



# **ANIMAL POUND BY LAW**

The Council of the Mahikeng Local Municipality has in terms of section 156 of the Constitution, 1996 (Act No. 108 of 1996), read in conjunction with section 11(3)(m) of the Local Government : Municipal Systems Act, 2000 (Act No. 32 of 2000), made the following by-laws:

## MAHIKENG LOCAL MUNICIPALITY

### DRAFT POUND BY—LAW

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## DEFINITIONS

1. In these by-laws, unless inconsistent with the context –

“**animal**” includes a horse, bovine, donkey, sheep, goat, pig, ostrich, dog, cat or the hybrid of any such animal, and “animals” will have a corresponding meaning;

“**Court**” means a Magistrate’s Court as referred to in section 166(d) of the Constitution, 1996, having jurisdiction in the area in which the pound is situated;

“**Gazette**” means the official Provincial Gazette of North West;

“**municipality**” means the Mahikeng local Municipality established in terms of section 155(6) of the Constitution, 1996, and established by and under sections 11 and 12 of the Local Government : Municipal Structures Act, 1998 (Act No. 117 of 1998)

“**owner**” includes an owner who is known, or whose identity, with the exercise of reasonable diligence, can be ascertained, and in relation to any –

(a) animal, includes the agent of the owner or other person having the lawful custody or possession of such animal; or

(b) land, includes the owner, lessee or lawful occupier of such land or his or her agent;

“**pound**” means a pound established as contemplated in section 3;

“**pound master**” means the person appointed as contemplated in section 4 and includes any person acting for or on behalf of the appointed pound master;

“**public place**” means any place to which the public has access including, without limiting the generality of the afore going any –

(a) square;

(b) park;

(c) recreation ground;

(d) sports ground;

(e) open space;

(f) beach;

(g) shopping centre on municipal land;

(h) unused or vacant municipal land; or

(i) cemetery;

“**public road**” means a public road as contemplated in section 1 of the Road Traffic Act, 1996 (Act No. 93 of 1996); and

“**service delivery agreement**” means a service delivery agreement as defined in section 1 of the Local Government : Municipal Systems Act, 2000 (Act No. 32 of 2000).

## APPLICATION

2. These by-laws apply to the area of jurisdiction of Municipality: Provided that nothing prevents any animal detained in terms of these by-laws from being impounded in a pound or any similar facility established by any other lawful authority.

## ESTABLISHMENT OF POUND

3. The Municipality must establish a pound in accordance with the provisions of section 3 of the North West Animal Pounds Act, 2010(Act No.7 of 2010).

## APPOINTMENT OF POUND MASTER

4.(1) The Municipality must, appoint a suitably skilled and experienced person as a pound master, unless the pound is established and operated in terms of a service level agreement contemplated in section 3(a) of the Act

- (2) a person is disqualified to be appointed as Pound master if he or she is:
- a. under 18 years of age
  - b. an un-rehabilitated insolvent
  - c. has been declared mentally incapable by a competent authority in terms of the Mental health Care Act 17 of 2002 or any other related legislations.
  - d. has been convicted of criminal offence and sentenced to imprisonment for a period exceeding 12 months without an option of a fine and
  - e. has been removed from office or position of trust on account of misconduct

## TRESPASSING OR STRAYING ANIMALS MAY BE IMPOUNDED

5. (1) The owner of land upon which any animal is found trespassing may seize such animal for purposes of impounding it: provided that before any such animal may be removed to a pound, where possible notice is given by such person to the owner of an animal

(2) Any animal found straying untended upon any public road or public place may be seized for impounding by –

- (a) a member of the South African Police Service;
- (b) a member of the South African National Defence Force;
- (c) a member of the North West Road Traffic Inspectorate;
- (d) a member of the Municipal traffic or Public Safety
- (e) a pound master appointed in terms of this Act

(3) A person may not keep an animal, seized for purposes of impounding in terms subsections (1) and (2), for a period longer than 6 (six) hours without supplying such animal with adequate feed and water and any other care that the seized animal may require

(4) Any person who has seized an animal for purposes of impounding must comply with the provisions of section 9 of the Act.

(5) a magistrate who has jurisdiction or member of stock theft unit of the SAPS may in writing order a Pound keeper to impound an animal alleged or proved to have been stolen.

(6) An animal impounded in terms of subsection (5) must not be released, unless a magistrate who has jurisdiction or member of stock theft unit of the SAPS as the case may be, orders or authorise in writing the release of such animal. (Time frame of impoundment be stipulated because the animal is fed by the Municipality)

(7) No person is allowed to seize, impound or detain any animal in accordance with the provision of this Act

## ANIMALS TOO VICIOUS, INTRACTABLE OR WILD TO BE IMPOUNDED

6. If a state veterinarian or official contemplated in section 5(2) (a) to (d) is satisfied that an animal found trespassing on any land, or straying unattended upon any public road or public place, is too dangerously vicious, intractable, too sick to be transported to a pound or too wild to be impounded, he or she may authorise the humane destruction or disposal of the animal, provided that where possible, a notice shall be given to the owner of such animal before destruction or disposal is effected. (After destruction where is the animal going to be taken to (specify)

#### RELEASE OF ANIMALS BEFORE REMOVAL TO POUND

7. (1) The owner of an animal, seized in terms of section 5(1) may apply to the owner of land contemplated in section 5(1) for the release of such animal prior to its removal to the pound.

(2) The owner of land referred to in section 5(1) –

(a) may release such animal forthwith; or

(b) may refuse the release of the animal, whereupon he or she may apply to Court for authority to impound the animal or to claim any damages he or she may have suffered, in which event the Court may make any order, including an order as to costs that the Court deems just and equitable.

(3) The owner of an animal seized in terms of section 5(2) may apply to the relevant person referred to in section 5(2) for the release of such animal prior to its removal to the pound, in which event that person may release such animal

#### CARE OF TRESPASSING ANIMALS

8. A person may not work, use or ill-treat an animal found trespassing on any land or whilst it is in the process of being removed to a pound.

#### POUND TO WHICH ANIMALS MUST BE TAKEN

9. An animal seized for the purposes of impounding as contemplated in section 5, must be removed to the nearest accessible pound, using the shortest practical route, within the shortest practical time : Provided that animals of different species must be separated at all times according to their species. (At certain kilometres the animal may not be taken to Pound on foot but be loaded in the truck, at least five kilometres from the Pound)

#### INFORMATION TO BE SUPPLIED TO POUND MASTER

10. A person sending animals to the pound must advise the pound master in writing of –

(a) the number and descriptions of the animals;

(b) the land upon which they were found trespassing; and

(c) the distance in kilometres, by the shortest practical route, between the place or land where they were seized and the pound.

#### ACCEPTANCE AT POUND OF ANIMALS TO BE IMPOUNDED

11. The pound keeper may not refuse to accept an animal for impounding.

#### POUND REGISTER

12. (1) The pound master must –

- (a) maintain a pound register containing the information of animals kept at the pound, which must be available for public inspection at all reasonable times; and
- (b) complete the pound register immediately upon the acceptance into the pound of any animal.

(2) If the pound master-

- (a) neglects or refuses to comply with any of the provisions of subsection (1);
- (b) knowingly makes a false entry in the pound register;
- (c) wrongfully and intentionally destroys or erases any previous entry in the pound register; or
- (d) wilfully delivers a false copy or extract from the pound register to any person,

he or she is guilty of an offence and may be liable on conviction to imprisonment or to a fine, or to both imprisonment and a fine. (Period of imprisonment and fine to be stipulated)

## NOTICE TO OWNERS OF ANIMALS

13. The pound master must give notice in writing to the owner of impounded animal notifying him/her of the impoundment if:

- (a) he or she knows the name and address of owner of such animal ,or
- (b) the name and address of the owner of impounded animal can be ascertained with exercise of reasonable diligence.

Where the owner cannot be ascertained the pound master must publish a notice in the local news paper inviting the owner(s) and or public members to identify the animal(s) within a period of 21 days ,failing which such animal(s) may be sold on public auction.

## CARE OF IMPOUNDED ANIMALS

14. (1) The pound master–

- (a) is responsible for the proper care (feeding and proper medical care) of all impounded animals;
- (b) is liable to the owner of an impounded animal for any damage caused by his or her wilful or negligent acts or omissions.

(2) (a) If the pound master is of the opinion that an impounded animal is dangerously vicious, permanently disabled or terminally ill, he or she must apply to the Court, which may authorise the destruction or other disposal of the impounded animal, if the Court is satisfied that the condition of such animal warrants its destruction or disposal.

(b) Where the Court authorises the destruction or disposal of an animal on application by the pound master, the pound master must immediately notify the owner in writing of the order of Court and the destruction or disposal of the animal.

## ISOLATION OF INFECTED ANIMALS

15. If the pound master suspects, or is aware, that an impounded animal, or an animal to be impounded, is infected with any disease contemplated in the Animal Diseases Act, 1984 (Act No. 35 of 1984), he or she must –

- (a) provide separate accommodation for such animal;
- (b) immediately isolate the animal, and report the disease to the nearest state veterinarian; and

(c) immediately notify the owner of the animal of such disease in writing.

## TREATMENT OF IMPOUNDED ANIMALS

16. The pound master–

- (a) may not work or in any way make use of an impounded animal or permit any such animal to be worked or made use of by any other person; and
- (b) must ensure that all impounded male animals are at all times kept apart from female animals.

## DEATH OF OR INJURY TO IMPOUNDED ANIMALS

17. If an impounded animal is injured or dies, the pound master must –

- (a) record the injury or cause of death in the pound register referred to in section 12; and
- (b) notify the owner of the animal of the injury or death in writing.

## COPIES OF BY-LAWS

18. The pound master must ensure that legible copy of this by-law is available at the pound for inspection.

## FEES AND COSTS PAYABLE

19. The pound master must –

- (a) charge the owner of an impounded animal the fees as set by the Municipality from time to time as contemplated in section 75A of the Local Government : Municipal Systems Act, 2000 (Act No. 32 of 2000); and
- (b) recover from the owner the cost of any dipping, medical treatment, inoculation or other treatment that may be necessary or required in terms of these by-laws or in accordance with any other law.

## RELEASE OF IMPOUNDED ANIMALS

20. (1) The pound master must immediately release an impounded animal, and give the owner a receipt, upon the owner –

- (a) providing proof of identity and ownership of such animal; and
- (b) paying the fees and costs contemplated in section 19.

(2) An impounded animal may not be released unless the pound fees as well as assessed damages have been paid unless a Court with jurisdiction orders that the animal be released from the pound.

(3) If the owner of an impounded animal is unable to pay the fees or costs contemplated in section 19, the pound master may retain such animal in order to recover such fees or costs as may be due and payable.

## SALE OF IMPOUNDED ANIMALS

21. (1) The pound master may sell impounded animal(s) by public auction only when-

- (a) he or she is satisfied that notice of impending sale was given to the owner which notice contained the number and description of the animal, and the amount of fees payable
- (b) a period of 21 days has elapsed since the issuing of a notice referred to in sub-section(1)(a).

2. All impounded animals sold on public auction must be marked in the prescribed manner before removal from the pound.

## POUND MASTER MAY NOT PURCHASE IMPOUNDED ANIMALS

22. The pound master, or a family member, or a close associate of the pound master may not purchase an animal offered for sale at a pound sale, either personally or through any other person.

## PROCEEDS

23. All proceeds from the collection of fees and costs contemplated in section 19 must be paid into the municipal revenue account:

## ACTION FOR RECOVERY OF DAMAGES

24. A person who owns land upon which an animal has trespassed or who has suffered damages as a result thereof may institute action against the owner of a trespassing animal, in any court with jurisdiction, for the recovery of damages suffered by reason of such trespassing animal.

## OFFENCES AND PENALTIES

25. A person who, subject to the provision of section 15 –

- (a) contravenes or fails to comply with any provision of this By-law;
- (b) resist, hinders or obstruct a pound master in the exercise of his or her duties in terms of this By-law
- (c) knowingly and with intent to deceive, furnishes false information or particulars to a pound master

shall be guilty of an offence and shall on conviction be liable to a fine, or to imprisonment for a period not exceeding six months or to both the fine and imprisonment. (Fine also to be stipulated)

## 26. REPEAL OF LAWS

Any by-law relating to Animal Pound adopted by the municipality is repealed from the the date of promulgation of this by-law



## 27. SHORT TITLE AND COMMENCEMENT

This by-law is called the Animal Pound by-law and shall come into operation on the date of publication in the Provincial Gazette