identification of fire hazards shall have the final decision on the standard for the clearing of property, in accordance with the Municipality’s By-laws, policies and directives as to **when** and **how** a property shall be cleared. If a property is not identified as a fire hazard, but is in breach of other municipal legislation, the matter will be referred to the relevant department(s) for further action.

- 2 A clearing compliance notice period of **28 working days** for owners who are South Africa residents and **40 days** for owners who reside internationally will be issued in respect of the removal of hazardous conditions prescribed by this policy.
- 3 Compliance notices will be served upon land owners by registered mail through the South African Post Office in terms of section 6 (2) of the Community Fire Safety By-law and **will only be served by email as a courtesy where accurate contact information is provided to the municipality as per its data base.**
- 4 Any delegated official of the Overstrand fire brigade service is empowered in terms Section 4 of the Community Fire Safety By-law and section 19 of the Fire Brigade Services Act to enter upon any property to ensure compliance with the requirements of the by-law and to order the removal the hazard if it is found that the property is not in compliance with the regulated standards. Non-compliance of the prescribed standards will result in the municipality exercising its powers.
- 5 The minimum standards for plot clearing are determined by the controlling authority as reflected in this policy.
- 6 This policy will be reviewed from time to time with any amendments being subject to council approval after public participation and council work shopping.
- 7 The process for the acquisition of municipal plot clearing contractors shall be in accordance with the Municipality's Supply Chain Management Policy.
- 8 The appointed contractor(s) will be provided with specific instructions, including plot numbers and time frames for the clearing of erven.
- 9 The contractor will be paid for work done only, after their submitted invoices have been verified and cleared sites have been inspected to ensure that the work has been done according to standards.

## **Chapter 5**

### **Obligation of land owners**

1. Land owners are obligated to comply with the provisions of Sec. 34 of the Overstrand Municipality's Community Fire Safety By-law, P.N 6454/2007.
2. Clearing of property must be in compliance of the norms and standards as prescribed by this policy.
3. Failure to comply with the requirements of a clearing notice will result in remedial or legal action in terms of Sec. 55 of the said By-law. Fines and imprisonment may be imposed by the additional court.

## Chapter 6 Recovery of costs

- 10 Should it become necessary for the Municipality to take remedial action the full cost thereof will be recoverable from the land owner. The costs involved include the actual cost of the contractor and the administrative fee as determined by the Municipal tariff structure. The relevant fees shall be billed against the defaulting property owner's Municipal account as provided for by section 4(4) of the Community Fire Safety By-law.

## Chapter 7 Prescribed standards for clearing vegetation

- 1 Contractors appointed by the municipality for clearing of erven are not permitted to use any herbicides on private erven but, may under direction of the relative municipal departmental manager use herbicide to control invasive species on municipal property.
- 2 The clearing of vegetation creating fire hazards shall be in compliance with the following prescribed standards:

### 2.1 General requirements:

- 2.1.1 All erven shall be cleared of 100% of deadwood including other combustible material not associated with the growth of vegetation;
- 2.1.2 All invasive alien vegetation shall be eradicated (cut down) and removed from the area. The remaining stumps may be treated with herbicide at the discretion of the land owner to prevent re-growth;
- 2.1.3 Grass and indigenous ground covering plant species must be maintained at a maximum height of 500mm (0.5m);
- 2.1.4 Desirable shrubs & trees shall be cleared of growth from ground level up to a minimum height of 1.5m below the canopy with all ground level deadwood removed from the area around the trees;
- 2.1.5 Indigenous vegetation on erven that are surrounded by boundary walls must be reduced by a minimum of 50% of the density and must be cut down to at least 500mm below the top level of the walls;
- 2.1.6 Adequate fire breaks must be provided on properties larger than the standard size erven as determined by the Chief Fire Officer.
- 2.1.7 Erven with thatch roofed dwellings or outbuildings located within 50m of their boundaries shall be cleared of vegetation to the minimum standard at all times irrespective of vegetation species and location with the exception of trees which must be trimmed in compliance with section 2.1.4 of this chapter;
- 2.1.8 The clearing of erven must be done in a manner that will prevent soil erosion;
- 2.1.9 All vegetation refuse created by clearing of erven **must be removed from cleared erven and may not be left on an erf or road verge;**
- 2.1.10 Cuttings may be chipped into sizes no larger than 100 x 100mm which can be either removed or distributed over the cleared erf and may not be left as heaps that will cause spontaneous combustion;
- 2.1.11 Garden refuse, cuttings and excess combustible material (including that created by the clearing process) shall be removed from the property and disposed of at the relevant municipal refuse transfer stations.



2.1.12 It is recommended that private landowners make use of the registered contractors available on the Municipal database or contractor list supplied on request from the relevant administrators as they are aware of the minimum requirements and terrain.

**2.2 Minimum requirements below are applicable only to erven located in proclaimed Bio- Spheres and protected areas within urban areas that are zoned for development except those erven within 50m of any thatch roof dwelling or other habitable building:**

- 2.2.1 Remove all combustible deadwoods, and other ground level fire hazards;
- 2.2.2 Retention of desired trees and shrubs is subject to being cleared of growth from ground level up to a minimum of 1m for plants that are 1.5m high and 1.2m for shrubs from 1.5m high upwards;
- 2.2.3 Reduction (thinning out) of the density of vegetation growth by a minimum of 50% over the area of the erf;
- 2.2.4 Provide a safe distance between the vegetation and structures on abutting erven by ensuring that vegetation does not encroach over the standard 2m building or other scheme lines;
- 2.2.5 Grass and indigenous ground covering plant species must be maintained at a maximum height of 500mm (0.5m);
- 2.2.6 All vegetation refuse created by clearing of erven **must be removed from cleared erven and may not be left on an erf or road verge for longer than 3 days;**
- 2.2.7 Erven with thatch roofed structures located within 50m of their boundaries shall at be cleared of vegetation at all times irrespective of vegetation species with the exception of trees which must be trimmed in compliance with section 2.1.4 of this chapter;
- 2.2.8 The clearing of erven must be done in a manner that will prevent soil erosion;
- 2.2.9 Cuttings may be chipped into sizes no larger than 100 x 100mm which can be either removed or distributed over the cleared erf and may not be left as heaps that will cause spontaneous combustion;

## **Chapter 8 Milkwood Trees**

**(also refer to DAFF information document included hereunder)**

Milkwood trees such as White Milkwood (*Siderxylon inerme*) are protected in terms of the Natural Forests Act. The crown of these trees may only be pruned to a maximum of 25% as provided by exemption published in Government Gazette no. 773 of 27 August 2007 but topping is not permitted. No topping or excessive pruning for sea views is permitted.

Pruning of milkwood trees from ground level to a minimum height of 1.5m shall be considered to meet the allowable 25% beneath the crown and may be required where the trees provide a potential cover for illegal activities if they are located on erven within the urban areas but, no pruning shall take place where these trees are part of a natural forest i.e. along the coast line, in green belts and proclaimed reserve areas.

Destruction of protected trees or natural forest or any other protected/endangered plant species without a permit obtained from the relative controlling authority is a criminal offence.

## Chapter 9

### Prescribed Procedures of the Plot Clearing Management Process

NO.	ACTION	RESPONSIBLE DEPT
<b>Standard procedures</b>		
1.	1 <sup>st</sup> Compliance inspection	Chief: Fire Services or delegate
2.	Controlling Authority for the administration and Issue of Compliance Notices.	<b>Offices of the Respective Area Managers</b>
3.	2 <sup>nd</sup> Inspection	Chief: Fire Services
4.	Issue summons on owner to appear in court in case of non-compliance as determined by the relevant controlling authority.	Additional Court /Law Enforcement
<b>Procedures for remedial action</b>		
1.	Appointment of contractors through the Supply Chain channels	Chief : Fire Services
2.	Instruction to private contractor	Chief : Fire Services – Hermanus Area Managers – Hangklip/Kleinmond & Gansbaai
3.	Inspection with certification of clearing done	Chief : Fire Services
4.	Invoice for payment of contractor	Finance
5.	Payment of contractor	Finance
6.	Billing of owner	Finance

## WHAT YOU NEED TO KNOW ABOUT THE PROTECTION OF NATURAL FORESTS AND PROTECTED TREES ON PRIVATE COASTAL PROPERTIES



agriculture,  
forestry & fisheries

Department  
Agriculture, Forestry and Fisheries  
REPUBLIC OF SOUTH AFRICA

### WHAT IS A NATURAL FOREST?

Many properties along this coast are covered by natural forests. Natural forests consist of closed canopy stands of indigenous trees, usually with shrub and herb layers below, and the height may vary from about 2 metres (scrub forest) or even lower in early pioneer or regrowth stages, to more than 10 metres. Certain tree species only occur in forests (indicator tree species) and botanists can therefore distinguish forest from other woody vegetation. Such trees include white milkwood (*Sideroxylon inerme*).



Destruction of protected trees or natural forest without a licence is a criminal offense



White milkwood (*Sideroxylon inerme*) – occur on the entire Indian Ocean coast of SA

Red milkwood (*Mimusops caffra*) – mostly on the KwaZulu-Natal and Eastern Cape coasts



Licence application forms for activities affecting protected trees or natural forests can be obtained from the website [www.daff.gov.za](http://www.daff.gov.za) and must be submitted to the nearest forestry regional office of the Department of Agriculture, Forestry and Fisheries.



### NATURAL FOREST IS PROTECTED

Section 3 of the National Forests Act of 1998, (Act No. 84 of 1998) stipulates that natural forests may not be destroyed. Section 7 of this Act also states that trees in a natural forest may not be cut, destroyed, pruned or damaged without a licence. In terms of policy, such destruction is only allowed in exceptional circumstances such as strategic projects like bulk services and infrastructure (e.g. major roads, power lines, dams and pipelines), but not for residential development. The only other exceptions to this rule are:

- vested rights such as zoning certificates issued and properties registered at the Surveyor-General before the year 2000, when the National Forests Act was enacted;
- primary property rights, such as the right to erect a dwelling for own use on a vacant property (number of units per specified area in semi-urban areas may have been determined in local zoning schemes).

These exceptions do not apply automatically owing to complex land-use and legal issues, and do not do away with the need to apply for a licence, in which case the responsible forestry official may have to investigate these land issues first.

### CERTAIN TREE SPECIES ARE PROTECTED

A list of 47 tree species have been declared as protected under the National Forests Act of 1998, (Act No. 84 of 1998). No such trees may be cut without a licence under section 15 of this Act. Trees such as white or red milkwood are forest species that sometimes occur outside forests and are listed as protected tree species.

Cutting or pruning also requires a licence, except if less than 25% of the crown is pruned, but not for the topping of such trees, and not for new development or redevelopment (exemptions published in *Government Gazette* no. 773 of 27 August 2007). No topping or excessive pruning for sea views are allowed.



White milkwood (*Sideroxylon inerme*). This tree and the red milkwood (*Mimusops caffra*) are dominant keystone species on the coast and are protected because of their aesthetic and ecological role