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## **KOUGA LOCAL MUNICIPALITY**

# **LAND/ PLOT / PUBLIC OPEN SPACE CLEARING POLICY**

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## 1. DEFINITIONS AND ABBREVIATIONS

- Alien Species:** A species that is not an indigenous species; or an indigenous species translocated or intended to be translocated to a place outside its natural distribution range in nature, but not an indigenous that has extended its natural distribution range by natural means of migration or dispersal without human intervention;
- Combustible material:** Combustible refuse, combustible waste or any other material capable of igniting;
- Fire hazard:** 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;
- Fire danger:** The chance of a veld fire occurring or an existing veld fire getting out of control and if so the anticipated rate at which and intensity with which it will burn;
- Erven/Plot:** A plot of land, usually urban, marked off for building purposes. Is a small piece of land, especially one that has been measured or marked out for a special purpose, such as building houses or growing vegetables;
- Urban area:** An urban area means land that is under the control of a local authority, but excluding any commonage and any other land under such control which in the opinion of the executive officer is utilized for agricultural purposes;
- Fire risk:** Is the likelihood that a fire will occur as a result of a fire hazard and its extent and severity of the damage (harm potentially) which may be caused;

- Green Belt (s):** A land use designation for areas set aside as undeveloped natural areas surrounding or within urban areas;
- Hazard:** Any physical situation with the potential to cause a harm to a vulnerable target;
- Health Hazard:** Any hazard with the potential to cause danger to a person's health;
- Health Nuisance:** A situation or state of affairs that endangers life or health or adversely affects the well-being of a person or community;
- Herbicide:** 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:** All privately-owned land or state-owned land developed or undeveloped within the urban edge;
- Land Clearing:** 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;
- Protected tree** A tree any species declared to be protected, or belonging to a group of trees, woodland or species declared to be protected, under section 12(1) or 14(2): (i) of the National Forestry Act;
- Tree:** Includes any tree seedling, sapling, transplant or coppice shoot of any age and any root, branch or other part of it;
- 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/Plot 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;

<b>Municipality:</b>	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;
<b>Nature Reserve:</b>	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;
<b>Overgrown:</b>	Plot/erven/land covered with grass, plants, weeds and trees that are growing thickly in an uncontrolled way;
<b>Open Land:</b>	Refers to non-built-up land with no, or with insignificant, vegetation cover;
<b>Park Land:</b>	Land with clumps of trees and shrubs and lawned areas mainly used for recreational purposes;
<b>Public Open Space:</b>	An open space of land both green space or hard space to which there is public access;
<b>Plot:</b>	All privately owned plot/erven;
<b>Plot Clearing:</b>	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;
<b>Public Nuisance:</b>	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;
<b>Resort:</b>	A place that is a popular destination for vacations or recreation, or which is frequented for a particular purpose;

- Responsible Official:** 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:** Land / plot/erven that has no structures or houses on it;
- Ward Committees:** 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:** Excessive rubble, rubbish, other debris or waste creating a nuisance or health hazard.

## 2. BACKGROUND

Vacant land or erven/plots and road reserves, when overgrown with grass, indigenous and/or invasive alien vegetation or covered with rubble and / or any objectionable material, serves as an ideal hiding place for vermin, pests or vagrants and is likely to cause a fire or health risk or nuisance to surrounding environment.

Vacant land or erven and road reserves in the entire Kouga Area are 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 these lands, erven and road reserves are unmaintained and overgrown with indigenous and invasive alien vegetation due to property owners not committing to their obligation in maintaining their properties and complying with applicable legislation.

When such risks / nuisances exist, it becomes the responsibility of the Municipality to identify the responsible person(s), i.e. owner of the overgrown land or erven and instruct them to take the appropriate corrective actions to minimize, rectify or remove such risks / nuisances as Council's aspiration is to promote a safe and healthy environment.

This policy is applicable to all land in the municipal area that is unmaintained and overgrown with vegetation, irrespective of zoning and ownership, which, in the opinion of Council, is likely to cause a fire, health of any other hazard. The policy addresses the needs of the community. The community has expressed the need for action on removing the threats and risks associated with overgrown and unmaintained land.



### **3. PURPOSE AND OBJECTIVES**

#### **PURPOSE**

- 3.1 This policy is in response to the communities expressed need, and Council's desire to promote a safe and healthy environment.
- 3.2 To give effect to legislation and relevant by – laws. Despite it being an offence for landowners to allow their land to become a fire hazard or health risk and or a nuisance, risking a fine or imprisonment, it is apparent that many do not take seriously their obligation to comply with the relevant bylaws.
- 3.3 To lay down the principles, procedures and processes required to manage and control the clearing of overgrown privately, public and state owned immovable property which, in the discretion of the Municipality, poses a fire, safety and security as well as a health risk, due to excessive vegetation, combustible waste material and having vagrants living on the properties.
- 3.4 To protect the environment and communities that is surrounded by natural overgrown bush areas that endangers them.
- 3.5 To comply with National Legislation

#### **OBJECTIVES**

- 3.6 To significantly and progressively reduce the number, extent (area covered) and severity of unplanned vegetation fires by drastically and permanently reducing the fuel load.
- 3.7 To significantly reduce the negative impact of uncontrolled vegetation fires on life, buildings, infrastructure and possessions.
- 3.8 To identify and verify health and fire hazards as well as safety and security risks at all privately-owned, state- owned properties and public open spaces in the Kouga Municipality.
- 3.9 To co-ordinate and ensure the removal or reduction of security, health and fire risks by informing owners of such hazards.



- 3.10 To inform residents and owners of the best practice methods with respect to the clearing and removal of such health and fire hazards, and
- 3.11 To ensure that all privately and state-owned land and public open spaces conforms to the minimum standards as determined by the policy.

#### **4. LEGISLATIVE FRAMEWORK**

The Policy gives effect to the following legislation:

- 4.1 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;
- 4.2 Section 83 of the National Health Act, 2003 (Act No. 61 of 2003), - Environmental Health Investigations.
- 4.3 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.
- 4.4 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.
- 4.5 Sections 4 and 34 of the Kouga Municipality Community Fire Safety By-law, P.N. 6454/2007 – Prevention of fire hazards on properties;
- 4.6 Fire Brigade Services Act, No. 99 of 1987 as amended – Prevention of fires;
- 4.7 Local Government: Municipal Finance Management Act, No. 56 of 2003 – Prescribed regulations regarding financial aspects of local government;
- 4.8 Local Government: Municipal Systems Act, No. 32 of 2000 – Prescribed regulations with regards to the functions of a municipality;

- 4.9 National Forestry Act, No. 84 of 1998 = Prohibition on destruction of trees in natural forests;
- 4.10 National Environmental Management Act, No. 107 of 1998- Environmental Authorisations
- 4.11 National Biodiversity Act, No.10 of 2004- Application for permits
- 4.12 The Kouga Community Fire Safety bylaw  
Chapter 7: Fire hazards. 36 (2)
- 4.13 The Kouga Environmental Health bylaw - Part One: Prevention and suppression of health nuisances.



## **5. PRINCIPLES**

- 5.1 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.
- 5.2 All owners of private and state-owned land or plots will be subject to the contents of this Policy.
- 5.3 Land, plot or property owners are obligated to maintain all their property in such a manner that it shall be hazardous free.
- 5.4 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.
- 5.5 Each land owner is obligated to comply with the standards determined by the Municipality.
- 5.6 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.
- 5.7 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

## **6. DESIRED OUTCOMES**

- 6.1 A significant and measurable reduction in the number of unplanned vegetation fires, reduction in risk to life, buildings and infrastructure.
- 6.2 A significant reduction in the coverage of invader plants (primarily rooikrans) and bush encroachment.
- 6.3 Informed residents, who understand and appreciate the approach being taken by the administration with regard to reducing vegetation fire, health hazards.

- 6.4 More landowners voluntarily becoming and remaining compliant.
- 6.5 Increased availability of government grants and assistance from government funded initiatives, e.g. Working on Water; Working on Fire.

## **7. ROLES & RESPONSIBILITIES**

- 7.1 The owner or person in charge of a premises, erven or land must not permit vegetation to grow or accumulate thereon in a manner to likely cause a fire or health hazard or other threatening danger.
- 7.2 No person shall allow any erven or plot of land to be overgrown with bush, weeds, grass or other vegetation except cultivated trees, shrubs and grass to such an extent that in the opinion of council it may be used as a shelter by vagrants, wild animals, or vermin.
- 7.3 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.
- 7.4 The standards for land / plot clearing will be set by Council and amended when necessary
- 7.5 A notice period will be determined in respect of the removal of hazardous conditions described in the policy.
- 7.6 Compliance notices will be served to the land / plot owners per registered mail / post or electronic mail.
- 7.7 The Kouga Municipality is empowered by its 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.
- 7.8 The relevant fees for clearing the property will be billed against the defaulting owner's municipal account.

- 7.9 Kouga Municipality must take the necessary legal action against defaulting owners, should the Municipality not be able to recover the cost of clearing any plot on behalf of its owner(s).
- 7.10 Land / plot owners are obligated to comply with the provisions of the relevant Kouga Municipal By – Laws. Failure to comply with the provisions of this section or any notice lawfully given thereunder is an offence.


## **8. NON - COMPLIANCE**

- 8.1 It is a criminal offence to ignore the regulations and to allow species to grow in contravention of them. A criminal case may then be brought against the land user.
- 8.2 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.
- 8.3 If a land user does not comply with the regulations the Department may issue a directive setting a date by when the property must be cleared.
- 8.4 If the directive is ignored the Department can clear the land or engage someone (such as Working for Water or an implementing agent or an emergent contractor) to do so.
- 8.5 The costs of this clearing *must* be recovered from the land user and can also be registered against the title deeds of the property in terms of the Agricultural Credit Control Act. This is then like a mortgage bond. The property can't be sold until these moneys have been repaid.
- 8.6 That the Chief Financial Officer ensures that statements for the recovery of expenditures made in respect of the cleaning and clearing of vacant properties, which are submitted by Environmental Health and or Fire Services, are processed and that any expenditure

is recovered without delay and that should the owner of any property be in default of payment of his/her account such account be subject to credit control action.

**9. REVIEW OF THIS POLICY**

This policy should be reviewed every five years, coinciding with the Integrated Development Plan (IDP) review cycle.

  
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**C DU PLESSIS**  
**MUNICIPAL MANAGER**

  
\_\_\_\_\_  
**DATE**

**10. ANNEXURE:**

**1. PROCEDURE FOR LAND / PLOT CLEARING:**

No.	Action	Responsible Section
<b>Standard Operating Procedure</b>		
1.	Identification of overgrown land / erven / environmental sensitive areas by inspection / investigation of complaints	Environmental Health Fire Parks Environmental Management (EM)
2.	Submission of list for issuing of notices for private overgrown land/erven	Environmental Health Fire
3.	1 <sup>st</sup> compliance notice to owner of private overgrown erven (Footnote 1)	Environmental Health
4.	2 <sup>nd</sup> compliance notice to owner private overgrown erven (Footnote 2)	Environmental Health
5.	Issuing of fire risk notices to responsible owner of private overgrown land / erven (Footnote 3)	Fire
6.	Issuing notices for state / government owned land	Parks
7.	Advise owners of overgrown environmental sensitive areas to apply to Forestry & Environmental Affairs for authorisations to clear. (Footnote 4)	EM
8.	Inspection after notice period has lapsed with photographic evidence to verify the condition of plot (cleared / not cleared)	Environmental Health Fire
9.	If not cleared, compilation and submission of lists of private overgrown erven to be cleared to	Environmental Health Fire
<b>Procedure for remedial action</b>		
1.	Appointments of SMME / Bush Clearing Team to clear the land / erven as per submitted list	Waste & EM Fire Parks
2.	Inspection of cleared plots to verify work done (with photographic evidence)	Environmental Health Fire Parks
3.	Submission of list of cleared plots to the office with evidence	Environmental Health Fire
4.	Compiling & submission of memorandum to finance department for billing	Waste & EM Fire



5.	If the property owner fails to comply with the fire risk notice issued for overgrown land, a criminal case will be opened	Fire
<b>Procedure for cost recovery</b>		
1.	Billing of owner's account for work done	Finance

**Footnote 1.** The first notice is valid for 14 Days  
**Footnote 2.** The second notice is valid for 7 days  
**Footnote 3.** Fire Risk Notice valid for 30 Days  
**Footnote 4.** Application for License regarding trees in natural forest

**2. 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.



### 3. CATEGORIES

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

Category	Privately owned land / plots		Method of clearing	Required municipal standards
	Type of vegetation	Area		
<b>A1</b>	Long grass	No conservation status	Manual	Grass shall not exceed a height of 30cm
<b>A2</b>	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
<b>A3</b>	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
<b>A4</b>	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
<b>A5</b>	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
<b>A6</b>	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

<b>A7</b>	All private vacant land	No conservation / protected	Manual or mechanical	distance between possible / future fire hazards. Create and maintain adequate perimeter fire breaks as determined by the fire department
<b>B</b>	<b>Municipal Reserves, Parks and other Vacant Land</b>			Eradication and removal of all building rubble as determined by the Department of Town Planning
	<b>Type of vegetation</b>	<b>Area</b>	<b>Method of Clearing</b>	<b>Required Municipal Standard</b>
<b>B1</b>	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.
<b>B2</b>	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.
<b>B3</b>	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.
<b>B4</b>	Public Open Spaces / <b>Road Verges</b>	No conservation status, protected areas / conservancy	Mechanical or manual	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.
<b>B5</b>	Resorts	No conservation / conservancy	Mechanical or 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.
			by circumstances	
<b>B6</b>	All Land	No Conservation /	Manual /	Eradication and removal of all building rubble as determined by the



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