

SWARTLAND MUNICIPALITY

NOTICE 180/2003

BY-LAW PERTAINING TO THE CONTROL OF THE
YZERFONTEIN HARBOUR AREA

Notice is hereby given in terms of section 13 of the Municipal Systems Act, 2000 (Act 32 of 2000) that the Municipal Council of the Swartland Municipality has made the by-law set out in the schedule hereto.

SCHEDULE

BY-LAW PERTAINING TO THE CONTROL OF
THE YZERFONTEIN HARBOUR AREA

Definitions

1. In this by-law, unless the context otherwise indicates:
"council" means the council of the Swartland Municipality;
"harbour area" means the area adjacent to the sea in the vicinity of the pier, owned or controlled by the council being the farm Sea Wall 562 and the remainder of portion 9 of the farm Yzerfontein 560;
"harbour official" means the official appointed by the municipality to supervise the harbour area or any person appointed by the municipality to act in his or her stead;
"Municipality" means the Swartland Municipality;
"nuisance" means defecation in public, littering, alcohol and drug abuse, foul language, inobservance of regulations, abuse of personnel by using profane language or any indecent behaviour or conduct or any annoyance.

MUNISIPALITEIT SWARTLAND

KENNISGEWING 180/2003

VERORDENING INSAKE DIE BEHEER OOR
DIE YZERFONTEIN HAWEGEBIED

Kennis geskied hiermee ingevolge die bepalinge van artikel 13 van die Munisipale Stelselwet, 2000 (Wet 32 van 2000) dat die Munisipale Raad van die Munisipaliteit Swartland, die verordening soos uiteengesit in skedule hiertoe, gemaak het.

BYLAE

VERORDENING INSAKE DIE BEHEER OOR
DIE YZERFONTEIN HAWEGEBIED

Woordbepaling

1. In hierdie verordening, tensy uit die samehang anders blyk, beteken:
"hawebeampte" die beampte wat deur die Munisipaliteit aangestel is om toesig oor die hawegebied te hou of enige persoon wat in sy of haar plek waarneem;
"hawegebied" die gebied aangrensend aan die see in die omgewing van die hawehoof, wat die eiendom is van die of beheer word deur die raad synde die plaas Sea Wall 562 en die restant van gedeelte 9 van die plaas Yzerfontein 560;
"munisipaliteit" die Munisipaliteit Swartland;
"raad" die raad van die Munisipaliteit Swartland;
"oorlas" publieke ontlasting, rommelstrooiing, drank- en dwelmmisbruik, vuil taal, verontagsaming van mense, vloek van personeel of enige aanstootlike gedrag of handeling of enige hindernis.

2. Save with the permission of the harbour official no person shall:
- (1) enter upon or remain in any portion of the harbour area demarcated by the Municipality or the harbour official during any period when the presence of persons thereon is prohibited by the municipality or the harbour official and when a notice indicating that such presence is prohibited is displayed;
 - (2) alter the time and manner of use of the harbour area by any person, as prescribed;
 - (3) use any portion of the harbour area without payment of such fees as determined by the council by resolution;
 - (4) use any facilities provided in the harbour area from time to time, without payment of such fees as determined by the council by resolution;
 - (5) clean, load, off-load, handle, cut fish or trade therewith in the harbour area;
 - (6) no boat, trailer, vehicle, equipment, drum, net or material of any nature may be deposited or left in the harbour area, and the owner who deposits or leaves any such object or material shall remove any such object or material from the harbour area within 12 hours after being directed by the harbour official to do so;
 - (7) use of the harbour area for keeping or repairing of boats shall be subject to such conditions and payment of such fees as the council may determine by resolution.
 - (8) remain in the harbour area overnight.
3. The capacity of the harbour is equivalent to the number of demarcated parking bays in the harbour area.
4. No person shall cause any nuisance to other persons in the harbour area or damage or interfere with any installation, equipment or facility thereon. The skipper and/or boat owner will be jointly responsible for the conduct of their crew on the tow vehicle and boat.
5. The harbour area shall be used at the sole risk of the user, and the municipality shall not be liable for any claim, damages or loss arising from the death or injury of any person or damage to or loss of any property of any person whether directly or indirectly caused by the acts or omissions, including negligent acts or omissions, of any person, whether in the employment of the council or not, or as a result of defects or sources of danger in the harbour area or in any of the facilities of the harbour area.
6. No person shall enter the harbour area with a tow vehicle which is not mechanically able to remove his boat, (including catches) and trailer from the sea and off the slipway without causing delays. The engine (motor) of the boat may only be started on the slipway.
7. A person in control of a boat who does not launch such a boat immediately when it is his or her turn to do so, and obstruct the flow of traffic in the approach to the slipway, may be ordered by the harbour official to move his or her vehicle and/or boat to a parking bay. On failure to do so such a person shall be ordered to remove his or her vehicle as well as his or her boat from the harbour area.
8. Boats and trailers may only park in the demarcated parking bays.
9. The harbour official may, whenever the traffic volume in the harbour area increases to such an extent that in his or her view it becomes necessary to impose restrictive measures in order to ensure that the harbour area is not overcrowded and that orderly traffic flow is maintained and with due regard to the number of demarcated parking bays available for the parking of boats and trailers, excluding persons who obtained permission or authority from the harbour official or municipality:
2. Niemand mag sonder die toestemming van die hawebeampte:
- (1) enige gedeelte van die hawegebied wat deur die Munisipaliteit of die hawebeampte afgebaken is, betree of daar vertoef nie gedurende enige tydperk wanneer die teenwoordigheid van persone daar deur die munisipaliteit of deur die hawebeampte verbied word en wanneer 'n kennisgewing wat aandui dat sodanige teenwoordigheid verbode is, vertoon word;
 - (2) die ure waartydens en die wyse waarop die hawegebied deur enige persoon gebruik word, soos voorgeskryf, verander nie;
 - (3) enige gedeelte van die hawegebied gebruik nie sonder betaling van die gelde wat deur die raad by besluit vasgestel is;
 - (4) enige geriewe wat van tyd tot tyd in die hawegebied voorsien word gebruik nie sonder betaling van die gelde wat deur die raad by besluit vasgestel is;
 - (5) in die hawegebied vis skoonmaak, laai, aflaai, hanteer of oopsny, of daarmee handel dryf nie;
 - (6) geen boot, treiler, voertuig, toerusting, konkka, net of materiaal van enige aard mag in die hawegebied geplaas of gelaat word nie en die eienaar van enige sodanige voorwerp of materiaal of persoon wat dit daar geplaas of gelaat het, moet sodanige voorwerp of materiaal uit die hawegebied verwyder binne 12 uur nadat by deur die hawebeampte daartoe gelas is, en
 - (7) die hawegebied gebruik vir die bewaring of herstel van bote onderhewig aan sodanige voorwaardes en aan die betaling van die gelde wat die raad by besluit bepaal.
 - (8) in die hawegebied oornag nie.
3. Die kapasiteit van die hawe is gelykstaande aan die aantal afgebakende staanplekke in die hawegebied.
4. Niemand mag enige oorlas vir ander persone in die hawe veroorsaak of skade aanrig aan of peuter met enige installasie, toerusting of geriewe daarop nie. Die skipper en/of booteienaars is medeverantwoordelik vir die gedrag van hul bemanning op hul sleepvoertuig en boot.
5. Die hawegebied word gebruik op die uitsluitlike risiko van die gebruiker en die Munisipaliteit is nie aanspreeklik vir enige eis, skade of verlies wat spruit uit die dood of besering van enige persoon of skade aan of verlies van enige eiendom van enige persoon wat, hetsy direk of indirek veroorsaak is deur die handelinge of versuim, insluitende nalatige handelinge of versuim van enige persoon, hetsy in diens van die raad al dan nie, of as gevolg van gebreke of bronne van gevaar in die hawegebied of in enige van die geriewe van die hawegebied nie.
6. Niemand mag die hawegebied betree met 'n sleepvoertuig wat nie meganies in staat is om sy boot (met inbegrip van vangste) met sleepwa uit die see vanaf die sleephelling te verwyder sonder om vertrags te veroorsaak nie. Bote se enjins (motors) mag slegs op 'n sleephelling aangeskakel word.
7. 'n Persoon in beheer van 'n boot wat nie so 'n boot te water laat onmiddellik wanneer dit sy of haar beurt is om dit te doen nie en wat in die aanloop na die sleephelling die verkeersvloei belemmer, sal deur die hawebeampte aangesê word om sy of haar voertuig en/of boot na 'n parkeerplek te neem. By versuim om aldus te handel, sal so 'n persoon gelas word om sy of haar voertuig sowel as sy of haar boot uit die hawegebied te verwyder.
8. Bote en sleepwaens mag slegs in afgebakende parkeerareas parkeer.
9. Die hawebeampte mag te eniger tyd, wanneer die verkeersvolume in die hawegebied sodanig toeneem dat dit na die oordeel van die hawebeampte nodig geag word om beperkende maatreëls in te stel ten einde te verseker dat die hawegebied nie oorvol raak nie en dat ordelike verkeersvloei gehandhaaf word en met deeglike in agneming van die getal afgemerkte parkeerplekke beskikbaar vir die parkering van bote en sleepwaens, behalwe ten opsigte van persone wat toestemming of magtiging vanaf die hawebeampte of munisipaliteit verkry het:

- (1) temporarily forbid entrance of all vehicular traffic to the harbour area, or
 - (2) temporarily forbid entrance of boats to the harbour area, or
 - (3) temporarily restrict vehicular entrance to the harbour area to towing vehicles and trailers only.
10. If, due to rough seas or bad weather conditions or whatever other reason, circumstances in the opinion of the harbour official, becomes so hazardous that it would be life threatening to launch a boat from the slipway, the harbour officials may:
- (1) temporarily forbid the launching of boats from the slipway and/or
 - (2) temporarily forbid the entrance of boats to the harbour area.
11. No fires are allowed in the harbour area.
12. No boat may leave the slipway before all waste water is let out, and the outlet is sealed.

Penalties

13. Any person/s who contravenes any provision of this by-law, or disregards or fails to comply with a lawful instruction from the harbour officer or any law-enforcement officer in the service of the municipality will be guilty of an offence and therefore liable of a conviction with a penalty not exceeding:

13.1 in the case of a first offence:

13.1.1 a maximum fine of one thousand Rand or imprisonment for a period of at least six months and/or either suchlike fine or imprisonment or both suchlike fine and imprisonment; and/or

13.1.2 following a verdict from the court, a further amount equivalent to any costs and expenses incurred by the Local Authority as a result of the said offence or negligence.

13.2 in the case of a second and further offences:

13.2.1 a maximum fine of one thousand Rand or imprisonment for a period of six months and/or either suchlike fine or imprisonment or both suchlike fine and imprisonment; and/or

13.2.2 a prohibition to use or have access to the harbour for a maximum period of six months; and/or

13.2.3 following a verdict from the court, a further amount equivalent to any costs and expenses incurred by the Local Authority, as a result of the said offence or negligence.

- (1) tydelik die toegang van voertuigverkeer tot die hawegebied verbied, of
- (2) tydelik die toegang van bote na die hawegebied verbied, of
- (3) tydelik voertuigtoegang tot die hawegebied tot sleepvoertuie en sleepwaens alleenlik te beperk.

10. Indien, as gevolg van 'n onstuimige see of swak weerstoestande, of welke rede ookal, omstandighede na die mening van die hawebeampte so gevaarlik raak dat dit lewensgevaarlik sal wees om 'n boot vanaf die sleepstelling te water te laat, kan die hawebeampte:

- (1) tydelik die te water lating van bote vanaf die sleepstelling verbied en/of
- (2) tydelik die toegang van bote na die hawegebied verbied.

11. Geen vure mag in die hawegebied gemaak word nie.

12. Geen bote mag die sleepstelling verlaat alvorens alle afloopwater vanaf bote uitgelaat is nie en die uitlaat geseël is nie.

Strafbepaling

13. Iedereen wat enige bepaling van hierdie verordening oortree of 'n wettige opdrag van die hawebeampte of enige wetstoepassingsbeampte in diens van die Munisipaliteit, verontagsaam of nalaat om daaraan te voldoen is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n straf van:

13.1 ingeval van 'n eerste oortreding:

13.1.1 'n boete van hoogstens een duisend Rand of gevangenisstraf vir 'n tydperk van hoogstens ses maande, en of sodanige boete of sodanige gevangenisstraf of beide sodanige boete en sodanige gevangenisstraf; en/of

13.1.2 'n verdere bedrag gelykstaande aan enige koste en uitgawes wat na bevinding van die Hof deur die Plaaslike Owerheid aangegaan is as gevolg van sodanige oortreding of versuim.

13.2 Ingeval van 'n tweede en verdere oortredings:

13.2.1 'n boete van hoogstens een duisend Rand of gevangenisstraf vir 'n tydperk van ses maande, en/of sodanige boete of sodanige gevangenisstraf of beide sodanige boete en sodanige gevangenisstraf; en/of

13.2.2 'n verbod op die gebruik van of toegang tot die hawe vir 'n tydperk van hoogstens ses maande; en/of

13.2.3 'n verdere bedrag gelykstaande aan enige koste en uitgawes wat na bevinding van die Hof deur die Plaaslike Owerheid aangegaan is as gevolg van sodanige oortreding of versuim.