

PROVINCIAL NOTICE 45 OF 2016

UBUHLEBEZWE MUNICIPALITY

**MUNICIPAL POUND BYLAWS**

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| 1ST DRAFT DATE | 30th June 2014 |
| ADOPTION BY COUNCIL | 4th December 2014 |
| PROMULGATION DATE | 9th February 2016 |

UBUHLEBEZWE MUNICIPALITY**MUNICIPAL POUND BYLAW**

Be it enacted by the Council of the Ubhlebezwe Municipality, in terms of Section 156 of Constitution of the Republic of South Africa Act No. 108 of 1996, read with section 11 of the Local Government: Municipal Systems Act No. 32 of 2000 and the KwaZulu-Natal Pound Act 2006 (Act No. 3 of 2006), as follows:

INDEX

| | |
|---|---|
| Section 1 : Definitions..... | 1 |
| Section 2 : Application..... | 2 |
| Section 3 : Establishment of pound..... | 2 |
| Section 4 : Detention and removal of animals..... | 3 |
| Section 5 : Receipt of animals..... | 3 |
| Section 6 : Care of animals..... | 4 |
| Section 7 : Release of animals..... | 4 |
| Section 8 : Disposal of animals..... | 4 |
| Section 9 : Indemnity..... | 5 |
| Section 10 : Offences and penalties..... | 6 |
| Section 11 : Short title and commencement..... | 6 |

Definitions

1. In these bylaws, unless inconsistent with the context –

"animal" means any equine or bovine animal or any donkey, sheep, goat, pig or domesticated ostrich, or any hybrid of such animals, or any poultry;

"Council" means the council of the Ubuhlebezwe Municipality;

"impounded animal" means any animal received into a pound as contemplated in section 5;

"Indigent" means a person that is unable to pay the full economic costs on basic services due to a number of factors that the municipality view as legitimate;

"Indigent household" means any household that is at or below the poverty threshold as determined by the Municipality

"Municipality" means a municipality as defined by the Municipal systems Act (Act No. 32 of 2000).

"owner" in relation to any animal includes the agent of the owner or any other person having lawful custody of the animal;

"owner" in relation to any land includes the registered owner, the lessee and any lawful occupier of such animal;

"pound" means any premises on which a pound has been established by or on behalf of the Council for the impounding of animals under these bylaws; and

"pound manager" means the person appointed from time to time by the Council to manage a pound established by the Council and any other person appointed by such person to act in his or her stead during his absence from the pound.

"public place" any place to which the public has access including, without limiting the generality of the foregoing, any square, park, recreation ground, sports ground, open space, beach, shopping centre on municipal land, unused/vacant municipal land or cemetery; and

"public road" shall mean a public road as described under Section 1 of the Road Traffic Act, 1996 (Act No. 93 of 1996).

Background

Council is responsible for ensuring Public and Traffic Safety within its municipal area of jurisdiction. It is also imperative to control livestock on public roads and CBD areas in terms of Municipal By-laws. Roads prove highly hazardous due to accidents that occur due to stray animals found on roads. To deal with this problem it is necessary that the municipality impounds the stock that is left unattended on public areas and roads.

Application

2. Nothing prevents any animal detained in terms of these bylaws from being impounded in a pound or any similar facility established by any other municipality, the provincial government or other lawful authority.

Establishment of pound

- 3(1) The Council may establish a pound at any convenient place within its area of jurisdiction and, whenever the Council deems it necessary, may disestablish such pound.
- (2) The Council shall give notice of the establishment of a pound, or the disestablishment thereof, by publishing a notice in at least two newspapers circulating in the area of jurisdiction of the Council.

Detention and removal of animals

- 4(1) Any animal –
 - (a) found trespassing on land; or
 - (b) straying or wandering unattended in a public road or other public place,may be detained and removed to a pound by the owner of such land, an official of the Council, a member of the South African Police Services or the pound manager.
- (2) Any person who has detained an animal for the purpose of impounding shall -

- (a) remove such animals to a pound within 24 hours after seizure; and
- (b) ensure that proper care is taken of the seized animal until the animal is received at the pound.

Receipt of animals

- 5(1) Any person removing an animal to a pound shall provide the pound manager with-
- (a) his or her name and permanent residential address;
 - (b) the time and place of detention of the animal; and
 - (c) the capacity in which he or she detained the animal.
- (2) The pound manager shall, upon receipt of a detained animal -
- (a) record the particulars furnished in terms of section 5(1) and enter the same in a book maintained for the purpose;
 - (b) furnish the person delivering the animal with a receipt reflecting –
 - (i) his or her name;
 - (ii) a description of the animal; and
 - (iii) the date and time of receipt of the animal at the pound; and
 - (c) keep a copy of each receipt issued in terms of section 5(2)(b).
- (3) No person shall release or attempt to release, otherwise than in accordance with these bylaws, any animal which has been received at a pound.

Care of animals

- 6.(1) The pound manager shall take proper care as per animal health requirements of any animal impounded in terms of these bylaws.
- (2) The pound manager shall not use or cause or permit to be used any animal impounded in terms of these bylaws.

- (3) In the event of the injury or death of any impounded animal, the pound manager shall record the cause of such injury or death and shall retain any veterinary certificate issued.
- (4) The pound manager shall keep records of any expense incurred in respect of an impounded animal including, but not limited to, the feeding and veterinary care of the animal.

Release of animals

7. The pound manager shall release an impounded animal to any person who has –
 - (1) satisfied the pound manager that he or she is the owner of the impounded animal viz. produce proof of ownership, full personal details including copy of Identity Document, permanent residential address (not postal) etc.
 - (2) paid the conveyance and pound fees prescribed by resolution of the council of the Council from time to time; and
 - (3) paid any veterinary or other expenses incurred in the impounding of the animal by way of a statement of account commensurate with the period the stock has been impounded inclusive of veterinary or other expenses, which statement must be taken to the finance cashiers who will issue a release note to the owner;.
 - (4) Animal collection will be during working hours only, no person will be allowed to claim stock after working hours or during weekends.

Disposal of animals

- 8(1) The pound manager may sell by public auction and for cash any impounded animal which has not been claimed within 30 days of being impounded, and in respect of which –
 - (a) the Council has taken all reasonable steps to locate and notify the owner;
 - (b) the owner has not been located or, despite having been given 10 day's notice, has failed to remove the impounded animal; and

- (c) 10 day's prior notice of the proposed sale has been given in terms of section 8(2).
- (2) The sale of an impounded animal shall be advertised by placing a notice on a public notice board at a place designated by the Council for that purpose –
- (a) describing the animal, its sex, its approximate age and any particular brands or marks; and
- (b) stating that the animal will be sold by public auction if not claimed within 10 days.
- (3) The proceeds of any sale shall be applied in defraying the fees and expenses referred to in section 7 and the balance, if any, shall be forfeited to the Council if not claimed within three months by a person who establishes to the satisfaction of the pound manager that he or she is the owner of the impounded animal.
- (4) If the pound manager is for any reason unable to sell any impounded animal or if, in the opinion of the pound manager the animal is so dangerous, vicious, diseased or severely ill or in such a physical condition that it ought to be destroyed, the pound manager may cause the animal to be destroyed subject to any applicable law relating to the protection of animals or otherwise dispose of the animal in a manner approved by the Council.
- (5) Any shortfall between the proceeds of sale, if any, and the fees and expenses referred to in section 7, or the costs of destruction as contemplated in clause 8(4), may be claimed by the Council from the owner.

Indemnity

9. The Council, the pound manager and any officer, employee, agent or councillor of the Council shall not be liable for the death of or injury to any animal arising as a result of its detention, impounding or release, or arising during its impoundment.

Offences and penalties

10. Any person who contravenes or fails to comply with any provision of these by-laws shall be guilty of an offence and liable for a fine not exceeding R5 000 or imprisonment for a period not exceeding three months or for both such fine and imprisonment.

Short title and commencement

11. These by-laws shall be called the Pound By-laws, and shall take effect on a the 9th February 2016.