

KOUGA LOCAL MUNICIPALITY

EC 108

VACANT LAND/ PLOT CLEARING POLICY

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1. Definitions and Abbreviations

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

Brush Cutter: A hand held mechanical tool, powered by an electrical or petrol motor, and used to cut down shrubs and small trees

Bush-cutter (Bossiekapper): 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

CARA: Conservation of Agricultural Resources Act, No. 43 of 1983

Chain Saw: A hand held mechanical saw powered by an electrical or petrol motor, and used to cut down trees and logs

Combustible material: Means combustible refuse, combustible waste or any other material capable of igniting

Community Fire Safety By-law

Means the Kouga Municipality By-Law relating to Community Fire Safety

Contract: Means a formal written agreement between the parties to provide for the execution of a specific task under specific conditions as set out in the contract document

Contractor: Means a person, natural or juristic, who undertakes to execute a contract, awarded by the Kouga Municipality under the terms and conditions stipulated therein

Fire Brigade Services Act Means the Fire Brigade Services Act, No. 99 of 1987

Fire hazard: 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.

- Green Belt (s):** A land use designation for areas set aside as undeveloped natural areas surrounding or within urban areas.
- Hazard:** means any physical situation with the potential to cause a harm to a vulnerable target.
- Health Hazard:** means any hazard with the potential to cause danger to a person's health
- Health Nuisance:** means a situation or state of affairs that endangers life or health or adversely affects the well-being of a person or community;
- Herbicide:** Means a chemical substance (weed killer) that is registered in terms **of Fertilizer, Farm Feeds and Remedies Act (Act 36 of 1947)** to control or destroy specified plants in accordance with the directions for the use of such a weed killer
- Invasive Alien Vegetation:** 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
- Land:** Means all privately-owned land or state-owned land developed or undeveloped within the urban edge
- Land Clearing:** Means all actions required to ensure that the land is cleared so as minimize health and fire hazard conditions on the land; that rubble, dead and dry vegetation and waste material is removed
- Land owner:** 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

- Land user:** Any person (including a company, close 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, whether that person lives on the property or not
- Manual clearing:** Means the removal of plant and other material by hand, with hand held tools
- Mechanical Clearing:** Means the removal of plant and other material with mechanical equipment such as tractor driven lawn mowers or bush-cutters (bossiekappers)
- Municipal Service Provider:** Means a person, natural or juristic, who undertakes to execute a contract awarded by the Kouga Municipality under the terms and conditions stipulated therein
- Municipality:** Means Kouga Municipality, a local authority duly established in terms of the Local Government: Municipal Structures Act, no 117 of 1998 with its head office situated at Da Gama Road, Jeffreys Bay, Eastern Cape
- Nature Reserve:** An area with such a municipal zoning or which has been declared as a Protected Area in terms of the National Environmental Management: Protected Areas Act No. 57 of 2003.
- Nuisance:** an act, condition or thing causing trouble, annoyance, or inconvenience.
- Overgrown:** covered with grass, plants, weeds and trees that are growing thickly in an uncontrolled way
- Open Lands:** Refers to non-built-up land with no, or with insignificant, vegetation cover
- Park Lands:** Land with clumps of trees and shrubs and lawned areas mainly used for recreational purposes

Plot:	Means all privately or state-owned erven.
Plot Clearing:	means all actions required to ensure that hazardous conditions are minimized on private and state-owned land; that rubble is removed and that vegetation is thinned
Procedure:	Means a description of a single process, with many steps or tasks/responsibilities/ regulations/requirements, involving several people
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.
Resort:	A place that is a popular destination for vacations or recreation, or which is frequented for a particular purpose
Responsible Official:	Means an official of the Kouga Municipality with the delegated responsibility for fire prevention, prevention of health nuisance
State-owned land:	also known as government-owned property, which includes national, provincial and local government land.
Vacant Land / Plot:	Land / plot that has no structures or houses on it,
Ward Committees:	Means a committee representing the interest of residents in a demarcated municipal ward established in terms of Section 73 of the Municipal Structures Act, Act 117 of 1998
Waste material:	Means excessive rubble, rubbish, other debris or waste material accumulated on a property

2. Background of Overgrown Land in Kouga Municipal Area

Vacant land, when overgrown with grass, bushes or covered with rubble and any objectionable material, serves as an ideal hiding place for vermin, pests or vagrants. It also creates **a fire, health hazard**, and a nuisance to surrounding houses and property.

Overgrown vacant land poses a fire and health hazard in the entire Kouga Area and predominantly in the coastal areas such as Jeffreys Bay, Paradise Beach, Aston Bay, St Francis Bay, Cape St Francis Bay and Oyster Bay. Most of the overgrown land in these areas, are covered with alien vegetation such as Port Jackson and Rooikrans trees, which are a life-threatening fire hazard.

When such hazards / nuisances exist, it becomes the responsibility of the Municipality to identify the responsible person(s), i.e. owner of the overgrown land and instruct them to take the appropriate corrective actions to minimize, rectify or remove such hazards / nuisances.

3. Purpose of the Policy

3.1 This document is established to lay down the procedures and processes required to manage and control the clearing of overgrown privately and state owned immovable property which, in the discretion of the Municipality, poses a fire as well as a health risk, due to excessive vegetation, combustible material or is covered with excessive combustible waste material for the following purposes:

3.1.1 Control and elimination of health hazards;

3.1.2 Control and elimination of fire hazards;

3.1.3 Combating and control of vegetation that is a verified fire hazard and other threatening danger.

3.2. The Policy gives effect to the following legislation:

3.2.1 Chapter 7 Section 152(d) of the Constitution of the Republic of South Africa, Act 108 of 1996 - Promotion of a safe and healthy environment;

- 3.2.2 Section 83 of the National Health Act, 2003 (Act No. 61 of 2003), - Environmental Health Investigations.
- 3.2.3 Annexure A, Section 21 of the National Environmental Health Norms and Standards for Premises and Acceptable Monitoring Standards for Environmental Health Practitioners – Standards for Vacant Land.
- 3.2.4 Chapter 1, Section 3 (k) of the Kouga Municipal By – Laws on Prevention of Public Nuisances and Keeping of animals – General Provisions Relating to Public Nuisance.
- 3.2.5 Sections 4 and 34 of the Kouga Municipality Community Fire Safety By-law, P.N. 6454/2007 – Prevention of fire hazards on properties;
- 3.2.6 Fire Brigade Services Act, No. 99 of 1987 as amended – Prevention of fires;
- 3.2.7 Local Government: Municipal Finance Management Act, No. 56 of 2003 – Prescribed regulations regarding financial aspects of local government;
- 3.2.8 Local Government: Municipal Systems Act, No. 32 of 2000 – Prescribed regulations with regards to the functions of a municipality;

3.3. Objectives of the policy include:

- 3.3.1 To co-ordinate and ensure the removal or reduction of health hazards
- 3.3.2 To co-ordinate and ensure the removal or reduction of fire hazards.
- 3.3.3 To provide for the identification and verification of health and fire hazards at all privately-owned and state-owned properties in the Kouga Municipality.
- 3.3.4 To inform residents and owners of such health and fire hazards,
- 3.3.5 To inform residents and owners of the best practice methods with respect to the clearing and removal of such health and fire hazards, and
- 3.3.6 To ensure that all privately and state-owned land conforms to the minimum standards as determined by the Policy each year.

4. Principles of the Policy:

- 4.1 All officials of Kouga Municipality, officers appointed to manage and control plot clearing, all residents, land/plot owners and appointed agents, shall be subject to the contents of the Policy and follow this procedure and any processes described.
- 4.2 All owners of private and state-owned land or plots will be subject to the contents of this Policy.
- 4.3 Land, plot or property owners are obligated to maintain all their property in such a manner that it shall be hazardous free.
- 4.4 As plot clearing is a service rendered by the Municipality, the actual and overhead costs shall be collected through the fees charged to the defaulting property owners.
- 4.5 Each land owner is obligated to comply with the standards determined by the Municipality.
- 4.6 The methods used for land / plot clearing are manual (with hand held tools), mechanical and the maintenance of fire breaks on property boundaries which is larger than 1 ha.
 - 4.6.1 Manual non-mechanical clearing is done using hand tools such as loppers, slashers, bow-saws, pruning scissors,
 - 4.6.2 Manual mechanical clearing is done using brush cutters and handheld chainsaws.
 - 4.6.3 Mechanical Clearing is done using tractor driven lawnmowers or "bossiekappers".
 - 4.6.4 Fire Breaks where necessary, suitably cleared boundary strips that will assist in preventing fire spread and provide access for controlling fires.
- 4.7 The use of tractor driven lawnmowers or "bossiekappers" is prohibited in accordance to Category A1 to A8 of the policy.

4.8 Areas such as road verges, municipal gardens, fire breaks or sport fields where continuous maintenance occurs (as is set out in Category B1 to B5) is exempted from the requirements mentioned in paragraph 5 above.

4.9 Environmental Legislation and other applicable regulations and requirements must be observed when land / plot clearing activities are planned in wetland, mountainous or green belt areas

5. Rights and Responsibilities of the Municipality

5.1 Officials with delegated authority for the verification of health and fire hazards shall have the final decision as to when and how a property shall be cleared, subject to the Municipality's by-laws, policies and directives. If a property is found not to be a health or fire hazard but is in breach of other municipal or relevant legislation, the matter will be delegated to the relevant department(s) for further action.

5.2 A dedicated Plot Clearing team appointed by council will be responsible for executing the duties of clearing the overgrown land / plots to Council's set standards

5.3 The Plot Clearing Team will be provided with specific instructions, including the land / plot details, notices periods / time frames, methods of clearing and sequence of clearing

5.4 The standards for land / plot clearing will be set by Council and amended when necessary

5.5 A notice period will be determined in respect of the removal of hazardous conditions described in the policy.

5.6 Compliance notices will be served to the land / plot owners per registered mail / post or electronic mail.

5.7 The Kouga Municipality is empowered by Section 4 of its Community Fire Safety By-law to enter upon a property to do whatever is deemed to be necessary to remove hazards. Noncompliance of the regulated standards will result in the municipality exercising its powers.

5.8 The relevant fees for clearing the property will be billed against the defaulting owner's municipal account.

- 5.9 The relevant owner's municipal account will be billed after it has been verified that the land / plot has been cleared
- 5.10 Sale of vacant property: The Administration Clerk must first verify the details of the new owner before issuing a notice. The plot clearing official must also verify the details prior clearing the land to ensure that the correct owner's account is being billed.
- 5.11 Kouga Municipality must take the necessary legal action against defaulting owners, should the Municipality not be able to clear the overgrown vacant plot on behalf of the responsible owner(s).

6. Responsibilities of the Ward Committees:

- 6.1 Ward committees may report / advise on overgrown land / plots in their wards that are posing a health and fire risk.

7. Responsibilities of the Plot Clearing Team

- 7.1 The Plot Clearing Team will pursue the clearing of overgrown and hazardous land / plots within the time frames, method and sequence of clearing as specified by the Municipality according to prescribed standards and other obligations.
- 7.2 The Plot Clearing Team will comprise of the following man power as determined by Council:
- Foreman
 - Machine Operators
 - General Workers
- 7.3 The Plot Clearing Team will be provided with plant, machinery and equipment as determined by Council to ensure appropriate clearing of overgrown plots. Such plant may include, but not limited to the following:
- Appropriate personal protective equipment (PPE)
 - 1 x Mesh truck
 - 1 x Bakkie
 - 1 x Chipper
 - 4 x Chain Saws
 - Side Cutters

8. Obligations of land / plot owners:

- 8.1 Land / plot owners are obligated to comply with the provisions of Chapter 1, Section 3 (k) of the Kouga Municipal By – Laws on Prevention of Public Nuisances and Keeping of animals – General Provisions Relating to Public Nuisance. Failure to comply with the provisions of this section or any notice lawfully given thereunder is an offence.

9. Recovery Costs:

- 9.1 Should it become necessary for the Municipality to take remedial action to clear the land / plot, the full cost thereof will be recoverable from the land owner. The actual cost will include the cost of clearing the land / plot and the administrative fees as determined by the Municipal Tariff structure. This cost will be billed against the owner's municipal account.

The municipality will annually determine the administrative costs of plot clearing function.

10. Procedure for Land / Plot Clearing:

No.	Action	Responsible Dept.
Standard Procedure		
1.	Identification of overgrown land / plot by inspection	Community Services
2.	Submission of list for issuing of notices	Community Services
3.	1 st compliance notice to owner (<i>Footnote 1</i>)	Community Services
4.	Inspection after notice time frame has lapsed with evidence	Community Services
5.	2 nd compliance notice (<i>Footnote 2</i>)	Community Services
6.	Second inspection after time frame has lapsed with evidence	Community Services
7.	Compilation of a list of land / plots to be cleared	Community Services
Procedure for remedial action		
1.	Instruction to Plot Clearing Team to clear the plots as per list	Community Services
2.	Inspection to verify if clearing is done (with evidence)	Community Services
3.	Submission of list of cleared plots to the office with evidence	Community Services
4.	Compiling of memorandum to finance department for billing	Community Services
5.	Billing of owner	Finance Department
6.	Data cleansing exercise	Finance Department
7.	Stats and color coding of vacant plots	Planning & Development
8.	Risk Categorization exercise	Community Services
9.	Legality of attaching notices to account bills	Legal Services
10.	Intersectoral collaboration (public/private partnership)	LED

Footnote 1. The first notice is valid for 14 Days

Footnote 2. The second notice is valid for 7 days

11. Guidelines and Minimum Standards for clearing vegetation:

1. Grass may not be longer than 30cm
2. Invasive alien vegetation must be eradicated and treated with herbicide, as applicable, to prevent re – growth,
3. Indigenous vegetation shall be reduced as per Section 12 of the policy
4. All garden refuse, building rubble and excess combustible material shall be removed from the property and disposed of at a relevant municipal landfill / disposal site

5. Private land / plot owners are advised to use contractors that are skilled and have the knowledge in clearing invasive alien plants properly
6. Milkwood and other protected plant species may only be removed, cut or controlled in accordance to the determination of the Minister of Agriculture, Forestry and Fisheries. In urban areas, Milkwoods may be trimmed by a maximum of 25% without obtaining a permit. Topping of tree crowns and of trees growing in a natural forest ecosystem is excluded from this exemption. Destruction of protected trees or natural forest or any other protected / endangered plant species without a permit obtained from the department of Agriculture, Forestry and Fisheries is a criminal offence.

12. Categories

The methods or techniques used for clearing properties are defined in the following categories:

Category	Privately owned land / plots			
	Type of vegetation	Area	Method of clearing	Required municipal standards
A1	Long grass	No conservation status	Manual	Grass shall not exceed a height of 30cm
A2	Mixed invasive alien vegetation and indigenous vegetation	No conservation status	Manual	Eradication and removal of all invasive alien vegetation. All combustible deadwoods, refuse, litter and other verified fire and health hazards shall be removed. Grass shall not exceed a height of 30cm. Maintain safe distance between possible / future fire hazards. Create and maintain adequate perimeter fire breaks as determined by the fire department
A3	Indigenous vegetation - fynbos etc	No conservation status	Manual	Trees and shrubs to be trimmed from ground up by one third of high. Reduce fynbos fire loading by a minimum of 50%. All combustible deadwood, refuse, litter and other verified fire and health hazards shall be removed. Create and maintain adequate perimeter fire breaks as determined by the fire department
A4	Majority of invasive alien vegetation	Protected areas / Conservancy	Manual	Eradication and removal of all invasive alien vegetation. All combustible deadwoods, refuse, litter and other verified fire and health hazards shall be removed. Grass shall not exceed a height of 30cm. Maintain safe distance between possible / future fire hazards. Create and maintain adequate perimeter fire breaks as determined by the fire department
A5	Mixed invasive alien vegetation and indigenous vegetation	Protected areas / conservancy	Manual	Eradication and removal of all invasive alien vegetation. All combustible deadwoods, refuse, litter and other verified fire and health hazards shall be removed. Grass shall not exceed a height of 30cm. Maintain safe distance between possible / future fire hazards. Create and maintain adequate perimeter fire breaks as determined by the fire department
A6	Majority of invasive alien vegetation	No conservation status	Manual	Eradication and removal of all invasive alien vegetation. All combustible deadwoods, refuse, litter and other verified fire and health hazards shall be removed. Grass shall not exceed a height of 30cm. Maintain safe

				distance between possible / future fire hazards. Create and maintain adequate perimeter fire breaks as determined by the fire department
A7	All private vacant land	No conservation / protected	Manual or mechanical as determined by circumstances	Eradication and removal of all building rubble as determined by the Department of Town Planning
B	Municipal Reserves, Parks and other Vacant Land			
	Type of vegetation	Area	Method of Clearing	Required Municipal Standard
B1	Green Belts	Protected areas / Conservancy	Manual	Eradication and removal of all alien vegetation. Remove excessive buildup of deadwood and refuse or litter. Complete removal of combustible refuse. Create and maintain adequate perimeter fire breaks determined by the Fire Department.
B2	Nature Reserves	Protected Areas / Conservancy	Manual	Eradication and removal of all alien vegetation. Remove excessive buildup of deadwood and refuse or litter. Complete removal of combustible refuse. Create and maintain adequate perimeter fire breaks determined by the Fire Department.
B3	Park Land	No conservation status, protected areas / conservancy	Manual	Eradication and removal of all alien vegetation. Scheduled grass cutting and maintenance of flower beds. Complete removal of combustible deadwood, refuse and all hazards. Create and maintain adequate perimeter fire breaks determined by the Fire Department.
B4	Public Open Spaces / Road Verges	No conservation status, protected areas / conservancy	Mechanical or manual clearing as determined by circumstances	Eradication and removal of all alien vegetation. Complete removal of combustible deadwood, refuse and all hazards. Create and maintain adequate perimeter fire breaks determined by the Fire Department.
B5	Resorts	No conservation / conservancy	Mechanical or manual clearing as determined	Eradication and removal of all alien vegetation. Scheduled grass cutting and maintenance of flower beds. Complete removal of combustible deadwood, refuse and all hazards. Create and maintain adequate perimeter fire breaks determined by the Fire Department.

			by circumstances	
B6	All Land	No Conservation / Protected	Manual / mechanical as determined by circumstances	Eradication and removal of all building rubble as determined by the Department of Town Planning



C DU PLESSIS
MUNICIPAL MANAGER

11 December 2018

DATE